

## Letter from Senator Stabenow

Dear Administrator Berwick:

I am writing today to ask for an overview of "Round One" for the Competitive Bidding Program for certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies. Since Michigan has three metropolitan statistical areas slated to be included in Round Two, I am very concerned about whether Medicare beneficiaries' needs will be disrupted and whether there will be a sufficient number of quality vendors to serve their needs.

During the initial Round One bidding process in 2008, a significant number of providers who signed contracts could not deliver services commensurate with their bids, and there were a number of problems that surfaced later. Some bidders did not have the financial resources to ramp up to deliver services to a larger number of patients. Many had no experience in the product categories for which they were awarded bids. It was for reasons such as these that Congress was forced to act and delay implementation of the program and required this re-bid.

Given these challenges in the first attempt at implementing Round One, I would like to have more information regarding CMS's current efforts, including:

- What changes or improvements CMS has made as part of the new Round One?
- How have vendors' concerns been incorporated into the new process? Will their feedback be incorporated into Round Two?
- Will there be sufficient time between Round One and Round Two to evaluate and address any problems before Round Two begins?
- What materials are being sent to beneficiaries about the "grandfathering" option and other changes?
- How are providers being notified about whether they will be able to participate? When will information be publicly available to see how the rates were determined? My understanding is that the names of the winning providers [will be announced] in September although CMS has already announced information on the bids' rates.

Thank you for providing me with an update on competitive bidding. My goal is to ensure that qualified providers have been chosen to provide these items and services to beneficiaries in Michigan. Michigan hospitals, physicians and elders who rely on home medical equipment services will be dependent on the winning-bid companies for these critical in-home products. The healthcare community will again have very serious problems if it turns out once more that these companies are unable to provide sufficient access to quality items and services or do not have the financial ability to operate under the new contracted rates.

Sincerely,

Debbie Stabenow

## **Letter from Senator Brown**

Dear Administrator Berwick:

I am writing to reiterate the request of more than 130 members of the House of Representatives, who asked that the Centers of Medicare and Medicaid Services (CMS) disclose the list of the providers whose bids were used to calculate payments under the re-bid of the competitive bidding program for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). This transparency is essential in order to assess the quality and access impact of this program on Medicare beneficiaries. It is also important as a means of determining the impact on trusted local providers who have served Medicare beneficiaries in good faith and at reasonable costs for years, and who now may be at risk of closing their doors. Such an outcome would not only be detrimental for these critical local businesses and the fragile economies to which they contribute, but it could reduce beneficial competitiveness in the DMEPOS market.

During the initial Round One bidding process in 2008, flaws in the system permitted provider to win contracts for DMEPOS services who were not equipped to fulfill these contracts. Some bidders did not have the financial capacity to respond to increased demand; others had no experience in the product categories for which they were awarded bids. I understand that several of the winning bidders had not obtained the certification or licensure required to provide the devices and services for which they were awarded contracts. Others did not even have a physical location in the area. These flaws would have had a direct bearing on my constituents, and I was among the members of Congress who pushed for a delay in implementation of the program.

I continue to believe that DMEPOS competitive bidding as it is currently conceived is a dangerous path for Medicare to take. It risks local, service-oriented provision of goods and services that are crucial to the health and wellbeing of vulnerable Medicare populations, and it sets the stage for fiscally irresponsible monopoly pricing by a few large providers. These broader concerns notwithstanding, at the very least it is crucial that qualified, readily accessible providers are chosen to provide DMEPOS to Medicare beneficiaries and that benchmark payment rates are sufficient to cover the cost of providing DMEPOS. There is no excuse for subjecting Medicare beneficiaries to any gaps in quality, service or access.

I understand that CMS intends to release the names of the winning providers in September. However, a better understanding of the re-bid is required now, before the process moves forward. A list of the suppliers, product categories and competitive bidding areas for each of the suppliers whose bids were used to determine the payment amounts will shed light on the appropriateness of the payment amounts and help Congress evaluate the impact on local DMEPOS access, associated service capability, and overall quality. As members of the House requested, I ask that this information be provided no later than Friday, August 20.

Ensuring that Medicare does not pursue payment schemes that are harmful to the Medicare population or that will ultimately prove counterproductive from a financial perspective is an important facet of the critically important role you play. I trust your leadership and thank you for your efforts to ensure that Medicare and Medicaid are administered in a manner that is both fiscally responsible and puts the needs of Medicare beneficiaries first.

Sincerely,

Sherrod Brown