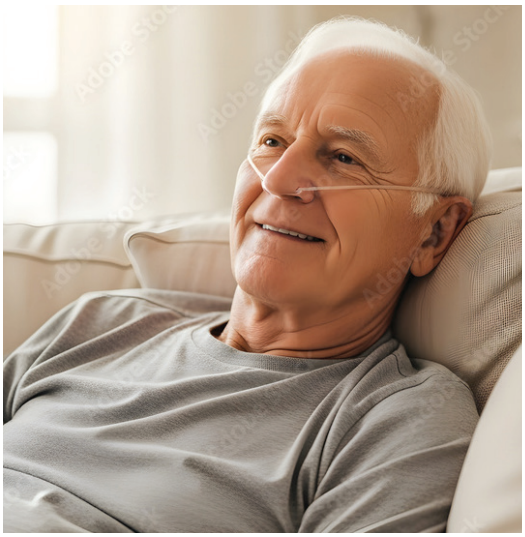
CQRC

COUNCIL FOR QUALITY RESPIRATORY CARE

Protect Access to Care: Support Patient-Centered and Market-Based Medicare Policies



The CQRC strongly support the Center for Medicare & Medicaid Services' (CMS) efforts to strengthen fraud prevention and program integrity.

At the same time, CQRC believes policies must remain patient-centered and market-based to ensure access to care. CQRC has long supported the principles of the competitive bidding program (CBP) and worked closely with CMS to advance reforms that align Medicare rates with market realities. CQRC's comments and recommendations to CMS focus on ensuring that future rounds of competitive bidding achieve those goals without unintended consequences for beneficiaries.

Competitive Bidding Methodology

The proposed 75th percentile approach is untested and risks replicating the failures of prior rounds. CQRC urges CMS not to finalize this methodology but instead to work with stakeholders to test alternatives using more current data.

Congress established the CBP to realign DMEPOS payment rates with market-based prices while curbing fraud and abuse. The statute requires savings compared to the original fee schedule but does not mandate perpetual rate reductions. Past CMS guidance recognized that rates should fluctuate with market forces and that some products should be removed from the program once additional savings are no longer achievable.

The proposed 75th percentile methodology raises several concerns:

- **Market distortion:** Rates would be artificially lowered by disregarding supplier capacity and eliminating higher bids without assessing sustainability.
- **Risk to access:** The policy does not ensure winning bidders can meet beneficiary demand within a competitive bidding area (CBA).
- **Fraud vulnerability:** Looser financial standards, coupled with below-market rates, may invite bad actors while driving legitimate suppliers out.

CQRC recommends CMS:

- Reinstate the original fee schedule as the benchmark for savings, consistent with statute.
- Pilot-test alternative methodologies (e.g., capacity-weighted bids, higher percentile thresholds, exclusion of implausibly low bids).
- Require suppliers to be paid their actual bid amount to discourage strategic underbidding.

Accreditation Requirements

Increasing survey frequency will not reduce fraud and abuse and will impose unnecessary costs. Targeted, technology-based approaches are more effective.

CQRC agrees with the importance of addressing fraud and abuse. However, requiring annual accreditation surveys will not achieve this outcome. Accreditation organizations assess compliance with quality standards, not billing fraud or false claims. Expanding surveys without adequate resources would drive up supplier costs without reducing fraud.

CQRC recommends CMS:

- Maintain the three-year accreditation cycle.
- Adopt technology-based claims review tools, such as the supplemental oxygen clinical data element template CMS has developed but not yet implemented.

Financial Documentation Standards

Strong financial documentation is essential to protecting program integrity and verifying supplier capacity. Current requirements—including tax return extracts, income statements, and balance sheets—help prevent fraudulent suppliers from entering the program.

CMS's proposal to rely only on limited credit reports would significantly weaken these safeguards.

CQRC recommends CMS:

- Retain the current financial documentation requirements.
- Reject the attestation-only process for small supplier thresholds.
- Continue requiring CMS and its contractors to review documentation before awarding contracts.

Additional Recommendations

CQRC supports several of the proposed modifications, including:

- Streamlining the evaluation and notification process.
- Codifying CMS's treatment of surety bonds.
- Recognizing Tribal and IHS suppliers to preserve AI/AN beneficiary access.
- Providing flexibility to modify or terminate contracts during Public Health Emergencies.

Supplemental Oxygen

Given that supplemental oxygen rates have already declined by nearly 50% under CBP, additional bidding rounds will not achieve further savings but will deepen access problems. CMS's own data and independent analyses confirm significant declines in patient access, particularly to liquid oxygen, despite no new treatment alternatives and more patient need. Specifically, claims data show a 126 percent reduction in claims for portable liquid oxygen and a 136 percent reduction in claims for stationary liquid oxygen from 2017 to 2025. Clinical literature also shows that reduced access increases downstream costs through avoidable hospitalizations and ER visits.

Congress authorized CMS to remove products from CBP once savings were exhausted. CQRC therefore urges CMS to:

- Remove supplemental oxygen from future CBP rounds.
- Establish a new, cost-based reimbursement rate for liquid oxygen.
- Rebuild supplemental oxygen infrastructure to ensure beneficiaries receive prescribed therapies.

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