

CMS Announced Dates for the Second Round of DMEPOS Competitive Bidding and Single Payment Amounts and Contract Offers for the First Round of DMEPOS Competitive Bidding

NOTE: Please see EBG Client Alert entitled "DMEPOS Update: Physicians and Certain Other Professionals Now Exempt from DMEPOS Accreditation Requirements and MIPPA Delays Competitive Bidding, Terminates Round 1 Contracts" to see the current status of the DMEPOS Competitive Bidding Program and related accreditation requirements.

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The Centers for Medicare and Medicaid Services (CMS) recently made two important announcements regarding the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive bidding program.

- Dates for the Second Round of the DMEPOS Competitive Bidding Program
- Single Payment Amounts and Contract Offers for the First Round of the DMEPOS Competitive Bidding Program

As described in earlier EBG Special Alerts on this subject, CMS established the Medicare DMEPOS competitive bidding program to improve the effectiveness of Medicare DMEPOS payments, to reduce beneficiary out-of-pocket costs, and to recognize cost savings in the Medicare program while ensuring beneficiary access to quality DMEPOS items and services. Suppliers that wish to participate in the competitive bidding program must meet quality standards and must be accredited by a CMS-approved Deemed Accredited Organization.¹ Once selected, the performance of DMEPOS contract suppliers will be monitored through Medicare surveys that measure beneficiaries' levels of satisfaction with the services they receive under the competitive bidding program.² (Please review EBG Special Alerts entitled *Registration and Competitive Bidding Period for First Round of the DMEPOS Competitive Bidding Program Extended: Bids Due by July 20, 2007* (July 2007) and *Important Updates for DMEPOS Suppliers* (January 2008).

CMS Announces Dates for the Second Round of DMEPOS Competitive Bidding

CMS recently announced two key deadlines for suppliers interested in bidding in the second round of the Medicare DMEPOS competitive bidding program:

- Suppliers must be accredited or have applied for accreditation by May 14, 2008 to submit a bid for the second round of the Medicare DMEPOS competitive bidding program.
- For the second round of the Medicare DMEPOS competitive bidding program, suppliers must be accredited by **October 31, 2008**.

On January 8, 2008, CMS announced the 70 Metropolitan Statistical Areas (MSAs) and 8 product categories for the second round of the Medicare DMEPOS competitive bidding program. This recent CMS announcement further solidifies the DMEPOS competitive bidding program timeline, which now is as follows:

May 2008	CMS plans to announce the Medicare contract suppliers for the first round of the DMEPOS competitive bidding program.
May 14, 2008	Deadline by which DMEPOS suppliers must be accredited or have applied for accreditation in order to submit a bid for the second round of the DMEPOS competitive bidding program.
May – July 2008	CMS will conduct a Medicare beneficiary education campaign.
July 1, 2008	Single payment amounts for the first round of the DMEPOS competitive bidding program become effective (<i>see below</i>).
October 31, 2008	Deadline by which suppliers must be accredited in order to be awarded a DMEPOS competitive bidding contract by CMS.

In light of these approaching deadlines, DMEPOS suppliers should apply for accreditation immediately to allow adequate time for the processing of their applications. CMS expects that more suppliers will be part of the accreditation process because of the new product categories and the broader scope of MSAs involved in the second round of DMEPOS competitive bidding.

CMS Announces Single Payment Amounts and Begins Offering Contracts for the First Round of DMEPOS Competitive Bidding

On March 20, 2008, CMS announced that CMS had completed the first round bid evaluation process and determined the single payment amounts for the first round of the DMEPOS competitive bidding program.³ These single payment amounts will become the Medicare-allowed payment amounts for DMEPOS items and services in the first round bid for Medicare beneficiaries in the designated Competitive Bidding Areas (CBAs).⁴ The list of first round competitively bid DMEPOS items and services included in the 10 product category list is set forth below. Consistent with current CMS practices, Medicare will pay contract suppliers 80 percent of the single payment amount for each competitively bid item, and beneficiaries will be responsible for the remaining 20 percent of the single payment amount.⁵

To date, small DMEPOS suppliers (defined as those with gross revenues of \$3.5 million or less) constitute nearly two-thirds of those being offered contracts in the first round for the DMEPOS competitive bidding program.⁶ CMS plans to make the list of approved contract suppliers publicly available when all contracts are finalized.⁷

CMS developed the DMEPOS competitive bidding program intending to reduce Medicare payments and out-of-pocket expenses for necessary items. When the competitive bidding program is fully implemented in 2010, CMS estimates that it will save beneficiaries \$1 billion annually.⁸ In the short term, however, Medicare beneficiaries will begin seeing savings as early as **July 1, 2008** when the first round single payment amounts become effective. CMS estimates that the first round single payment amounts will generate an average savings of 26 percent for Medicare beneficiaries using DMEPOS items and services in the first round-selected 10 MSAs and 10 product categories.⁹ Specifically, CMS estimates the savings as follows:¹⁰

DMEPOS Product Category	Average Percent Savings
Oxygen and Oxygen Equipment	27%
Standard Power Wheelchairs, Scooters, and Related Accessories	21%
Complex Rehabilitative Power Wheelchairs and Related Accessories	15%
Mail Order Diabetic Supplies	43%
Enteral Nutrients, Supplies, and Equipment	26%
Continuous Positive Airway Pressure Devices, Respiratory Assist Devices, and Related Supplies and Accessories	29%
Hospital Beds and Accessories	29%
Negative Pressure Wound Therapy Pumps and Related Supplies and Accessories	14%
Walkers and Related Accessories	27%
Support Surfaces (e.g., specialized mattresses)	36%

Current Medicare fee schedule payment amounts will continue to apply to these DMEPOS items and services outside the first round MSAs that are not subject to the competitive bidding program.

