

Support H.R. 1041, the Fairness in Medicare Bidding Act

Thompson-Altmire Legislation to Ensure Competitive Bidding of Medicare Equipment

Representatives Glenn Thompson (R-PA) and Jason Altmire (D-PA) have introduced bi-partisan legislation that will end the Medicare “competitive” bidding program for durable medical equipment and services (DME) because the program is fatally flawed. This legislation will protect patients’ access to medically required durable medical equipment and services and ensure that people with disabilities have reliable access to the equipment they need to live independently.

Background: The Medicare Modernization Act of 2003 (MMA) required Medicare to replace the current DME payment methodology for certain items with a selective contracting process. Any provider not awarded a contract will be prohibited from providing bid items for the three-year contract period. The bidding program was implemented on January 1, 2011, in nine cities across the U.S. and begins in an additional 91 metropolitan areas later this year. The first nine areas are Charlotte, Cincinnati, Cleveland, Dallas-Fort Worth, Kansas City, Miami, Orlando, Pittsburgh, and Riverside, California. CMS originally began implementation of the program in 2007. However, because of fundamental problems with the design of the program, Congress delayed implementation for a period of 18 months in the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) so that CMS could correct those problems. CMS has re-launched the program and ignored congressional intent, which was the basis for the initial delay

Congress Must Eliminate the Anti-Competitive Bidding Program: The competitive bidding program encourages “suicide bidding,” using economic coercion by forcing providers to submit unsustainable bids to win a contract. People who require durable medical equipment are being harmed because services are being curtailed due to unsustainable pricing and they are not able to receive the equipment they need. Competitive bidding restricts access to and choice of DME items and services. It is triggering a race to the bottom in terms of quality. Less expensive items will be provided to patients. With fewer providers, prompt deliveries of items and services will be eliminated and Medicare costs will increase because of longer hospital stays, increased institutionalization, and more frequent physician visits. People with disabilities and the frail elderly will be impacted as the companies that provide their enteral nutrition (tube feeding) may not be the nursing home that provides their care. Facilities will have to contract with new providers that could have no experience with the needs of patients in the facility setting but they won the bid by virtue of submitting a low price. Patients may not be familiar with these new companies. Under this bid system, patients can no longer be serviced by the provider of their choice, undermining beneficiary confidence and caregiver confidence in delivery of care.

Auction Experts and Consumer Groups Oppose the Bidding System: Economists and auction experts from around the world oppose the current CMS bidding system. In November 2010, 167 leading economists and experts in public and private auctions who have experience in the design and application of auctions, including two Nobel laureates, warned Congress that Medicare’s bidding design for medical equipment will fail. Also opposing the controversial bidding program are more than a dozen national consumer and patient advocacy groups including the ALS Association, American Association of People with Disabilities, Muscular Dystrophy Association, National Council on Independent Living, National Spinal Cord Injury Association, and United Spinal Association.

Patient Access Problems in Round 1 Areas: Unfortunately, patients are already experiencing access problems in Round One areas. Since the January 1, 2011, implementation of this program, hundreds of patients and providers have reported problems and complaints about getting medically required durable medical equipment and services to seniors and people with disabilities. Complaints will likely increase exponentially as the program progresses and far more once the program expands across the nation.