



Robert Brant
Owner, City Medical Services
President, Accredited Medical Equipment Providers of America

WEDNESDAY, February 11, 2009, 10:00 AM
"The Impact of Competitive Bidding on Small Businesses in the Durable Medical Equipment Community"

House Committee on Small Business,
Subcommittee on Rural Development, Entrepreneurship and Trade

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EDUCATION

UNIVERSITY OF MIAMI, Miami, FL

Bachelor of Arts, Business, June 1990

HEALTHCARE EXPERIENCE

CITY MEDICAL SERVICES, North Miami Beach, Florida

Co-Owner, CEO 1997-Present

Oversee all operations, JCAHO Accredited since 2000, Home Medical Equipment Provider with a Licensed Respiratory Therapist on Staff. Personally developed and manually entered the bid in the first round of the competitive bidding program with the Competitive Bidding Implementation Contractor (CBIC), Palmetto, GBA

SLEEP TECH ASSOCIATES, Davie, Florida

Vice President 1996-1997

Directed operations including staffing, budgeting, marketing and logistics In charge of overall operation for a home medical equipment company, supervision of all personnel..

INDUSTRY INVOLVMENT

ACCREDITED MEDICAL EQUIPMENT PROVIDERS OF AMERICA, Miami, Florida

Founding President, April 2008-Present

National association, comprised of Accredited Home Medical Equipment Providers, involved in the first and second rounds of the DMEPOS Competitive Bidding Program. Board Members, Accredited Members and Associate Members include providers, manufacturers, billing administrators, distributors and durable medical equipment repair centers. The majority of the membership bid in and reside in the Round One MSAs of Charlotte, Cleveland, Dallas, Kansas City, Miami, Orlando, Pittsburgh and San Juan

FLORIDA ASSOCIATION OF MEDICAL EQUIPMENT SERVICES. Orlando, Florida.

Board Member, 2003-2005

Served on the board of the twenty-five year old state association of durable medical equipment providers in Florida. During my time on the Board, the association negotiated changes in the state's competitive Bidding program in Medicaid.

MEDTRADE

Conference Speaker

Created seminars for Medtrade Spring in Long Beach, CA and Medtrade in Atlanta. Subjects included Competitive Bidding in Round One, the Medicare Improvement for Patient and Providers Act and The 36 month oxygen cap.

HME TODAY

Guest Writer

Have had several articles published in the national trade magazine for the home medical equipment industry.

ASSOCIATIONS

American Association for Homecare, VGM Group, Florida Association of Medical Equipment Services, Accredited Medical Equipment Providers of America



February 9, 2009

Written Testimony for Hearing:

WEDNESDAY, February 11, 2009, 10:00 AM

"The Impact of Competitive Bidding on Small Businesses in the Durable Medical Equipment Community" - House Committee on Small Business, Subcommittee on Rural Development, Entrepreneurship and Trade

My name is Robert Brant, I am the co-owner and manager of City Medical Services in North Miami Beach, Florida and I am currently the President of the Accredited Medical Equipment Providers of America (AMEPA), an organization formed shortly after the bid results were announced last March, by bid winners and loser from the Miami, Orlando and Dallas MSAs, all opposed to the Competitive Bidding program.

The goals of the Competitive Bidding program were to reduce the Medicare Reimbursements, reduce Medicare fraud, and to responsibly minimize the number of providers for CMS to manage without limiting patient's access to care.

The fact is, in the last 10 years, with the passage of new rules and regulations, all of the goals that once justified competitive bidding have already been achieved. The industry has negotiated a 9.5% cut to providers and withheld another 5% CPI increase, which both began on January 1st. This is a 14.5% net savings to Medicare. The annual cost to manage the program is set at \$22 million, which if terminated, would save an additional 2% or 16.5% overall, nearly the same percentage of savings from the first round of the demonstration project. Also the number of providers has been substantially reduced by firm closings due to the cuts and mandatory inspections which were implemented 2 years ago.

