

CMS Posts Notice of Proposed Delay of Effective Date of Interim Final Rule on Competitive Bidding

The Centers for Medicare and Medicaid published today, a notice of a proposed delay for the effective date of the interim final rule on competitive bidding. The Notice summary states:

SUMMARY: In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review," CMS is seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled "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)," published in the **Federal Register** on January 16, 2009 (74 FR 2873). That rule implements certain MIPPA provisions that delay implementation of Round 1 of the competitive bidding program; requires CMS to conduct a second Round 1 competition (the "Round 1 rebid") in 2009; and mandates certain changes for both the Round 1 rebid and subsequent rounds of the program, including a process for providing feedback to suppliers regarding missing financial documentation and requiring contractors to disclose to CMS information regarding subcontracting relationships. CMS is considering a temporary 60- day delay in effective date to allow CMS officials the opportunity for further review of the issues of law and policy raised by this rule, consistent with the Chief of Staff's memorandum of January 20, 2009. CMS solicits comments specifically on the contemplated delay in effective date and generally on the rule entitled "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)."

http://www.federalregister.gov/OFRUpload/OFRData/2009-02839_PI.pdf

The PMC has identified several concerns with the interim final rule and will submit comments to CMS urging its rescission. At a minimum, CMS must provide for meaningful notice and comment by all impacted stakeholder prior to implementation of any reimbursement system that will force a mandatory consolidation of home medical equipment providers. A copy of PMC's press release on the interim final rule is attached.

As always, feel free to contact the PMC if you have any questions.