AAHOMECARE
American Association for Homecare

Congress Needs to Support Miller-Meeks/Tonko DMEPOS Relief Legislation (HR 5555) to Provide Critical Relief for Durable Medical Equipment in Former Competitive Bidding and Non-Competitive Bidding Areas

Issue

Like many industries, durable medical equipment prosthetics, orthotics, and supplies (DMEPOS – also commonly referred to as Home Medical Equipment) suppliers have experienced significant supply chain issues and increased operating expenses. However, DMEPOS suppliers are constrained under pre-determined, Medicare fee schedules derived from the old, faulty DMEPOS Competitive Bidding Program (CBP) that fail to factor in the increased costs of providing care. This has resulted in an unsustainable reimbursement environment that jeopardizes patient access to care and threatens the financial viability of the DMEPOS Industry in meeting our communities' needs. Since the inception of CBP in 2013, it is estimated that over 36% of traditional DME companies nationwide have either closed or are no longer service Medicare patients due to these unsustainable payment cuts.

AAHomecare and other DMEPOS stakeholders supports legislation that would:

- **Provide 90/10 blended payment rate (90% CBP rates/10% unadjusted Medicare fee schedule rates) for former Competitive Bidding Areas (CBAs)**
- **Extend the 75/25 blended rate for DME items for non-bid, non-rural areas**

Background

Medicare DMEPOS Benefit and Coverage Areas

The Medicare DMEPOS benefit covers medical products, supplies, and related services in a home-based setting including but not limited to home oxygen therapy, mobility assistive technologies, hospital beds, medical supplies, and more.

There are three distinct coverage areas across the country, with different participation rules and reimbursement payment methodologies. 100 of the largest, most densely populated metropolitan statistical areas were included in CBAs; they cover roughly 50% of the Medicare population. Rates from these areas set the reimbursement for non-CBAs in Medicare, as well as for 21 state Medicaid programs and TRICARE. The non-CBAs are broken up into two areas – rural and non-rural areas. Rural areas representi about 20% and non-rural areas represent about 30% of the Medicare population.

DMEPOS Competitive Bidding Areas

In 2018, the Centers for Medicare & Medicaid Services (CMS) paused the CBP because of design flaws that caused unsustainable payment rates. CMS used the 2-year pause to redesign the program. Unfortunately, CMS maintained the previously flawed payment rates that were established in 2016 during the pause, which were 50-60% lower than the unadjusted Medicare fee schedule rates.

It was the DMEPOS industry's hope that when the CBP restarted in 2021, payment rates would increase. At the end of 2020, CMS decided to pull 13 of 15 categories out of the current CBP, since according to CMS, the program did not achieve expected savings. The only product categories that moved forward were back and knee braces, which were new to the CBP. CMS indicated that it would continue to use the old payment rates from the flawed program until the next round of bidding. The payment rates were low before the COVID-19 pandemic, but both during the pandemic and after the Public Health Emergency ended, these rates have become unsustainable. Unlike other industries, DMEPOS suppliers cannot pass on the additional costs to consumers.

CMS has the authority to increase CBP rates. In October of 2021, Representatives Cathy McMorris Rodgers and Paul Tonko spearheaded a Congressional sign-on letter with 95 signatures asking HHS and CMS to adjust the rates. On December 22, 2021, CMS issued a DMEPOS Final Rule, which did not provide a payment adjustment for items that were removed from this round of CBP. **Congress must act to provide relief.**

DMEPOS Non-Competitive Bidding Areas

On October 31, 2014, CMS released a Final Rule which established the methodology for making national price adjustments to the fee-for-service payments of specific DMEPOS items. This methodology applies pricing derived from highly populated CBAs to all areas of the country and fails to consider the unique attributes of health care in rural America, which have distinct cost differences from their urban counterparts, and are stripping communities of DMEPOS resources. On January 1, 2016, the first phase of the two-part reimbursement adjustment for suppliers serving patients outside of CBAs took effect. On July 1, 2016, the prices were fully phased in, slashing Medicare reimbursement by over 50% on average.