In its March Fact Sheet, CMS described its bid evaluation process, stating that CMS will offer contracts to at least five suppliers if there are at least five winning suppliers, but CMS will still offer contracts to as few as two suppliers if there are fewer than five suppliers that qualify, meet the participation requirements, and have sufficient capacity to meet the Medicare beneficiary demand in the MSA for the product category.¹¹ As the CMS March Fact Sheet and Announcement explain, qualifying suppliers whose bids were not selected may still be eligible to receive contracts from CMS if winning bidders decide not to become CMS-contracted suppliers.¹² Suppliers disqualified because their bids did not meet the bidding requirements will receive letters from CMS informing them of the reasons for their disqualification.¹³

Conclusion

Deadlines are approaching for the second round of the competitive bidding program. The new product categories and the broader scope of MSAs involved in the second round will attract more suppliers, and all supplier-applicants must be familiar with the accreditation and competitive bidding rules. EBG can assist with the planning required to meet these deadlines for application processing and accreditation.

CMS also announced that CMS completed the first round bid evaluation process and determined the single bid payment amount for the first round of the DMEPOS competitive bidding program (including 10 product categories). CMS has estimated that the first round single payment amounts will generate an average savings of 26 percent for Medicare beneficiaries. CMS plans to make the list of approved contract suppliers publicly available when all the contracts are finalized.

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Endnotes:

- ¹ See <http://www.cms.hhs.gov/medicareprovidersupenroll> for a summary of the DMEPOS Accreditation Quality Standards. CMS originally developed these standards in 2006 and proposed minor revisions to them in February 2008 for a 30-day comment period. To be ensured consideration, comments on the revised sections were due to CMS by March 18, 2008. See <http://www.cms.hhs.gov/CompetitiveAcqforDMEPOS/> for a complete list of the CMS-approved Deemed Accredited Organizations.
- ² See CMS, “General Overview of the Final Rule for Competitive Acquisition for Certain Durable *Medical Equipment, Prosthetics, Orthotics, and Supplies*” (Apr. 10, 2007), *available on* http://www.cms.hhs.gov/CompetitiveAcqforDMEPOS/01d_regulation_highlights.asp#TopOfPage (last visited Mar. 20, 2008).
- ³ See <http://www.dmecompetitivebid.com/SPA> for a complete list of the first round *single* payment amounts.
- ⁴ See CMS, “Medicare Announces the Single Payment Amounts and Begins Offering Contracts for the First Round of the Medicare DMEPOS Competitive Bidding Program” (last viewed Apr. 3, 2008), *available on* <http://www.cms.hhs.gov/CompetitiveAcqforDMEPOS/> (hereinafter, “CMS Announcement”).
- ⁵ *Id.*
- ⁶ See CMS Fact Sheet, “New Program Reduces Costs for Certain Durable *Medical Equipment, Prosthetics, Orthotics, and Supplies: New Payment Rates and Supplier Selection Process for First Round*” (Mar. 20, 2008), *available on* http://www.cms.hhs.gov/apps/media/fact_sheets.asp (hereinafter, “CMS March Fact Sheet”).
- ⁷ See *id.*; see also CMS Announcement, *supra* note 4.
- ⁸ See CMS March Fact Sheet, *supra* note 6.
- ⁹ See *id.*; see also CMS Press Release, “Medicare to Save Average of 26% for Some Durable *Medical Equipment, Prosthetics, Orthotics, and Supplies*” (Mar. 21, 2008), *available on* http://www.cms.hhs.gov/apps/media/press_releases.asp.
- ¹⁰ See CMS March Fact Sheet, *supra* note 6.
- ¹¹ See CMS March Fact Sheet, *supra* note 6.
- ¹² See *id.*; see also CMS Announcement, *supra* note 4.
- ¹³ In a March 26, 2008 letter to CMS, the American Association for Homecare (AAHC) *recommended* that the agency postpone the implementation of the first round of the DMEPOS competitive bidding program to give suppliers offered contracts more time to consider participation, and to address allegations of errors by suppliers that were not awarded contracts. AAHC indicated in its letter that the group has received examples from more than 100 first round bidder-suppliers, complaining that they were unfairly disqualified from billing and identifying “serious irregularities or mistakes” made by the competitive bidding implementation contractor, Palmetto GBA. Furthermore, AAHC urged CMS to give winning bidders *more* than 10 days to evaluate contracts because, since first round bids were submitted, economic conditions for these suppliers have changed dramatically. Letter from Tyler Wilson, President, American Association for Homecare, to Kerry Weems, Acting Administrator, Centers for Medicare and Medicaid Services (Mar. 26, 2008), *available on* <http://www.aahomecare.org/associations/3208/files/AAHomecare%20Letter%20Re-Round%20One%20Problems.pdf> (last visited Mar. 20, 2008).