
at the June 4, 2009, PAOC meeting that the agency is now considering whether to apply a different standard to evaluate the capacity of suppliers new to a DME product category. CMS later explained the new proposal to us. For the CBP, all suppliers, both new and experienced, estimate the number of items they can provide to meet the projected demand of beneficiaries for a product category in a CBA. Currently, a supplier must meet a minimum threshold based on CMS's determination of its financial strength in order for CMS to continue to evaluate its bid. If a supplier meets that threshold, it is then evaluated against a second threshold to determine whether CMS will accept the supplier's estimate of its ability to expand its current capacity. CMS is proposing that the second threshold be higher for suppliers new to a product category than for experienced suppliers. According to a CMS official, new suppliers that did not meet the second higher threshold could still be offered a contract, although the proposal would generally result in awarding more contracts to suppliers with experience.

Suppliers participating in the round 1 rebid must have all local and state licenses for a product category in a CBA at the time of bid submission in order to be considered for a CBP contract. According to CMS, this is not a change from CBP round 1. However, there were issues during the first round that complicated licensure verification. **CMS and Palmetto GBA acknowledged and some trade association representatives told us that some suppliers were offered CBP contracts during CBP round 1 for product categories for which they were not properly licensed.** Therefore, for the round 1 rebid, CMS has further clarified the licensure requirement, stating that suppliers must be licensed for the product category in the CBA in which they are bidding and if a CBA covers more than one state, the supplier needs to obtain applicable licensure in all states. To ensure that the licensure requirement is met, CMS is improving quality assurance checks to confirm that suppliers are properly licensed prior to accepting suppliers' bids in the CBP round 1 rebid.

On January 2, 2009, CMS published a final rule, effective March 3, 2009, to implement a statutory requirement that certain DME suppliers post a \$50,000 surety bond.⁸¹ In responding to comments on the rule, CMS stated that the surety bond is designed to reduce the amount of money that is lost

⁸¹CMS, *Medicare Program: Surety Bond Requirement for Suppliers of DMEPOS*, 74 Fed. Reg. 166 (Jan. 2, 2009). The BBA had required the Secretary to impose a surety bond for at least \$50,000 as a condition of suppliers becoming eligible to bill Medicare for the provision of DME and other items to beneficiaries.

Some DME suppliers and trade associations raised concerns about the CBP round 1, questioning several aspects of CMS's bid submission and contract award processes. They also questioned whether some winning suppliers could provide the volume of items and services their contracts required and whether contracts should have been awarded to suppliers that had no prior business presence in a CBA. Two congressional hearings addressed these concerns in May 2008.⁶

On July 15, 2008, the CBP round 1 was stopped when the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 was enacted.⁷ MIPPA delayed the CBP, terminated the contracts already awarded by CMS to suppliers in round 1, and required CMS to repeat the competition for round 1 CBP in 2009—the CBP round 1 rebid. To ensure budget neutrality, that is to compensate for the loss of the projected savings from the CBP, beginning January 1, 2009, MIPPA reduced national Medicare reimbursement payments by 9.5 percent nationally for items and services that had been included in the CBP round 1.⁸ MIPPA also imposed additional criteria for how CMS should conduct later CBP rounds, including the round 1 rebid and subsequent rounds that will expand the CBP to additional areas.⁹

As CMS prepares to implement the CBP round 1 rebid, you asked us to report on (1) the results of the CBP round 1, (2) the major challenges CMS had in conducting the CBP round 1, and (3) the steps CMS has taken to improve future CBP rounds.

To determine the results of the CBP round 1, we reviewed data from CMS and Palmetto GBA—the contractor CMS selected to implement the CBP bidding and contract award process—about the number of suppliers participating in round 1 of the CBP process, the number of submitted bids,

⁶Hearings on CBP were held by the House of Representatives's Committee on Ways and Means, Subcommittee on Health, on May 6, 2008, and the Committee on Small Business, Subcommittee on Rural and Urban Entrepreneurship, on May 21, 2008.

⁷Pub. L. No. 110-275, § 154, 122 Stat. 2494, 2560 (2008) (codified, as amended, at 42 U.S.C. § 1395w-3).

