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Medicare: Congress Is Poised to Block Competitive Bidding for Medical Supplies

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Members of Congress, under pressure from industry lobbyists, are poised to block competitive bidding for durable medical equipment and supplies in the Medicare program. Special-interest pressure operates through both political parties and even across the ideological spectrum and is yet another sad reminder of Congress's deplorable weakness in controlling entitlement costs without structural changes in Medicare and the budget process itself.[1]

Waste. In providing senior and disabled citizens with medical equipment and supplies, Congress authorizes the purchase of everything from wheelchairs and walkers to orthotics and oxygen tanks. For years, Medicare payment for these items, like other Medicare goods and services, has been established through a government system of administrative pricing. Sustained by special-interest lobbying, the current Medicare payment system is insulated from real market forces that control cost. As a result, neither taxpayers nor seniors are able to benefit from competitive pricing for the durable equipment and supplies that are purchased though the Medicare program.

Government reports make it clear that Medicare's existing pricing system hurts seniors and taxpayers alike. Take, for example, the Medicare rental payment for home-based oxygen equipment including the oxygen concentrator, a stationary device that can concentrate oxygen in the air of a room, the subject of an extensive 2006 report by the Department of Health and Human Services (HHS) Office of Inspector General (OIG). In his memorandum, Mark McClellan, M.D., Administrator of the Centers for Medicare and Medicaid Services (CMS), told Inspector General Daniel R. Levinson:

> Regarding equipment costs, the report found that the average purchase price for concentrators is $587; under the current payment system suppliers would receive a total of $7,215 for 36 months, a figure significantly in excess of the equipment acquisition costs. Indeed, the report finds that the Medicare beneficiary coinsurance during a 36 month rental period of $1,443 would be in excess of twice the equipment purchase price. Regarding servicing, the report finds that minimal servicing and maintenance is necessary for concentrators and portable equipment and that servicing tasks can be performed in less than five minutes.[2]

Baby Steps. A few years ago, Congress took baby steps toward remedying Medicare's pricing system woes, at least in the limited area of medical equipment and supplies. Under the Medicare Modernization Act of 2003, Congress authorized HHS, which runs Medicare, to make companies compete

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directly in the sales of these durable goods. By securing payments based approximately on market prices, HHS is seeking to reduce costs for both taxpayers and seniors.[1,2]

On July 1, 2008, the new competitive bidding program for durable goods and equipment is supposed to go into effect. HHS has signed contracts with 325 medical suppliers, who bid to provide medical equipment and supplies to an estimated 3.6 million Medicare patients in 10 communities across the United States at lower prices than these patients are paying now.[3] In 2009, in the next round of bids, absent congressional obstruction, the competitive bidding program will expand to 70 communities across the United States.[4]

Serious Savings. Kerry Weems, Acting Administrator of the Centers for Medicare and Medicaid Services, notes that Medicare today pays $1,825 for a hospital bed that can be purchased on the Internet for about $750.[5] CMS's preliminary data demonstrate that the new competitive bidding program would yield significant savings in various categories of equipment. (See Table 1.)

Equipment Costs Under the New Competitive Bidding Progam

Equipment	2008 Standard Medicare Fee Schedule	New Competitive Bidding Program
Standard power wheelchair	$4,023. 70	$2,756.24 *(Orlando, FL)* $3,017.78 *(Riverside, CA)* $3,002.89 *(Dallas, TX)*
Monthly rental of a semi-electrical hospital bed	$140.46	$88.49 *(Cincinnati, OH)* $98.32 *(Miami, FL)* $94.50 *(Cleveland, OH)* *
Diabetic testing supplies	$82.68 (for 100 lancets and test strips)	$47.53**

* Centers for Medicare and Medicaid Services, "2008 Fee Schedule vs. Single Payment Amount," June 2008.
** Kerry Weems, Acting Administrator, Centers for Medicare and Medicaid Services, "The DMEPOS Competitive Bidding Program," testimony before the Subcommittee on Health, Committee on Ways and Means, U.S. House of Representatives, May 6, 2008, at *http://www.hhs.gov/asl/testify/2008/05/t20080506a.html* (June 17, 2008).

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Based on the results of the bidding process thus far, HHS reports that Medicare would see prices on average 26 percent *lower* than the current pricing for these items.[6] *The Washington Post* reports that competitive bidding is expected to save taxpayers $125 million over the course of a year and as much as $1 billion annually *if* the program is allowed to grow.[7] As Medicare patients routinely pay a 20 percent co-insurance for the cost of medical equipment and supplies, they would benefit directly and immediately from the proposed competitive bidding process.