Due to mounting concerns about the impacts of cost-cuts on access to care, especially in non-CBAs and rural America, Congress intervened and included a provision in the 21st Century Cures Act to extend the reimbursement rates in effect on January 1, 2016 through December 31, 2016. This provided retroactive relief to DMEPOS suppliers servicing rural areas, but on January 1, 2017, the full reimbursement cut went back into effect.

At the urging of Congress, patients, and providers, CMS issued an Interim Final Rule on May 9, 2018, that provided emergency relief to rural areas until the end of 2018 at the 50/50 blended reimbursement rate. On November 1, 2018, CMS finalized the ESRD/DMEPOS rule which extended the rural relief until the end of 2020.

As a result of the increased cost and supply change issues, Congress provided additional DMEPOS non-CBA relief in the 2022 Omnibus Appropriations bill. This provision provided a 75/25 blended rate for non-rural, non-CBAs throughout 2023.

DME Relief Legislation is Necessary

AAHomecare supports legislation lead by Rep. Mariannette Miller-Meeks and Rep. Paul Tonko that would establish a 90/10 blended rate for the 13 DMEPOS categories excluded from the current round of the CBP until the end of 2024. The industry estimates that the 90/10 blended rate will result in an average 8% increase in payments to the industry. The legislation should also extend the 75/25 blended rate for DME items for non-CBA relief bill until the end of 2024, thus extending the 2022 Omnibus DME relief for another year.

Our Ask:

Congress must address out-of-date DMEPOS Medicare payment rates. AAHomecare urges House members to support the DMEPOS Relief Act (HR 5555), which would apply 90/10 blended rates until 2024 and extend the extend the 75/25 blended rate for DME items for non-CBA relief bill until the end of 2024.

ESTIMATED 2-YEAR INCREASE IN PAYMENTS FOR 90/10 BLENDED: $262M					
ANALYSIS OF TOP DMEPOS CODES					
Category	**HCPCS**	**ESTIMATED CBA $ TOTAL IN 2023**	**ESTIMATED $ TOTAL WITH 90/10 BLENDED**	**ESTIMATED $ CHANGE UNDER 90/10 BLENDED FOR 2023**	**% RATE CHANGE UNDER 90/10 BLENDED**
OXYGEN SUPPLIES/EQUIPMENT	E1390 RR	$356,965,113.09	$392,636,960.08	$57,143,432.74	**10.0%**
CPAP/RAD	E0601 RR	$106,508,737.47	$118,856,742.55	$18,754,545.68	**11.6%**
CPAP/RAD	A7030 NU	$105,641,691.94	$113,715,978.65	$14,428,674.19	**7.6%**
NPWT	E2402 RR	$43,957,014.11	$49,166,316.22	$7,853,333.04	**11.9%**
HOSPITAL BEDS/ACCESSORIES	E0260 RR	$28,748,019.32	$31,401,516.79	$4,382,701.64	**9.2%**
ENTERAL NUTRITION	B4035	$28,490,420.95	$31,174,165.53	$4,397,454.12	**9.4%**
WHEELCHAIRS MANUAL	K0001 RR	$19,116,363.70	$21,429,243.45	$3,462,736.22	**12.1%**
WHEELCHAIR SEATING	E2611 NU	$8,544,112.38	$9,163,615.48	$1,133,434.67	**7.3%**
PATIENT LIFTS	E0630 RR	$7,205,134.18	$7,641,409.97	$869,667.31	**6.1%**
PMD	E2370 RR	$5,150,288.11	$5,302,961.75	$462,465.41	**3.0%**
PMD	K0825 RR	$4,895,123.54	$5,099,685.08	$499,005.06	**4.2%**
Grand Total of All Impacted Codes		**$1,615,005,178.39**	**$1,746,062,776.70**	**$131,057,598.31**	**8.1%**

updated 9/19/2023

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