

Now Is the Time to Reform the Medicare Competitive Bidding Program

- **The Medicare Competitive Bidding Program (CBP) has resulted in inappropriately draconian cuts in home respiratory therapy rates since its inception.**
 - The substantial reductions result not from market forces, but from the methodology used to determine the rates, which has distorted the market and led to irrational bidding. A survey of 2014 data from CQRC suppliers found that the cost of providing services in competitive bidding areas (CBAs) was approximately 5 percent higher than the rates determined through the competitive bidding process. On average, CBA rates are below the cost of providing services.
- **It is time for CMS to address the problems with the bidding methodology and create a stable process for determining rates. Specifically, the CQRC recommends that CMS:**
 - ***Split the current oxygen and sleep product category.*** Home oxygen and home sleep equipment and services are distinct types of products that should be bid as such. Combining the two product categories into one has allowed suppliers providing only one product type to deflate the rate for the one they have not previously provided.
 - ***Replace the median methodology with a clearing price methodology for setting the rates.*** As the CQRC and others have recommended, it is time for CMS to replace the median methodology because it has allowed low-ball bidders to artificially lower the rates being set and left legitimate suppliers with the choice of accepting rates sometimes far below their bids or not participate in a market for 3 years or more. Shifting to a clearing price methodology would significantly help in addressing the low-ball bidder problem.
 - ***Do not use inexperienced supplier data in setting the clearing price.*** Inexperienced suppliers are weighted too heavily in the process, which has led to rates being driven downward inappropriately. Only the historical capacity for suppliers who have provided the items and services in the specific product category in the specific CBA should be used in determining the rates in that product category and when determining capacity for meeting demand.
 - ***Eliminate composite bids and rely upon a percentage of the 2015 DME Fee Schedule.*** If CMS does move to a clearing price methodology, it will need to adjust the bidding process to focus bids on a single product. While this can be done in different ways, the CQRC recommends that CMS ask bidders to bid a percentage off of the 2015 fee schedule rates. Alternatively, it could designate a lead product for each product category. The lead product option would be more difficult to implement because it requires proposing and obtaining comments on each lead product, as well as setting the proportional relationship between the lead product and the other products in the category. This flat fee bid approach avoids having to go through the lead product process.
 - ***Enforce the physical presences requirements related to State licensure.*** As the Office of the Inspector General reported in 2016, there have been problems with confirming that winning bidders are appropriately licensed in the States in which they have won bids. Part of maintaining a license for a home respiratory therapy supplier in many States, such as Tennessee, requires the supplier to maintain a physical presence in the State.

The Congress should urge CMS to use its existing authority to reform the competitive bidding program before the next round of bidding occurs.