



Support S. 1294 -- Legislation to Continue Relief for Durable Medical Equipment in Non-Competitive Bidding Areas

Issue

Like many industries, durable medical equipment (DME – also commonly referred to as Home Medical Equipment) providers have experienced significant supply chain issues and increased operating expenses. However, DME suppliers are constrained under pre-determined, Medicare fee schedules that fail to factor in the increased costs of providing care. This has resulted in an unsustainable reimbursement environment that jeopardizes patient access to care and threatens the financial viability of the DME Industry in meeting our communities' needs.

On April 26, 2023, Senators Thune (R-SD) and Stabenow (D-MI) introduced S. 1294, which will extend the DME non-competitive bidding area relief included in the 2022 Omnibus Appropriations bill until the end of 2024. On November 8, 2023, the Senate Finance Committee passed S. 3430, *the Better Mental Health Care, Lower-Cost Drugs, and Extenders Act*, legislation that includes provisions from S. 1294.

Background

On October 31, 2014, CMS released a final rule which established the methodology for making national price adjustments to the fee-for-service payments of specific DME items. This methodology applies pricing derived from highly populated competitive bidding areas (CBAs) to all areas of the country and fails to consider the unique attributes of health care in rural America, which have distinct cost differences from their urban counterparts, and are stripping communities of DME resources.

On January 1, 2016, the first phase of the two-part reimbursement adjustment for suppliers serving patients outside of CBAs took effect. On July 1, 2016, the prices were fully phased in, slashing Medicare reimbursement by over 50% on average.

Due to mounting concerns about the impacts of cost-cuts on access to care, especially in non-CBAs and rural America, Congress intervened and included a provision in the 21st Century Cures Act to extend the reimbursement rates in effect on January 1, 2016 through December 31, 2016. This provided retroactive relief to DME suppliers, but on January 1, 2017, the full reimbursement cut went back into effect. Since the inception of competitive bidding, it is estimated that over 30% of traditional DME companies nationwide have either closed or are no longer service Medicare patients due to these unsustainable payment cuts.

At the urging of Congress, patients, and providers, CMS issued an Interim Final Rule on May 9, 2018, that provided emergency relief to rural areas until the end of 2018 at the 50/50 blended reimbursement rate. On November 1, 2018, CMS finalized the ESRD/DMEPOS rule which extended the rural relief until the end of 2020.

As a result of the increased cost and supply change issues, Congress provided additional DME non-CBA relief in the 2022 Omnibus Appropriations bill. This provision provided a 75/25 blended rate for non-rural, non-CBAs throughout 2023.

Effects of the Supply Chain Problems and Inflation

Costs have continued to rise throughout the last 3 years because of supply chain issues, increased raw material and labor costs, and inflation. The entire supply chain has been affected while demand climbs on key product categories used to treat COVID-19 patients globally, such as oxygen and ventilators as well as non-direct products as a growing number of individuals are being released from hospital to home instead of skilled facilities.

DME manufacturers and distributors cannot absorb the significant cost increases for raw goods, production, shipping, import freights, and supply chain economics, so they are passing it on to suppliers. These costs are being shouldered by DME suppliers who continue receiving price increase notifications from their vendor partners as well as increased delivery and operational costs, while facing fixed reimbursement rates. **Delivery costs alone have increased by 33%** on average during the pandemic, including roundtrip expenses with vehicle costs, labor, personal protective equipment, and time to set up equipment, educate beneficiaries and/or family caregivers, and pick up equipment. Many of these added cost pressures will continue long after the PHE concludes and threaten the viability of DME suppliers to continue to meet the needs of our patient communities.

From seniors to those with disabilities or chronic conditions, people across the country rely on DME to go about their daily lives and manage their medical needs in a cost-effective home environment. However, this equipment cannot save lives if it is not available to those who need it most, especially in rural communities where we know barriers to access health care already exist.

The Solution

Congress provided relief in the 2022 Omnibus bill for non-rural, non-competitive bidding areas until the end of 2023. This relief was vital to protecting Medicare beneficiaries' access to the home medical equipment they need. On April 26, 2023, Senators Thune and Stabenow introduced S. 1294, which will extend the 75/25 blended rate for DME items for non-competitive bidding area relief bill until the end of 2024. In November 2023, the Senate Finance Committee has approved provisions from S. 1294 as part of S. 3430, *the Better Mental Health Care, Lower-Cost Drugs, and Extenders Act (Sec. 405)*. Similar House legislation, H.R. 5555, was approved by the House Energy & Commerce Committee in December 2023.

Our Ask:

We ask Senators to support legislation that would extend the 75/25 blended rate in non-rural, non-competitive bidding areas for DME items. Specially, we ask that Senators work with leaders in their party to include provisions from S. 1294 in a larger legislative package before the end of the 118th Congress.

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