

## Eli's Rehab Report

### **DME: Good News -- Therapists Exempt From Competitive Bidding Process**

#### **But you'll still need accreditation**

It's official: The final rule implementing Medicare's new competitive bidding program is here at last -- leaving nearly 6,000 suppliers about two months to try to hold onto their Medicare revenue.

The regulation -- "Competitive Acquisition for Certain Durable Medical Equipment, Orthotics and Supplies" -- was released April 2.

**Timeframe:** The Centers for Medicare & Medicaid Services will phase in the program in several stages, with bidding starting in 10 large metropolitan areas by the end of April. That round will include 10 types of home medical equipment and supplies, with the competitive bidding prices on those items set to take effect in April 2008. By April 2009, competitive bidding will come to 70 additional areas.

**Background:** The final rule establishes a competitive bidding program for DMEPOS (durable medical equipment, prosthetics, orthotics and supplies) furnished to Medicare beneficiaries under Medicare Part B, a Medicare Modernization Act of 2003 requirement.

#### **Private-Practice Therapists Get Lucky Break**

Before you scramble to join the bidding process, know that clinicians and physicians who supply DME directly to patients will be able to continue to do so under Medicare's newest competitive bidding.

**How it works:** The final rule allows some clinicians to continue furnishing certain types of competitively bid items to their own patients if the items are part of their professional services.

Those clinicians include occupational and physical therapists in private practice, physicians, physician assistants, clinical nurse specialists and nurse practitioners.

#### **Here's the Catch**

Therapists, physicians and others included in the exemption will be required, like other home medical equipment providers, to secure accreditation to participate in the program, and they'll be paid according to the accepted "single payment" rate for their patients' competitive bidding areas (CBAs).

But stay tuned -- CMS has not set a firm date by which physicians and other clinicians must be accredited, said **Leslie Norwalk**, CMS' acting administrator, during a press briefing on April 2.

**Watch for:** CMS' decision to exempt doctors, therapists and others eases the burden on clinicians, but it could prove to be problematic -- for the agency itself.

In the long run, the exemption could present opportunities for fraud, says **Jeffrey Baird**, an attorney with Brown & Fortunato in Amarillo, Texas.

### **SNFs Get the OK -- With Certain Limits**

The final rule allows skilled nursing facilities to serve as DMEPOS providers, but only to their own residents -- and not without some legwork. To continue supplying medical equipment and supplies to their residents, each SNF would need to compete for a contract without having to meet the general requirement of being able to serve the entire competitive bidding area.

But DME providers have a small window of time: CMS plans to open bidding by late April, with all bids due within 60 days from the start of bidding, says **Maryellen Conway**, president of Capital Healthcare Group in Bethesda, Md.

In addition to calling for prompt bidding, the new rule also charges suppliers with securing accreditation -- quickly. "If you aren't accredited, you will not be a winning supplier," Norwalk said.

**Translated:** If you are not accredited, you will be able to bid, but if you haven't achieved accredited status by the time CMS awards contracts, you may be out of luck. The language in the final rule says contracts will be awarded only to suppliers who are accredited or who have "pending" applications, says **Eric Sokol** of the Power Mobility Coalition.

**Last chance:** At the very latest, suppliers will have until April 1, 2008, to achieve accreditation and participate in bidding, Conway says.

**Note:** The final rule is in the April 10 Federal Register. To review it, go to [www.cms.hhs.gov/CompetitiveAcqforDMEPOS](http://www.cms.hhs.gov/CompetitiveAcqforDMEPOS) and click on "Federal Regulations and Notices."