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CMS To Announce Durable Medical Equipment Winning Bids June 25

CMS has informed industry that it will announce on June 25 the single-payment amounts for the controversial durable medical equipment competitive bidding program and mail contract offers to suppliers who qualify for the program, an industry source said, with winning bidders to be announced this fall. By hitting the June 25 date, CMS could claim savings for the program before lawmakers leave for the July 4 recess, an industry source noted.

The durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive bid program has been controversial for years because DME suppliers say the program will put many of them out of business. Industry uniformly opposes the program and there is support on Capitol Hill to abolish it.

This is the second time CMS has held first-round bids for DME. The second round-one bidding process ended Dec. 21, 2009, after conflicts in the initial bidding process led Congress to delay the program for 18 months under the Medicare Improvements for Patients and Providers Act.

Before announcing the winning bidders this fall, CMS must first offer contracts to companies at the winning bid amount, then wait for them to accept or deny the contracts. The agency bases the number of contracts it offers on market demand so if companies turn down the contract, CMS will have to offer contracts to others in their place to ensure that Medicare beneficiaries are not left without their supplies. The single-bid amount will not be changed once it is announced, an industry source said.

It's likely that some suppliers who bid higher than the single-bid amount will be offered contracts because of the way the single payment amounts are calculated. This will put companies in a difficult position because they must decide to either supply equipment at a price they have determined they cannot meet or be excluded from the program for three years, the industry source says. Equally troubling, if a company provided items and services in all product categories, but won only a bid for one of those items, the company will no longer be able to provide the other items, which could put the company out of business.

CMS has weighted all of the HCPCS codes within a product category based on utilization within bidding areas. CMS develops a composite bid, which incorporates the item weight of each HCPCS code in each product category multiplied by the amount suppliers bid for that HCPCS code. CMS then unbundles the composite bids for those winning bidders, arrays the HCPCS code pricing from the lowest to highest prices and selects the median price as the single payment amount for HCPCS codes in each bid area.

Separate from industry's general opposition to the program, a Texas trade association and a Dallas oxygen company are suing CMS for not making public the financial standards used to determine whether companies are fit to participate in the program. Many companies inevitably spent scarce resources applying to a program in which they cannot participate because they were not able to determine beforehand whether their financial situation allowed them to participate, according to the Center for Regulatory Effectiveness, which is on the side of the oxygen supplier.

CMS recently told the group that the agency will tell companies if they did not meet the financial standards after they lose bids. However, the CRE considers this a minor concession that falls well short of what industry deserves. -- *John Wilkerson* (jwilkerson@iwppnews.com) and *Brett Coughlin* (bcoughlin@iwppnews.com)