Despite that good news, Medicare released interim final rules on January 16 of this year in order to restart the program, using the same methodologies and techniques to award contracts. CMS plans to reenact the same program, which allows bidders to bid without any financial accountability or regard for state laws, including unlicensed, out of state and out of area bid winners, with no history of providing bid equipment and services throughout the first 10 MSAs. In fact, it was in a similar Small Business Committee Hearing to this, that Congressmen Altmire and Gomert said the program failed to meet Regulatory Flexibility Act requirements, 6 months before bid results were announced.

This program is flawed, but not just the recent program.

This all began in a flawed 3 year demonstration project in Polk County, Florida between 1999 and 2002. From this small project in a mainly rural county, Medicare claimed the program was not harmful to small businesses because no one closed during the demonstration, but that was because the 4 categories chosen over the three years made up only 35% of the products provided, mainly oxygen and hospital beds. Providers survived the demonstration by providing CPAP, Respiratory Assist Devices, Power Wheelchairs, Diabetic Supplies and more. The current program even after the MIPPA changes were enacted would stop those who did not win the bid from providing 91% of the equipment to Medicare beneficiaries, essentially driving them out of business.

Although the first round of the demonstration project had a total savings of 16.7% it is important to realize that most winners viewed the project as an acceptable loss leader. They wanted to keep referral sources happy and they relied on the unaffected revenue from outside the county and non-bid items. Half the bid winners from Round One of the project found the loss unacceptable as they did not participate in the second round.

Medicare noted key findings in an evaluation report of the Demonstration Project:

- 1) A non-demonstration supplier had acquired two demonstration suppliers
- 2) The parent companies of one non-demonstration supplier and one demonstration supplier have filed for bankruptcy. Another demonstration supplier has also filed for bankruptcy protection.

This again demonstrates that even the limited amount of items in the project harmed business.

Regarding the first 10 MSA's, the ability to purchase bid winners led to part of the disaster that followed. As with the demonstration project companies are able bid without any financial accountability and responsibility. In Orlando 14 of the 39 bid winners in Oxygen were located either out of state or over 100 miles outside of the area, without any means to service oxygen patients. For companies out of the area, placing a bid is a no lose situation. Out of area providers place any low bid and if they win they may have a commodity that someone else may willing to buy, like in the demonstration project. A bidder does not need a bond to cover their bid. You don't even have to have subcontract agreements in place proving you can cover a 12 county areas like Dallas before you bid. Then if you win the bid and cannot fulfill your obligation, you can walk away without penalty. However the low price you artificially created is passed on to everyone else.

The Florida Department of Health certified that 9 of the 44 bid winners for oxygen were unlicensed. Our association was informed of this discrepancy when providers contacted Manufacturers representatives of oxygen asking: "How do you get an oxygen license"? This begs the questions: "How can a company place an accurate bid if they have never provided the service before?" "How can legitimate providers compete when bidders do not bid based on the realities of providing service or equipment?"

Do they employ a Respiratory Therapist at \$25 an hour?

How often are they required to visit patients?

Does their warehouse have a quarantine area?

Does their company comply with each county's Comprehensive Emergency Plan?

In order to bid on oxygen, I had to submit the number of patients I serviced with the top three modalities including Liquid Oxygen. This is another determining factor that Medicare never evaluated. Manufacturer's representatives told us that some oxygen bid winners inquired about liquid oxygen after winning the category asking "I won the bid for liquid oxygen and I want to buy some."

A Liquid Oxygen system is 5 times the cost of a standard oxygen concentrator but is reimbursed at the same rate which includes a monthly fill. A few other differences which might change the way you place your bid is that the unit must be refilled minimally once a month no matter how frequently it's used because of evaporation. The cost to refill the system averages half the reimbursement. My company also purchased a truck with a lift gate because the liquid oxygen reservoir weighs 110 pounds. All of these factors would affect a company's ability to place a bid they could honor without going out of business.

