



## Summary of CMS-1561-IFC

### Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)

As suppliers are most aware, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) mandated the implementation of the Medicare DMEPOS Competitive Bidding Program. The program would replace the current fee schedule payment methodology with new payments established through the competitive bidding process in certain product categories falling under the DMEPOS umbrella.

To kick-start the program, suppliers in ten selected competitive bidding areas submitted bids for contracts during the summer of 2007 (Round 1). Bidding entities were overwhelmed with flaws to the bid submission process, financial documentation review process and bid review process. Ultimately, after reviewing approximately 6,500 bids, CMS offered contracts to 329 suppliers during spring of 2008. Contract suppliers in those ten initial bidding areas saw average reimbursement cuts of 26% on the product categories covered under the program. Contracts initially went into effect on July 1, 2008. On July 15 MIPPA terminated these contracts and immediately reinstated all suppliers of DMEPOS for all products in the competitive bidding areas, delayed the implementation of the program, and required certain amendments to the program upon re-implementation. As a 'pay-for' for the delay in the program, suppliers in all areas of the country saw a January 1, 2009 9.5% reduction in reimbursement for those products included in the first round of the program.

CMS-1561-IFC, to be published in the January 16, 2009, established regulations for the "rebid" of the first round and subsequent rounds of competitive bidding. Provisions of the interim final rule include:

- Round 1 of the competitive bidding program is delayed from 2007 to 2009 and round 2 is delayed from 2009 to 2011.
- With limited exceptions, the same items and services will be included in the rebid (Round 1.2) of round one of competitive bidding.

- Negative Pressure Wound Therapy will be excluded from round 1.2 of competitive bidding.
  - Group 3 complex rehabilitative wheelchairs are permanently excluded from the competitive bidding program.
  - Product categories included in round 1.2 will include ‘essentially the same codes.’
    - Adjustments to HCPC code listing may be made to reflect changes since 2007.
- With limited exceptions, the same areas will be included in Round 1.2 of the bidding process.
  - San Juan, Puerto Rico will no longer be included in the program.
    - While no dates have yet been set, bidding is likely to take place during the summer of 2009.
  - Round 1.2, with the exception of changes due to zip code changes, will include the same zip codes as included in the initial round of competitive bidding.
- Suppliers will now only be required to submit financial documentation for the most recent 1-year period.
  - Bidding entities will be required to submit the same categories of financial documents as requested in the previous round of competitive bidding.
- CMS will now be required to notify suppliers who have missing financial documentation.
  - In conjunction with this, CMS will establish a “covered document review date.” This date will be the later of (1) the date 30 days prior to the final bid submission date and (2) the date 30 days after the first bid submission date.
    - Documents submitted after this deadline will not be subject to the notification of missing documentation requirement.
    - CMS will notify bidders of missing documents no later than 45 days after the “covered document review date.”
  - Suppliers will be allowed 10 business days to submit missing financial documents.

*Note: Suppliers must submit covered documents prior to the deadline in order to be eligible for notice of any missing covered documents.*
- Bidding entities will be required to disclose subcontracting relationships no later than 10 days after entering into the relationship.
  - Subcontractors will now be required to meet accreditation requirements.
- Hospitals will now be subject to the same exemption as physicians and treating practitioners when supplying to the hospital’s own patients during admission or at the date of discharge.

- The exemption is limited to crutches, canes, walkers, folding manual wheelchairs, blood glucose monitors, and infusion pumps that are DME.
- CMS will consider alternatives to competition for diabetic supplies due to concerns raised about differing payment rates established based on mode of delivery.
  - CMS welcomes comments on alternatives.

CMS acknowledges, based on the experiences of the first round of competitive bidding, that less than 400 suppliers will be awarded contracts following the 2009 bidding process.

A comment period of 60 will begin January 16 and run through March 17. While CMS-1561-IFC is classified as an “interim final rule,” VGM strongly encourages providers to review the provisions of the competitive bidding final rule and submit comments accordingly.

To review the original final rule, [click here](#).

To review CMS-1561-IFC, [click here](#).

To review a list of talking points compiled by VGM, [click here](#).

For instructions on submitting comments, [click here](#).