

## Legislative Success

### RECENT FEDERAL VICTORIES THAT PROVIDED RELIEF TO HME SUPPLIERS AND MANUFACTURERS:



• End-of-year Omnibus legislative package for 2022 included two major HME policy priorities championed by AAHomecare: an extension for the 75/25 blended Medicare rate for non-CBA/non-rural suppliers through the end of 2023, as well as preventing across-the-board 4% Medicare cuts for 2023 and 2024 that would have been triggered by the application of provisions in 2010 “PAYGO” budget legislation. Successfully advocated for an extension of the telehealth waivers and prevented a limitation for DME in the final language.

- Over the last 2 years, AAHomecare’s federal legislative and regulatory efforts have resulted in over \$3 billion in relief for HME providers and manufacturers.
- The CARES Act, passed in March of 2020, included a provision that provided a 50/50 blended rate for rural areas and 75/25 blended rate for non-rural, non-competitive bidding areas throughout the Public Health Emergency. So far, this provision has provided vital relief for non-competitive bidding areas for 2 years.
- Worked to ensure that HME suppliers were included in the groups eligible for more than \$90 billion in provider relief funds granted under the CARES Act, including a share of the \$30 billion initial direct distribution in April 2020 to companies serving Medicare beneficiaries.
- Worked with Congress and the Administration to stop CMS’ application of competitive bidding pricing for CRT manual accessories in 2020. This effort was based on the successful effort to stop the application of competitive bidding pricing to CRT power accessories in 2017.

• Worked with Congress on an effort to urge the Administration to release the 2021 Final DME rule with the 50/50 blended rate for rural areas. Reps Cathy McMorris Rodger and Paul Tonko spearheaded a Congressional sign-on letter to HHS and CMS and were joined by 93 other members of the House of Representatives. The Administration released the final DME rule, which included the continuation of the 50/50 blended rate for rural areas, shortly after the letter was sent.

• Worked with Reps Markwayne Mullin and Paul Tonko on legislation to provide a 90/10 blended rate for items removed from the 2021 round of competitive bidding. This legislation (H.R. 6641) was introduced on February 8, 2022.

• The Consolidated Appropriations Act of 2021 (H.R. 133), passed in December 2020, included a permanent fix for oxygen budget neutrality requirements, which AAHomecare has advocated on behalf of for more than four years, and a three-month extension on the 2% Medicare sequester cuts.

• Prevented expansion of the Competitive Bidding Program to infusion & inhalation drugs, ostomy, urological, and tracheostomy supplies.

• Worked with Congress and CMS to remove non-invasive ventilators from the competitive bidding program in 2020. The Safeguarding Medicare Access to Respiratory Therapy (SMART) Act of 2019/H.R. 4945 was introduced by Reps. Morgan Griffith and Peter Welch. This legislation would require CMS to remove NIV from competitive bidding and had 59 cosponsors. This important bill helped convince CMS to remove NIV from competitive bidding in 2020.

• Enlisted strong Congressional support for delaying implementation of Round 2021 of the Competitive Bidding Program, which helped lead CMS to remove most major HME product categories from Round 2021 and keeps the Medicare market open to all suppliers.

**Tyler Kiser**  
President of TLC Group Medical

“AAHomecare has made a huge difference in our business. There’s so much more they bring to the table. So what are you waiting for; get on board and let’s make 2022 the HME year.”

# Regulatory Wins

## CMS PROVIDES FLEXIBILITIES DURING COVID-19 PUBLIC HEALTH EMERGENCY (PHE)

- DME MAC TPE audits that were in progress at the beginning of the PHE were released and paid.
- Face-to-face (F2F) requirement is waived for all items where F2F is required by NCDs and LCDs (including articles) except for power mobility devices.
- Proof of Delivery signature requirements waived.
- Suppliers can provide a multi-function ventilator (E0467) as an upgrade to beneficiaries who qualify for a ventilator.
- Expanded use of telehealth to prescribe and reauthorize DME.
- Physical therapists, occupational therapists, and other health care professionals are allowed to conduct telehealth services.



## CMS ADDS 50/50 BLENDED RATES FOR RURAL AREAS INTO REGULATION

- As of February 28, 2022, the blended relief rates in rural areas will be in regulation.

## CMS FIXED RAC DOWN CODE /AUDIT DECISION, ACCOUNT FOR SUPPLIERS' VOLUME OF CLAIMS

- AAHomecare communicated with CMS the issue of the RAC contractor instructing DME MACs to partially deny audits, resulting in suppliers having no recourse to appeal decisions. CMS was able to successfully resolve the issue with the RAC contractor.
- CMS directed RAC to account for supplier's volume of claims by product category, which would limit supplier's chances of getting a large audit on a small part of their business.

## SMRC ADDS RESPONSE EXTENSION FLEXIBILITY

- Due to AAHomecare's request, CMS advised the SMRC to allow for 10-day extensions for supplier responses and allows unlimited flexibility for extensions based on the supplier situation.