When the program was briefly implemented in the first 2 weeks of July, physicians and hospital case managers pleaded with us to continue to accept patients because they went through the published list of

bid winners and could not find a company that could provide liquid oxygen or a respiratory therapist to set up their patient the way they were accustomed to.

This problem was exacerbated by Providers refusing to address patient issues unless their orders were in addition to more expensive reimbursable items. One bid winner in Orlando and Miami sent a letter to all of their participating hospitals and Doctor offices' discharge professionals on April 1st of last year which specifically stated they would "No longer provide: Commodes, and bath safety products", "Canes, Quads Canes and Crutches unless ordered with Oxygen or other DME." If they, a bid winner, will not deliver the item it must be asked who will, and how will a patient be released from a physicians care if discharge professional cannot guarantee proper access to product and service at home.

The lack of transparency in the Interim Final Rules will still create tremendous problems. Medicare said that any unrealistic bids would be thrown out but, Medicare already accepted bids of a 26% cut. The largest Home Medical Equipment provider, Apria Healthcare reported an 8% profit in 2007. How could a company reduce revenue by 26% and survive, when their profit margin is 8%.

Bidders were required to send in tax returns and if those statements were analyzed, Medicare would see that most companies showed a profit of 3% to 5%. By offering bids at a 26% reduction they would be looking at a 21% loss. After winning the bid the average small provider with medicare receivables of a \$1 million annually will lose \$200,000 a year.

The reduction in companies that currently provide service is astounding, in the Miami MSA for example 402 power mobility device providers was reduced to 18. This would place a tremendous burden on the wheelchair bound, having to locate a limited number of repair facilities and having to deal with backlogs for repairs to the sole device that provides them freedom. There is a reason there are currently over 400 providers, the market demands it. CMS' reduction will in the end harm patients

The most tragic part of these reductions from the program is that when you reduce 501 oxygen providers in South Florida to only 44, you are not only closing businesses and causing unemployment, you are removing an important community resource. In 2005 Hurricane Wilma knocked out power for at least a week in most of the tri-county area of the Miami MSA. Although my company in North Miami Beach lost power for seven days, we never ran out of oxygen tanks or liquid oxygen systems to serve our patients because at the beginning of each Hurricane Season we purchase additional tanks for each patient.

When you reduce 501 oxygen providers to only 44, you would hope that the bid winners are not affected by a storm themselves and have a surplus and facility to house the thousands of tanks they will need to protect their share of the community's patients. In Dallas 4 counties of the 12 in their MSA are without a single oxygen, CPAP or Respiratory Assist Device provider. Dallas has already had 2 ice storms this year that not only knock out power, but immobilized the city because the area is not prepared to de-ice roads and highways.

An AP article explained that "when ice downed electric lines in Epping, N.H., last month, police found 60-year-old Richard Lapoint dead, hooked to his powerless oxygen machine." Fortunately we never had a case like that in Miami, Dallas, Orlando, Pittsburgh, Cleveland, Kansas City and Cincinnati but it is not realistic that with the reduction of providers and counties without providers of oxygen a similar occurrence could happen.

How can a bid winner travel 3 counties away to service a patient.

The reported answer is Sub-contracting, but that is dangerous and is detrimental to patients. Medicare will allow subcontracting, but companies only need to tell Medicare about a subcontract 10 days after they engage in a contract. This means companies can bid, without having negotiated business terms in place. If they cannot find a company with which to subcontract, they can walk away from their bid, after their action forced qualified realistic companies to loose. Subcontractors earn money to meet the needs of businesses in a region, but because they are not the Medicare contracted supplier, their Medicare numbers are not at risk, if they fail to produce or if they harm patients. This for many subcontractors will be free money in the bank, because failure has no repercussions. Most importantly, though, is patient care. Most oxygen patients are very advance in years, consistency and reliability are very important to them, they feel uncomfortable, almost violated if “company A” comes in their home one month and “company B” comes in the next. Providers provide health care, ours is not a delivery service, Patients know this and they rely on that service provider.

