

Sensible & Sustainable Methodology Required if CMS Advances DMEPOS Competitive Bidding Program

Issue

The Centers for Medicare & Medicaid Services (CMS) made several improvements to the Durable Medical Equipment Prosthetics Orthotics & Services (DMEPOS) Competitive Bidding Program (CBP) to address fundamental design flaws of the previous model. As a result, the bid prices from Round 2021 did not produce CMS' expected savings. In response, CMS pulled all 13 DME product categories from the program, leaving old pricing methodologies in place from the previous round; the Agency has not indicated if/when a new round will take place and if so, if there will be revisions to the program design.

Background

In 2018, CMS paused the CBP because of design flaws that caused unsustainable payment rates and jeopardized patient access to care. CMS used the two-year pause to redesign the program and left the previously flawed payment rates from 2016 in place during the gap period, which were 50-60% lower than the unadjusted Medicare fee schedule rates.

Bid Program Improvements

With Congressional pressure, CMS implemented important guardrails into the program:

- **Clearing Price Methodology –**
 - Previously, the program used the median price of bids of those initially offered contracts to determine the Single Payment Amount (SPA) offered. This resulted in **50% of the companies offered contracts receiving an offer price at or below their submitted bid price.**
 - Under the updated pricing methodology, the SPA is the maximum bid amount submitted for the lead item by suppliers who are initially offered a contract.¹
- **Unadjusted Fee Schedule as Bid Ceiling –**
 - Previously, the program set each subsequent round's bid ceiling at the current round's SPA. This resulted in an unrealistic and artificial **downward price suppression** where bidders could not bid according to current market realities.
 - Under the updated bidding methodology, the bid limit for DME would be based on the unadjusted 2015 fee schedule amounts.²
- **Surety Bond Requirement –**
 - Previously, the program did not penalize suppliers who declined contracts at or above their bid price. This resulted in **speculative bidders driving down the SPA with low-ball bids** that they had no intention of fulfilling.
 - Under the updated bidding methodology, bidders are required to obtain and provide proof of a surety bond for each Competitive Bidding Area in which they submit bids; those who decline contracts at or above their composite bid's submitted price would lose their bid bond.³

Bid Improvements Impact on Rate Discovery

After CMS rebid the program in preparation of Round 2021, it then removed 13 DME product categories of the 15 categories from the program in 2020 since according to CMS, the program did not achieve expected savings. CMS indicated it would continue using the old payment rates from the flawed program until the next round of bidding; CMS has issued no direction on if/when a new bidding round would start.



The Solution

With important guardrails in place, the CBP has shown itself to have reached price discovery. Additional savings cannot be found, particularly after the exacerbations of the global pandemic and ripple effect on supply chain, inflation, and labor.

Should CMS move forward with a new round, the following must occur to protect the integrity and accuracy of the bid prices relative to market realities:

- **Preserve the safeguards previously put in place as noted above**
- **Ensure CMS moves forward with CBP reimbursement rates if they are higher than 2016 rates and set the SPA accordingly**

Source:

1. <https://www.dmecompetitivebid.com/cbic/cbicr2021.nsf/DocsCat/Fact%20Sheets~JSKRC0ZIZT?open&navmenu=||>
2. <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/End-Stage-Renal-Disease-ESRD-Payment-Regulations-and-Notices-Items/CMS-1651-F>
3. <https://www.cms.gov/newsroom/fact-sheets/cms-updates-policies-and-payment-rates-end-stage-renal-disease-prospective-payment-system-cms-1651-f>