## CMS OPENED THE HOME USE OF OXYGEN NCD AND MOBILITY NCD FOR POWER SEAT ELEVATION

- CMS expanded coverage and removed documentation requirements from the Oxygen NCD that have been advocated for by AAHomecare for several years. This NCD was last updated in 1993.
- CMS opened the NCD for seat elevation systems used with power wheelchairs. AAHomecare submitted comments.

## CMS PROPOSED EXPANDING COVERAGE FOR CGMS

- CMS published the Proposed Glucose Monitors Local Coverage Determination which would expand coverage for continuous glucose monitors (CGMs) that many stakeholders have been requesting. CMS proposed to remove the requirement for multiple administrations of insulin and frequent self-adjustments. CMS also proposed to allow for telehealth visits in the place of in-person visits.

## NEW OXYGEN POLICY IMPROVED COVERAGE CRITERIA AND DOCUMENTATION REQUIREMENTS

- CMS is removing the CMN requirement recognizing that the CMN form is no longer needed for medical review purposes.
- CMS is expanding coverage for acute conditions and is removing all references to 'chronic stable state' in the NCD. This change will allow for coverage for short-term oxygen therapy.
- CMS acknowledged that requiring patients to try and fail other therapies needlessly prolongs access to oxygen therapy.
- CMS noted the ability to breathe as primary driver, not oxygen desaturation to meet coverage requirements.

## CBIC ANNOUNCED MEDICARE WILL NOT FOCUS AUDITS ON PHE-WAIVED CLAIMS

- For the first time, in 2022, CMS published information regarding the end of the PHE. CMS published directions that after the end of the PHE, CMS' medical review contractors will not be focusing audits on PHE waived DME claims and will review based on applicable rules that were in place at the date of service time.

## FACE-TO-FACE TIME FRAME INCREASE FOR PMD

- In the final rule CMS-1713-F, CMS announced changed the F2F time frame requirement for PMDs from 45 days to six months to be effective some time in 2020.

## Passed Legislation Into Law:

- Language included in H.R. 2, passed in 2015, requires binding bids and state licensure for all new rounds of Competitive Bidding contracts to prohibit speculative bidders in competitive bidding. (P.L. 114-10)
- Secured 50/50 blended rates for rural and non-contiguous areas. Passed separate legislative language out of each chamber for the Patient Access to Durable Medical Equipment Act of 2016 (H.R. 5210 and S. 2736) to extend the transition time for the scheduled July 1, 2016 Medicare rate cuts for rural and other non-CBA providers. AAHomecare worked with House and Senate leadership to reconcile the two bills. A six-month extension of 50/50 blended rate was included in the 21st Century Cures bill and signed into law in 2017. This legislation set up additional relief for non-competitive bidding areas through legislation and regulation.
- Successfully advocated for an additional 6-month extension of the CRT power accessory relief in the 21st Century Cures bill. Worked with HHS and CMS to make the relief permanent. CMS announced that CRT power wheelchairs and accessories are permanently exempted from bidding-derived pricing on June 23, 2017. This change provided over \$500 million in relief. AAHomecare worked with the Administration and Congress to ensure the retro payment process worked as efficiently as possible. At the end of 2019, successfully advocated for legislation to exempt CRT manual bases from CB pricing and provided 18 months of relief for CRT manual accessories from CB cuts.
- The Consolidated Appropriations Act 2018 (Omnibus) included report language encouraging the release of the Interim Final Rule by the Office of Management and Budget, which was subsequently released in May, providing the HME Industry \$360 million in non-bid relief for rural and non-contiguous areas. (P.L. 115-141)

## Payer Relations Achievements

**\$263M PUT BACK IN PROVIDERS POCKETS (IN LAST 3 YEARS), \$127M RECURRING ANNUALLY**

- Secured rate floor protection (\$14 million) in three states
- Preventing CURES cuts (\$54 million) in four states

## ADDITIONAL REIMBURSEMENT SAVINGS

- Prevented over \$15 million in CURES paybacks from state Medicaid programs to CMS while creating opportunity to maintain/increase DME rates and build goodwill with the state.
- 5% increase for Medicaid in North Carolina
- 2.5% increase for Medicaid in New York
- Medicaid rate adjustments due to CPI-U in multiple states
- Developed relationships with DME Contracting at various payers in high level positions to provide input and partnership for DMEPOS policy decisions and to influence sustainable reimbursement rates.
- Including unbundling of supplies and compliance waivers for PAP with multiple payers
- Spearheading a coordinated effort with state associations to address state legislative and regulatory avenues to achieve HME priorities, including rate stability.



- Worked with TRICARE contractors and Dept. of Defense to ensure adoption of CARES Act rates adjustments and retro-active reprocessing of claims, and coordinated with defense health agency to alleviate claims processing delays for HME.
- Passed legislation in Louisiana preventing payers from capping payments on NIV.
- Supported state efforts to secure relief through ARPA funding – MassHealth 10% increase, Ohio 10% relief payment, Indiana 8.1% relief payment.
- Passed legislation in Illinois and Rhode Island that exempts breast pumps from sales tax.

**\$302M**

**Savings from CURES, Rate Floor Legislation,  
Other Payer Initiatives for 2020-2022**