Medicare’s other argument for Competitive Bidding is that it would reduce the number of providers needed to be policed and managed. Since competitive bidding was introduced in the Balance Budget Act of 1997, new requirements have assured the closure of many providers. A mandatory surety bond is required by all providers by the fall of 2009. Last year a rule was passed that all new companies applying to the DMEPOS program were required to be accredited for 6 months before they could become providers. By the fall of 2009 all DMEPOS providers are required to become accredited. It should also be noted that CMS acknowledges that approximately 28.5% of all Medicare Part B providers will no longer participate in the program as a result of the implementation of the surety bond requirement along with accreditation requirements (CMS-6060-F).

The Competitive Bidding Program reduced the 501 oxygen providers in the South Florida MSA to only 44 bid winners. Since that time, the number of oxygen providers have dropped in the Miami MSA from 501 to now only 423. As companies close, ancillary businesses like the outside billing company that I use based in Boca Raton with 30 employees would close as well. As would local repair centers, distributors, and oxygen refilling services.

Many more providers will not survive the 9.5% cut and the 36 month oxygen cap which began in January. Our new President has spoken eloquently about sacrifice, our industry has been sacrificing for years, but if this program or any fundamentally flawed competitive bidding program proceeds, we will have become “sacrificial lambs” to an old bureaucracy.

President Obama said that he does not want to keep government programs that do not work and intends to expand programs that do. At less than 2% of the Medicare budget, Durable Medical Equipment is the most cost effective program in healthcare. Our services keep patients out of hospitals and rehab centers, so they can live independently in their homes. During this economic crisis we do not want to needlessly close companies, causing more bankruptcies, burden the system with additional unemployment (which will end healthcare benefits), ruin an important community resource called upon during natural disasters and most importantly limit a patient’s access to care.

Sincerely Yours,



Robert Brant
President

June 1, 2008



DMEPOS Competitive Bidding Facts – MIAMI MSA (South Florida)

On April 2, 2007 the Centers for Medicare and Medicaid Services (CMS) issued a Final Rule for the Competitive Acquisition Program for the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). This controversial Competitive Bidding Program is scheduled to begin on July 1st, 2008 in 10 Metropolitan Statistical Area (MSAs) including Miami. The Miami MSA includes all of Miami-Dade, Broward and Palm Beach Counties. Ten categories of equipment will be affected in the Miami MSA. These items represent the majority of all of the equipment reimbursed by Medicare and includes: Oxygen, CPAP and Respiratory Assist Devices, Standard Motorized Wheelchairs, Complex Rehab Wheelchairs, Enteral Feed & Supplies, Negative Wound Pressure Devices, Walkers, Mail Order Diabetic Testing Supplies, Hospital Beds and Support Surfaces.

Only Accredited providers were allowed to bid. The bidding window ended on September 25, 2007. When the program begins on July 1, 2008, only companies which won the bid may provide equipment to new patients. Of the **501** oxygen providers that are currently in the Miami Competitive Bidding Area (CBA), the Competitive Bidding Implementation Contractor (CBIC) chose to offer contracts to **only 44** companies to provide Oxygen to new and returning patients. Of the **402** Power Mobility Device (PMD) providers in the Miami Competitive Bidding Area (CBA), the Competitive Bidding Implementation Contractor (CBIC) chose to offer contracts to **only 18** companies to provide equipment and services to new and returning patients. The facts enclosed below were compiled from CMS, Industry Media and letters from legislators.

