CQRC Council for Quality Respiratory Care

Support Legislation To Retroactively Reinstate the Phase-In

- **Medicare beneficiaries rely upon home respiratory therapies to treat Chronic Obstructive Pulmonary Disease (COPD) and Obstructive Sleep Apnea.**

    - Home respiratory therapy is a critical set of services and equipment that allow more than one million Medicare beneficiaries to save the Medicare program money by reducing time spent in emergency rooms and nursing homes.

    - Home respiratory therapy suppliers also provide patient-centered services to reduce hospitalizations. Working with hospitals and commercial payors, CQRC companies have developed and implemented programs to help reduce hospitalization and Medicare program expenditures. Managed care programs and commercial payers recognize the important role home respiratory therapy suppliers play in reducing overall health care spending.

- **However, the decision to dramatically cut rates January 1 by applying competitive bid rates used in urban areas to areas the Congress expressly excluded from the competitive bidding program makes it less likely that Medicare beneficiaries will fully benefit from home respiratory therapy services.**

    - Effective July 1, 2016, CMS cut the rates it pay to home respiratory therapy suppliers, as well as other suppliers of home durable medical equipment, by applying the average competitive bid rates in a region in areas that the Congress expressly excluded from competitive bidding. These areas are mostly rural. While CMS does provide a 10 percent increase to these average competitive bid rates, that amount falls far short of the cost of providing services in these areas. While CMS provide a phase-in of this cut, it was only 6 months longs and the full cut took effect this summer. This phase-in period was dramatically shorter than the 3-4 years others Medicare providers usually receive to absorb much smaller cuts.

    - For CQRC member companies, which are the larger national and regional home respiratory therapy suppliers, the cost of delivering services in non-CBAs is on average **13 percent higher** than their costs within CBAs. For these companies, the competitive bid reimbursement rates in CBAs are **already an additional 5 percent below the cost to supply those services**, on average. The new rates are dramatically below these costs.

- **Medicare data does not provide an accurate assessment of the impact of the cut.**
    - CMS' data does not fully reflect the true impact of the cuts. Four months of patient data (January – April 2016) is misleading as well as insufficient to assess accurately the CMS claims. Given the way chronic respiratory diseases present and progress, it is unlikely that the impact of changes in services can be seen in such a short period of time. It requires at least a year of evidence at the current rate to understand whether it will disrupt patient care.

    - While CMS data show no change in the outcomes reviewed, it is notable that at a time when mortality, admissions, and emergency room visits are declining for other Medicare populations they are not declining at the same rate in the COPD population, despite the significant incentives that CMS put in place to improve these outcomes. Rather than

indicate that the cuts are having no effect, it appears that the cuts are destabilizing the home respiratory therapy suppliers to the extent that it is making it difficult to improve health outcomes for COPD patients.

- CMS's claims that the fact that suppliers continue to accept assignment (and not bill beneficiaries above the Medicare rate) does not mean that the modified fee schedule rates are sufficient. If a supplier does not agree to assignment, it must collect payment from patients each month. In light of their experience with copayments, suppliers are extremely reluctant to seek the entire payment from patients who historically may not always pay their 20 percent copayment share. By accepting assignment, a supplier receives at least 80 percent, even if the rate is inadequate. In addition, non-assignment is not permitted for dual-eligibles, which comprise a substantial portion of home respiratory therapy patients.

- **While lowering the fee schedule rates was appropriate, it was not appropriate to <u>apply</u> competitive bidding rates to non-competitive bidding areas.**

  - The current methodology for soliciting bids and setting the competitive bidding rates continue to lead to rates that do not reflect the cost of providing services. As many experts have described over time, the issues of non-binding bids, licensing issues, median price bids, composite bids, inability to find a clearing price, and a lack of transparency, taken together, lead to an arbitrary pricing scheme.

  - Although CMS has made some efforts to improve the program, problems still exist.
    - A recent Office of the Inspector General report found that high percentages of suppliers do not meet state licensure requirements, suggesting that CMS's quality requirements for bidders may not be sufficient.
    - CMS has noted the existence of "inversions," which means that bidders are submitting irrational bids that result in the rates for certain items with additional product features to be lower than the rates for similar products without those features.

  These problems need to be fixed before rates derived from them should be even considered to be applied nationwide.

Home respiratory therapy patients need your help: support legislation by Sens. Thune and Heitkamp and Reps. Price, Loebsack, McMorris Rogers, and Welch to retroactively reinstate the phase-in period.

Who We Are

The CQRC is a coalition of the nation's leading home respiratory therapy providers and equipment manufactures. CQRC members currently provide home respiratory therapy to more than 600,000 program beneficiaries who rely on treatment at home to maintain their independence and enhance their quality of life. Together they employ more than 35,000 people across the United States.