⁸House of Representatives's Committee on Ways and Means, Subcommittee on Health, hearing on Medicare's DMEPOS Competitive Bidding Program (May 6, 2008).

⁹MIPPA also changed the CBP phase-in dates to 2009 for the round 1 rebid in 9 CBAs, to 2011 for round 2 in 70 additional CBAs, and after 2011 for additional CBAs (or after 2010 for national mail order items and services).

Appendix II: Change in Numbers of Suppliers by CBP Product Category and CBA: 2006-2008

Product category	Competitive bidding area (CBA)										Median
	Charlotte	Cincinnati	Cleveland	Dallas	Kansas City	Miami	Orlando	Pittsburgh	Riverside	San Juan	
Oxygen Supplies and Equipment											
Calendar year (CY) 2006 suppliers ^a	39	45	38	133	41	488	71	47	53	NA	47
Competitive bidding program (CBP) contract suppliers	18	18	22	36	17	43	34	22	18	INS	22
Percent change in number of suppliers	-54	-60	-42	-73	-59	-91	-52	-53	-66	NA	-53
Standard Power Wheelchairs, Scooters and Related Accessories											
CY 2006 suppliers	30	19	18	92	18	91	27	12	72	34	29
CBP contract suppliers	11	13	12	24	14	18	13	11	19	6	13
Percent change in number of suppliers	-63	-32	-33	-74	-22	-80	-52	-8	-74	-82	-54
Complex Rehabilitative Power Wheelchairs and Related Accessories											
CY 2006 suppliers	27	21	20	74	19	101	21	11	49	NA	21
CBP contract suppliers	10	7	6	11	4	6	6	5	8	INS	6
Percent change in number of suppliers	-63	-67	-70	-85	-79	-94	-71	-55	-84	NA	-71
Mail-Order Diabetic Supplies											
CY 2006 suppliers	118	101	93	150	96	294	87	79	68	129	99
CBP contract suppliers	10	15	12	15	10	18	12	12	7	13	12
Percent change in number of suppliers	-92	-85	-87	-90	-90	-94	-86	-85	-90	-90	-88

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by CBP Product Category and CBA: 2006-2008**

Product category	Competitive bidding area (CBA)										Median
	Charlotte	Cincinnati	Cleveland	Dallas	Kansas City	Miami	Orlando	Pittsburgh	Riverside	San Juan	
Enteral Nutrients, Equipment and Supplies^b											
CY 2006 suppliers	48	47	67	100	34	338	47	50	67	NA	50
CBP contract suppliers	12	11	14	13	13	29	21	10	19	INS	13
Percent change in number of suppliers	-75	-77	-79	-87	-62	-91	-55	-80	-72	NA	-74
Continuous Positive Airway Pressure Devices, Respiratory Assist Devices and Related Supplies and Accessories											
CY 2006 suppliers	34	28	32	72	24	172	46	29	32	13	32
CBP contract suppliers	18	13	17	26	15	33	23	15	17	15	17
Percent change in number of suppliers	-47	-54	-47	-64	-38	-81	-50	-48	-47	15	-47
Hospital Beds and Related Accessories											
CY 06 suppliers	33	29	33	103	21	160	30	35	45	NA	33
CBP contract suppliers	13	12	12	51	15	43	29	15	32	INS	15
Percent change in number of suppliers	-61	-59	-64	-50	-29	-73	-3	-57	-29	NA	-55
Negative Pressure Wound Therapy Pumps and Related Supplies and Accessories											
CY 06 suppliers	1	2	1	3	NA	242	4	2	2	NA	2
CBP contract suppliers	10	8	9	16	INS	15	14	6	5	INS	10
Percent change in number of suppliers	900	300	800	433	NA	-94	250	200	150	NA	375
Walkers and Related Accessories											
CY 06 suppliers	15	18	21	34	8	42	18	18	12	9	18
CBP contract suppliers	8	10	10	20	14	25	16	14	12	17	14
Percent change in number of suppliers	-47	-44	-52	-41	75	-40	-11	-22	0	89	-22