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1. For a brief discussion of the budgetary changes, see Robert E. Moffit, Ph.D., and Alison Acosta Fraser, "Washington Must Pull the Trigger to Contain Medicare Spending," Heritage Foundation *WebMemo* No. 1796, February 4, 2008, at *http://www.heritage.org/research/budget/wm1796.cfm*.
2. Mark McClellan, M.D., Administrator, Centers for Medicare and Medicaid Services, memorandum to Daniel R. Levinson, Inspector General, U.S. Department of Health and Human Services, September 7, 2006, p. 1. Under the Deficit Reduction Act of 2005, Medicare monthly rental payments can continue for 36 months, after which period the ownership of the equipment is transferred to the Medicare beneficiary.
3. The communities are Charlotte, North Carolina; Cincinnati and Cleveland, Ohio; Dallas, Texas; Kansas City, Missouri; Orlando, Florida; Pittsburgh, Pennsylvania; Riverside, California; and San Juan, Puerto Rico.
4. "Suppliers Selected for New Program That Reduces Costs for Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies," Centers for Medicare and Medicaid Services, May 19, 2008, at *http://www.cms.hhs.gov/apps/media/press/factsheet.asp?Counter=3112&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date* (June 17, 2008).
5. Associated Press, June 9, 2008.
6. CMS, "Suppliers Selected for New Program."
7. Christopher Lee, "Suppliers Fight Plan to Cut Medicare's Equipment Costs," *The Washington Post*, June 10, 2008, p. A8, at *http://www.washingtonpost.com/wpdyn/content/article/2008/06/09/AR2008060902585.html* (June 17, 2008).

Higher Costs. Medical supply "provider companies" that do not offer their services at competitive prices oppose the new competitive bidding process and are lobbying against its enactment. Indeed, most of the companies that received government contracts did not meet the lower price targets in the bidding process, and about 20 percent of them failed to satisfy HHS standards or provide sufficient documentation to justify the awarding of a contract.

The bipartisan congressional response has been sadly predictable: 132 members of the House of Representatives, the first-line guardians of the public purse, have signed a letter urging the House Ways and Means Committee to act on legislation delaying the HHS competitive bidding program for at least one year.[8] Such a delay would force taxpayers and seniors to bear higher costs for medical equipment and supplies. Nonetheless, Representatives Fortney "Pete" Stark (D–CA) and Dave Camp (R–MI) have introduced the Medicare DMEPOS Competitive Acquisition Reform Act (H.R. 6252), which would terminate the first round of contracts affecting 10 communities under the new competitive bidding process and authorize HHS to re-bid those terminated contracts in 2009.

Additionally, the proposed second round of contracts (affecting 70 communities) would be delayed until 2011 and in some rural areas until 2015.[9] The proposed delay would cost an estimated $3 billion and would be paid for by a 9.5 percent "across the board reduction" in payment for durable medical equipment and supplies "subjected to competitive bidding."[10] Subsequently, some legislators—Congressman Stark in particular—would like to abolish the competitive bidding process altogether and rely on the Medicare bureaucracy to set the "right" prices for medical equipment.

In the Senate, Senators Debbie Stabenow (D–MI) and Sen. George Voinovich (R–OH) are authors of a letter calling for delay similar to that of their House colleagues.

Another Case for Comprehensive Reform. Because the government traditionally fixes prices and fees for medical goods and services—everything from physicians' fees and hospital payments to medical devices—the entire process of Medicare price setting is an arena for frenzied special-interest lobbying. Each year, mobs of lawyers, lobbyists, and consultants representing hundreds of "provider groups" descend on the House Ways and Means Committee and the Senate Finance Committee, the committees with jurisdiction over Medicare. Their task is simple: to make sure that their clients—the provider groups—receive the "right" reimbursement.

Genuine competition and market-based pricing threatens existing business arrangements, which is one of the reasons why Congress ought to embark on a serious reform of Medicare financing. Such reform could be realized by transforming Medicare from today's system into a premium support system of financing, whereby the government makes a direct contribution to the health plan of a Medicare beneficiary's choice, thus forcing health plans to compete directly for Medicare dollars. This type of financing would obviate the need for Medicare's antiquated system of price setting for medical goods and services, a source of current overpayments and underpayments—the political favoritism and inefficiencies that characterize the program.

As special-interest groups' courtship of Congress intensifies, Medicare faces a growing fiscal crisis, with promised benefits costing $36 trillion more than the projected revenues dedicated to the program. If Members of Congress, Democrats and Republicans alike, cannot resist special-interest pressure and allow for newly enacted competitive bidding to commence, it is hard to imagine how they will summon the fortitude when larger challenges inevitably arrive.

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8. *Ibid.*
9. For background on the legislation and the implications of the delay, see Republican Study Committee, "Durable Medical Equipment," *RSC Policy Brief*, June 16, 2008.
10. *Ibid.*