

Congress of the United States  
Washington, DC 20515

July 30, 2020

The Honorable Alex Azar  
Secretary  
The U.S. Department of Health  
and Human Services  
200 Independence Avenue, S. W.  
Washington, D. C. 20201

Ms. Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

We are writing today to urge you to delay the implementation of the Medicare Competitive Bidding Program (CBP) for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) for one year or throughout the public health emergency (whichever is longer) to protect patient access, considering the unique situation that the pandemic has recently created. During the delay period, we also ask that the Department of Health and Human Services (HHS) and the Office of Management and Budget (OMB) support extending the blended rates in both competitive bid areas (CBA's) and non-CBAs to maintain access and stability across all parts of the country.

DMEPOS suppliers are playing a major role in caring for COVID-19 patients and addressing hospital surge by allowing patients to be treated at home and not in hospital settings. As CMS recognized in its COVID-19 Interim Final Rule<sup>1</sup> by expanding access to certain DMEPOS, home respiratory products are helpful to the recovery of patients with COVID-19. The CBP is scheduled to release contracts for round 2021 this summer<sup>2</sup>. As you are aware, once the contracts are released, suppliers will learn whether they will be required to leave the markets of which they have not won contracts<sup>3</sup>. Limiting suppliers in the competitive bidding areas is appropriate under normal circumstances, but it is not during a pandemic when the number of Medicare beneficiaries who will likely require DMEPOS is continuing to increase<sup>4</sup>. We need to ensure that we can meet the growing need of home care products and the agency should not take this time to shift cost to institutional and clinical care.

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<sup>1</sup> Centers for Medicare & Medicaid Services (CMS), HHS, 42 CFR Parts 409, 410, 412, 413, 414, 415, 424, 425, 440, 483, 484 and 600 (2020).

<sup>2</sup> CBIC, Round 2021, Timeline, <https://www.dmecompetitivebid.com/cbic/cbic2021.nsf/DocsCat/MIXOD9OZCY> (2019).

<sup>3</sup> Centers for Medicare & Medicaid Services (CMS), HHS, General Overview of the Final Rule for Competitive Acquisition for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies, Page 4 (2007).

<sup>4</sup> MedPAC Report to Congress: Medicare and the Health Delivery System, Chapter 2, Page 35, (2015).

During this pause, CMS and the DMEPOS industry should work together to understand the patient need and potential impact that COVID-19 may have on certain product categories, such as home respiratory therapies. This understanding is important to ensuring that there will be enough capacity to treat patients once the CBP is launched.

We respectfully urge you to use your authority in pausing the CBP for one year or throughout the public health emergency (whichever is longer) due to the unprecedented burden that the COVID-19 pandemic has caused for home care providers, patients, and suppliers. Thank you for your attention to this important matter.

Sincerely,



Cathy McMorris Rodgers  
Member of Congress



Dave Loebsack  
Member of Congress

Brian Fitzpatrick  
Member of Congress

Troy Balderson  
Member of Congress

Mike Bost  
Member of Congress

Dan Meuser  
Member of Congress

Roger Marshall, M.D.  
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Billy Long  
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C.A. Dutch Ruppersberger  
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John Curtis  
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Steve King  
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Rick Crawford  
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David P. Roe, M.D.  
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Mike Simpson  
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Jackie Walorski  
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Tom Reed  
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Denny Heck  
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Cc: Russell T. "Russ" Vought, Director (Acting), Office of Management and Budget  
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