



HEALTH INDUSTRY DISTRIBUTORS ASSOCIATION

**Statement
of the
Health Industry Distributors Association (HIDA)
to the
House Ways & Means Health Subcommittee
Medicare's Competitive Bidding Program for
Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)
May 23, 2012**

On behalf of the interests of over 600 medical-surgical products distributor companies operating throughout the United States, the Health Industry Distributors Association (HIDA) commends the Ways & Means Health Subcommittee for convening a hearing on Medicare's competitive bidding program for durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) to explore the program's impact on patients and providers.

Founded in 1902, HIDA is the professional trade association representing medical-surgical products distributors. Our members deliver life-saving healthcare products to more than 220,000 points of care including over 195,000 physician offices, 5,700 hospitals, and 16,000 nursing home and extended care facilities throughout the nation. HIDA's members are committed to promoting safety and cost savings within the healthcare supply chain.

The majority of distributors are small businesses. Over a quarter of the industry earns annual revenues under \$1 million dollars. The healthcare distribution sector employs 65,000 people nationwide and ranked 39th out of 52 U.S. industries in relative annual profit margins by Fortune magazine. Distributors' average 1.3% annual profit margin is among the lowest in healthcare, requiring distributors to operate at extremely high levels of efficiency.

HIDA is committed to efforts to ensure that Medicare beneficiaries, specifically those residing in skilled nursing facilities (SNFs), continue to have uninterrupted access to life-sustaining medical products. As such, we write to express our concerns about the competitive bidding program's impact on SNFs and the patients they care for. Specifically, HIDA recommends:

- A third party validated study of the competitive bidding program's application to and impact on SNFs be conducted prior to the program's expansion nationwide; and
- The exclusion of enteral nutrients, equipment and supplies from Round Two of the competitive bidding program until the program's impact on SNFs and their patients is fully evaluated and understood.

Transitioning to a competitive bidding program for DMEPOS items and services raises many serious questions related to cost, access and beneficiary protection. SNF patients are among the nation's most ill and frail. They

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require 24/7 direct clinical coordination and care by nurses, doctors and other trained healthcare professionals, including long-term care specific enteral nutrient suppliers. The level of care required to support the healthcare needs of these patients must not be inadvertently threatened or compromised.

Impact on SNFs must be assessed

A third party validated study of the competitive bidding program's specific impact on SNFs must be conducted before the program further expands. The Government Accountability Office (GAO) recently released a report to Congress reviewing the first year of Medicare's DMEPOS competitive bidding program; however, it fails to provide a complete analysis of the program's specific impact on SNFs and their patients' access to quality enteral nutrition therapy. As CMS moves toward expanding the competitive bidding program from nine to 100 MSAs, it is essential to assess how the program has impacted this vulnerable patient setting.

It is apparent that the competitive bidding program was designed with the home care setting foremost in mind, yet SNFs care for the bulk of Medicare beneficiaries receiving enteral feeding for life-sustaining nutritional support. Mr. Laurence Wilson, CMS' Director of Chronic Care Policy, acknowledged this reality in response to a question posed by Representative Bill Pascrell (D-NJ) on the program's impact on SNFs during the May 9, 2012, Health Subcommittee hearing. Mr. Wilson stated that the only product category reimbursable under Medicare Part B impacting SNFs is enteral nutrition therapy (tube feeding).

Residents in SNFs often are more impaired than home care patients and they require a more complex regimen of care for enteral nutrition therapy than home care patients. Enteral patients in SNFs have dietary needs that change more frequently than most home care patients, thus requiring an enteral nutrition supplier that can readily address their special needs.

The competitive bidding program has interfered with a SNFs' ability to make decisions regarding the enteral nutrition needs of their residents. During the Round One rebid of the competitive bidding program a SNF had to submit and win a bid to continue providing enteral nutrition to its residents, or contract with a supplier from a list of bid winners in their respective metropolitan statistical area (MSA). Very few nursing homes won a bid to provide enteral nutrition to their own residents. Furthermore, many SNFs were forced to terminate long-standing relationships with their local long-term care specific enteral nutrient suppliers. These incidents raise a number of issues unique to the nursing home setting that must be evaluated prior to expanding the program nationwide.

Enteral nutrition therapy is not well-suited for competitive acquisition

Moving to a national competitive bidding program for DMEPOS items and services, specifically the inclusion of enteral nutrition therapy, raises many serious questions related to access, beneficiary protections, and market-based

competition. Taking these factors into consideration, HIDA recommends the exclusion of enteral nutrients, equipment and supplies from Round Two of the competitive bidding program until the program's impact on SNFs and their patients is fully evaluated and understood.

The level of care involved in delivering enteral nutrition therapy, commonly called tube feeding, must not be undermined by the competitive bidding process, nor should it compromise the life-sustaining nourishment to patients who cannot swallow because of severe or permanent medical problems. Patients are fed specialized nutritional formulas through a tube which is threaded through the nose, or a surgical opening, and leads directly to the stomach or intestine. Certain requirements must be satisfied in order to trigger Medicare Part B coverage of enteral nutrition in a SNF. First, the beneficiary must have a permanent functional impairment of the gastrointestinal tract. Second, enteral nutrition therapy must be deemed reasonable and necessary for the beneficiary. Third, the beneficiary must require tube feeding to maintain weight and strength commensurate with his or her overall health status. In these instances, Medicare Part B covers claims for enteral nutrition, along with the supplies and equipment necessary for administration (i.e., infusion pumps, intravenous poles, feeding supply kits and tubing).

Disregarding the qualifications and experience of a supplier of enteral nutrition therapy could lead to health complications and unintended consequences for beneficiaries. Many SNF suppliers have dietitians and clinical nursing consultants on staff. Typically, the enteral products are standardized to SNF residents based upon each SNF's specific clinical protocol. As currently devised, the competitive bidding program allows suppliers with no previous experience or familiarity with institutional settings or the enteral nutrition product category to service SNFs. SNF patients are at risk of developing subsequent illnesses - requiring a more expensive form of care - if their nutritional status and food security diminish.

Given the complexities involved with the SNF provider setting and the enteral product category, CMS stated in its 2004 Report to Congress on the 1999-2002 Florida and Texas competitive bidding pilot demonstration projects that enteral nutrition therapy "*was not well-suited for a competitive acquisition program.*" The agency recommended that the product category be excluded from future rounds of competitive bidding. Given this recommendation and the fact that the SNF setting was not the intended target of competitive bidding, we question why the agency chose to include enteral nutrition therapy in both the first and second rounds of the program.

Thank you for reviewing our concerns and considering our comments. We appreciate the opportunity to suggest important modifications to the competitive bidding program that should be implemented to ensure that patients and providers continue to have uninterrupted access to life-sustaining medical products.