

Congress of the United States
Washington, DC 20515

June 14, 2013

The Honorable Marilyn B. Tavenner
Administrator
Center for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Ms. Tavenner:

We write to you to express our concerns with the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding program administered by Centers for Medicare and Medicaid Services (CMS). Of particular concern are issues regarding the bidding process, access to supplies for beneficiaries, the recently announced Round 2 bid prices for durable medical equipment (DME), as well as the location of many of the contract winners for our State. We respectfully request that you delay the implementation of Round 2 in order to allow Congress time to take necessary measures to ensure a fairer and more transparent bidding process that ensures South Carolina's Medicare beneficiaries have access to the supplies they need and that in-state DME businesses are not unfairly excluded from the process.

In the Medicare Modernization Act of 2003, Congress designed the Competitive Bidding program with the intent of reducing Medicare and beneficiary expenditures through competition while ensuring that beneficiaries continue to have access to quality items. However, the CMS-designed program in its current form is neither competitive nor does it protect beneficiary access to high quality medical supplies. In fact, many patients will likely have to find a new supplier, often in another state. Additionally, there are numerous flaws in the Competitive Bidding program that prevent it from ensuring quality and access for Medicare beneficiaries. As just one example, the program does not ensure that bidders are able to provide the products in the bid markets. Furthermore, the lack of transparency surrounding the Competitive Bidding program from the Centers for Medicare and Medicaid Services is a source of major concern for patients, providers, and Congress alike. Our offices have already received calls from a number of concerned Medicare beneficiaries who are worried they will no longer be able to get the DME supplies they depend on daily from the dealers with whom they are familiar. These beneficiaries who previously have been able to rely on one provider for all of their DME needs will now have to coordinate services with multiple providers adding a new level of stress to their efforts to gain the equipment necessary to maintain their health.

As you know, Medicare published payment rates for DME subject to Round 2 of the Competitive Bidding program. Based on Medicare's calculations, reimbursement rates will be reduced 45% below the current Medicare fee schedule and 72% below the fee schedule for diabetic supplies as of July 1, 2013. Furthermore, the national mail order program for diabetic supplies will impact every diabetic Medicare beneficiary in the United States. These cuts are having a real impact on the ability of companies to supply DME. We are aware of a large DME company that was awarded CMS Round 1 and 2 contracts and has recently filed for bankruptcy, in tandem with the decrease in reimbursement rates. What is most troubling is this company had filed for bankruptcy prior to being awarded CMS bidding contracts. How can a company like this be expected to supply a large quantity of medical

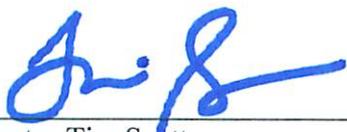
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supplies beginning in July? There have also been reports of companies issuing artificially low bids, winning CMS contracts, and then either refusing to accept the bid award or selling their business to a different company. This has created artificially low product pricing expectations that most viable companies simply cannot compete with, and this will undoubtedly affect the quality of the product Medicare beneficiaries will receive.

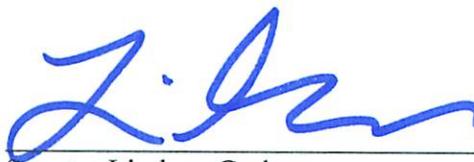
We are also concerned that general access to local providers will soon be a thing of the past. More than 25 contracts have been won by companies that are 2000 miles away from the bid area for which they were awarded. One company in particular won bids to provide oxygen in all of the South Carolina competitive bid areas, but this company is located in California. Bids on more than 200 contracts have been awarded to companies in states that do not even share a border with South Carolina. Instead of continuing to have access to their local providers, Medicare beneficiaries will have to work with companies that are located an average of 200 miles away from the market that they will be serving after July 1.

We believe that the federal government must find responsible ways to reduce Medicare spending. However, we are concerned that the CMS Competitive Bidding program in its current state is doing so at the expense of Medicare beneficiaries' access to DME. In order to ensure access to high quality DME is protected, we respectfully request that CMS delay implementation of the Round 2 Competitive Bidding program in order to allow Congress time to take the necessary measures to design a program that is in line with original Congressional intent. Thank you and we look forward to your response.

Sincerely,



Senator Tim Scott



Senator Lindsey Graham



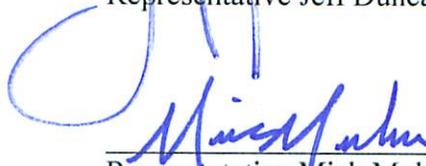
Representative Joe Wilson



Representative Jeff Duncan



Representative Trey Gowdy



Representative Mick Mulvaney



Representative Tom Rice