More Than 100 Winning Medicare Bidders In Maryland Don't Have Proper Licenses To Provide Medical Equipment To Patients

PR Newswire

Medicare [1]'s national bidding program [2] for durable medical equipment (DME) is violating its own rules and may endanger beneficiaries after awarding contracts to winning bidders who haven't qualified for proper state and local licenses or accreditations, according to the American Association for Homecare [3] (AAHomecare).

AAHomecare said the practice is rampant in Maryland, Tennessee, and other states where the Centers for Medicare & Medicaid Services [4] (CMS) plans to expand the dangerous and defective bidding program to 91 new areas in July. The bidding program has been sharply criticized since launching in nine localities in 2011.

Because of licensing and other problems, momentum is building in Congress to force CMS to delay Round 2 of the program. Furthermore, providers who didn't submit bids because of the licensing requirements are stunned and dismayed to learn that unlicensed competitors not only submitted bids, but have actually won contracts from CMS. In addition to being a public relations disaster for CMS, it could be the foundation for legal challenges.

"Across Maryland, licensed providers are outraged at the prospect of transferring their patients to unlicensed providers," said Ann Horton , executive director of the Maryland-National Capital Homecare Association [5]. "It is shocking that Medicare can simply choose not to follow their own rules in the bidding program, while awarding the majority of Maryland contracts to out-of-state providers. Here in Maryland, high-quality, local providers are now facing the prospect of going out of business."

Medicare required companies that submitted bids to provide products such as oxygen, power wheelchairs, walkers, feeding tubes, and diabetic testing materials to have all licenses and accreditations in place by May 1, 2012. Yet, Maryland's Office of Healthcare Quality [6] informed the local homecare association that more than 100 contract winners in Maryland alone do not have licenses that will legally allow them to serve patients.

"CMS must acknowledge the seriousness of these problems, delay expanding the program, and allow time for it to be fixed," said Tyler Wilson , president of AAHomecare. "A federal agency responsible for providing care to the most vulnerable people in our society must abide by the rules designed to guarantee their safety. Medicare beneficiaries as well as state regulators don't expect CMS to circumvent state and local laws and allow unlicensed contractors to provide services and products to senior citizens and people living with disabilities."

In a belated attempt to address this serious blow to the program's integrity, CMS has sent letters to unlicensed and/or unaccredited contract winners stating that they must have everything in place by July 1. However, even with this extension, it's unlikely that these companies can become legal providers by the new deadline.

The bidding program's rules include strict penalties for non-compliance with state and local laws. Contract winners who do not meet licensing requirements are supposed to be disqualified, meaning that they will lose every contract in every bid area. This raises the specter of tens of thousands of Medicare beneficiaries losing access to critically important medical equipment and services.

The licensing and subsequent access problems are being reported in other bid areas across the country, including California, Michigan, New York, Ohio, Pennsylvania, and Tennessee.

In a letter to colleagues [7] dated May 17, Representatives Glenn Thompson [8] (R-Pa.) and Bruce Braley [9] (D-Iowa) have asked their colleagues in the House to join them in pressing CMS Administrator Marilyn Tavenner to delay Round 2 of the program.In the letter to CMS, the congressmen cite the shocking "lack of transparency" in the bidding process and "improper vetting" of bidders. They urge CMS to delay Round 2 "to allow for adequate investigation and correction of the significant problems that have been identified."

Thompson and Braley assert that there are "significant distortions of the bid prices in every bidding area nationwide" because low bids, sometimes submitted by unlicensed providers or those who later refused to sign actual contracts, were used in setting the reimbursement rates for products and services.

Moreover, the credibility of the program is further diminished because many legitimate providers didn't bid because of what they thought were strict licensing requirements.

"My company would have bid in more areas, but we didn't think we could get licenses in time," said Joel Marx , chairman of Medical Service Company [10] in Cleveland, Ohio. "If we'd known that we actually had an extra 15 months, we definitely would have submitted more bids. This deadline change is grossly unfair to the honest companies who played by the published rules."

The solution to Medicare's bidding problems, supporters say, is H.R. 1717, the *Medicare DMEPOS Market Pricing Program Act of 2013* [11]. The bill was introduced by Representatives Tom Price [12] (R-Ga.) and John Larson [13] (D-Conn.) on April 25. "It's a fair procurement system based on three core principles: market-based prices, binding bids, and transparency," said Wilson. H.R. 1717 currently has 107 cosponsors.

The American Association for Homecare represents durable medical equipment providers, manufacturers, and others in the homecare community that serve the medical needs of millions of Americans who require oxygen systems, wheelchairs,

medical supplies, inhalation drug therapy, and other medical equipment and services in their homes. Members operate more than 3,000 homecare locations in all 50 states. Visit www.aahomecare.org [3].

The Maryland-National Capital Homecare Association (MNCHA) is the only trade association for the home care sector in Maryland. It represents both non-profit and for-profit health care in Maryland and DC including:

- *Medicare-certified home health agencies,*
- *Private duty agencies and registries,*
- *Home medical equipment businesses, and related businesses that provide services to providers listed above, and*
- *Individuals with a vested interest in the homecare community.*

MNCHA advocates for all home care *in Maryland and the District of Columbia. Visit www.mncha.org* [5].

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Links:
[1] http://cms.gov/Medicare/Medicare.html
[2] http://j.mp/14t9brT
[3] https://www.aahomecare.org/
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