

Congress of the United States
Washington, DC 20510

May 20, 2013

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington DC 20201

Dear Administrator Tavenner:

We write today to express our concern about the Centers for Medicare and Medicaid Services (CMS) policy of allowing non-licensed Durable Medical Equipment (DME) providers to win Medicare contracts to supply DME products in Tennessee even though they do not comply with state licensure law. We request your plan of action to ensure all Medicare beneficiaries in Tennessee affected by the DME Competitive Bidding Program will have timely access to physician ordered supplies and necessary services.

Memphis, Knoxville, Chattanooga, and Nashville metropolitan statistical areas are included in the Round 2 expansion of the DME competitive bidding program. We recently received reports that Medicare awarded DME contracts in Tennessee to suppliers not licensed to serve Medicare beneficiaries in the state. CMS clearly states in the "Request for Bids," a document that spells out the rules for suppliers to initially compete, that "every supplier location is responsible for having all applicable license(s) for each state in which it provides services." Nonetheless, CMS has awarded contracts to suppliers without a license in Tennessee. Tennessee law requires a physical location in the state as a prerequisite to obtaining a license to provide medical equipment.

Since these bids came from providers not licensed in Tennessee, their ability to serve Medicare beneficiaries skewed the bidding process and should not have been included, nor should their bid prices have been included to determine median pricing for affected product categories. We are concerned that when this program goes into effect on July 1, 2013, there will not be enough licensed companies contracted by Medicare to supply DME products to Medicare beneficiaries in Tennessee. Tennesseans need to have timely access to these important life sustaining supplies from a business licensed by the state of Tennessee.

We request your plan of action to ensure that all Medicare beneficiaries in Tennessee will have robust options to receive DME when they need it and that all companies supplying Medicare beneficiaries in Tennessee will be properly licensed to operate in the state. Please also include the number of companies that were awarded a contract and were licensed in Tennessee at the time of award, the capacity those companies already licensed will be able to serve on July 1st,

the number of unlicensed awardees who have a physical presence in Tennessee, and the number of unlicensed companies that bid below the median bid price. We request a reply by June 3. We are happy to furnish additional information or please feel free to have your staff contact Alicia Hennie in Senator Alexander's office at 224-0623 or Keith Studdard with Representative Blackburn at 225-3469.

Sincerely,

Lawan Alexander

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