

CMS Response to Public Comments Received for CMS-10169 for Round 1 Re compete

The Centers for Medicare & Medicaid Services (CMS) published the DMEPOS Competitive Bidding Program Request for Bid forms on May 7, 2012. The purpose of this publication was to allow comments on the forms being used to conduct the bidding. This Paperwork Reduction Act (PRA) package was submitted as a revision to update the package for renewal. In response to this publication there was one public comment submitted that addressed several aspects of the program. Many of the concerns raised by this commenter are outside of the scope of the information collection requirements in this PRA package.

The Centers for Medicare & Medicaid Services implemented the competitive bidding program in accordance with the law and has taken great steps to protect the interests of Medicare beneficiaries potentially affected by the DMEPOS Competitive Bidding Program. CMS maintains a robust network of surveillance activities to actively monitor the program including real-time claims analysis to monitor health status for groups of Medicare beneficiaries in competitive bidding areas (CBAs). A summary of the program's success in its first year, including savings and the health status of beneficiaries, has been published and is available for the public on the CMS website. A copy of this report is also attached to this document.

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSCompetitiveBid/Downloads/Competitive-Bidding-Update-One-Year-Implementation.pdf>

Issues Raised by the Commenter that are Out of Scope of the Information Collection Requirements:

- The commenter believed that the information to be collected would not have practical utility as defined by the PRA.

Response: The DMEPOS Competitive Bidding Program is required by statute, and its utility is supported in the program's successful outcomes documented in the One Year Implementation Update published on April 17, 2012. All information collected using these instruments is necessary to properly implement the competitive bidding program and ensure we only contract with eligible, qualified suppliers.

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- The commenter believed that the information to be collected lacks utility under the Data Quality Act and practical utility under the PRA.

Response: The provisions of the Data Quality Act go beyond the scope of the PRA for the submission of bids under the competitive bidding program. The DMEPOS Competitive Bidding Program is required by statute, and its utility is supported in the program's successful outcomes documented in the One Year Implementation Update published on April 17, 2012.

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- The commenter believed that the competitive bidding program would shift costs to the public.

Response: The Centers for Medicare & Medicaid Services DMEPOS Competitive Bidding Program has saved the Medicare Fee-for-Service Program approximately \$202.1 million in its first year of implementation, a percentage drop in expenditures of over 42 percent in the nine markets participating in the program. CMS real-time claims monitoring has found no disruption in access to needed supplies for Medicare beneficiaries. Moreover, there have been no negative healthcare consequences to

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beneficiaries as a result of competitive bidding. The CMS office of Actuary (OACT) estimates that the program will save the Medicare Part B trust fund \$25.7 billion between 2013 and 2022. Beneficiaries are expected to save an estimated \$17.1 billion during the same 10 year period due to the reduction in coinsurance reduced premiums. This information is documented in the One Year Implementation Update published on April 17, 2012.

- The commenter believed that the Medicare statute would permit binding bids.

Response: The procedures for the awarding of contracts under the competitive bidding program go beyond the scope of this PRA package. CMS published several Federal regulations to establish the policies for the implementation of the DMEPOS Competitive Bidding Program. These regulations include, in part: a notice of proposed rulemaking published on May 1, 2006 Federal Register (72 FR 25654), a final regulation published on April 10, 2007 (72 FR 17992), and an interim final rule (IFC) with public comment published on January 16, 2009 (74 FR 2873).

- The commenter believed that the competitive bidding program is promoting consolidation in the home medical equipment supply industry.

Response: This comment is beyond the scope of the PRA for the submission of bids under the competitive bid program.