- CMS will reduce the number of Power Mobility Device (PMD) providers in the 3 Counties that make up the Miami MSA (Miami-Dade, Broward and Palm Beach Counties from 402 to only 18 bid winners. That means less than 5% of existing suppliers survived.
- CMS will reduce the number of Oxygen Providers in the 3 Counties that make up the Miami MSA (Miami-Dade, Broward and Palm Beach Counties from 501 to only 44 bid winners. That means less than 9% of existing suppliers survived
- The 457 Oxygen Companies that did not win the bid will not be allowed to provide new orders of Oxygen for Medicare Part B patients after July 1, 2008. This includes patients that have never used oxygen before. Patients that have previously used oxygen that have incurred a 60 day break in service, change of residence out of and then returning into the CBA or changed their Part B status cannot have oxygen provided by non-winning bidders. Non-winning Bidders will be paid the new single payment amount, as all of their existing patients will be grandfathered in. These existing patients will own their equipment after 36 months of continuous rental. It should be noted that these non-winning bidders will lose existing oxygen patients through attrition.
- Industry experts have calculated that the Non-winning bidders which make up 88% of the current Medicare Oxygen providers will most likely close due to the current plan.
- The 457 providers who lost the bid, excludes the Medical Equipment Providers in Monroe and Martin counties which border the Miami MSA. Many of these companies service patients inside the Competitive Bidding Area inside the Miami MSA. These Oxygen providers in counties which border the Miami MSA

Disclaimer: The information on this document is believed to be accurate. However those who read it should not act upon it until they have satisfied themselves, from their own independent sources of the accuracy of the information provided.

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Accredited Medical Equipment Providers of America

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will also not be able to provide Oxygen service to new or returning patients after July 1, 2008. The bidding providers in the bordering counties will certainly be adversely impacted as well

- The economic impact of the projected probable closing of an estimated 91% of the oxygen providers will be devastating to thousands of employees in and around the Miami MSA. They will lose their jobs, lose their health insurance coverage and be very unlikely to find work in this resulting highly job-limited industry.
- Instead of a total of 501 suppliers in the South Florida area, a mere 44 or less than 9% of the current providers will remain to attempt to service the area in the aftermath of the next Hurricane, Tropical Storm or any potential disaster which may affect the area.
- During the weeklong power outages of Hurricane Wilma, the community of providers and the media did not report one instance in which a patient could not receive oxygen service. The local providers had enough back-up oxygen systems, spread out geographically across the area to support their patients during the declared disaster.
- It is highly unlikely that an average of less than 15 oxygen providers per county will be able to provide for the large number of beneficiaries in the area. Particularly if another storm or natural disaster incapacitates any of the bid winning providers
- Medicare's Utilization records show that there were 198,705 Home Oxygen systems (Concentrators-E1390 and Liquid Reservoirs-E0439) allowed as monthly units by the Miami MSAs Medicare Oxygen Providers in 2006. Under the new program, the 44 Oxygen Bid winners will be responsible for the service and maintenance of all of those existing Oxygen patients. That is an average of over 4,500 oxygen providers per bid winner annually, once the current rental period ends.
- It has been reported that some Oxygen Bid winners have never provided oxygen before and are unaware of the demanding requirements and licensure required to dispense this type of drug. These companies may be accredited to provide walkers, but they are not accredited to provide oxygen and are not aware of the policies and procedures for training, delivery, testing, servicing and maintenance requirements to provide oxygen.
- CBIC has also been questioned by legislators for allegedly misplacing required application documents. As a result CBIC appears to have erroneously disqualified hundreds of bidders which may have won the bids and affected the overall new reimbursement. The majority of these Disqualified providers and bid losers are small businesses. Medicare has estimated that small businesses make up 90% of all providers prior to the bid.
- All available evidence supports the conclusion by industry experts that the geriatric, Medicare populace will suffer greatly as a result of the new Rules. Instead of the personalized service they receive now, patients will be forced to solve their problems through the use of automated phone systems, voicemail, call back options, and endure the frustration of long wait times both for answers and deliveries of services and equipment
- Healthcare providers believe that patients will have a difficult time receiving portable oxygen once the program begins as a result of the new reimbursement which has been reduced to only \$22.68 per month in the Miami MSA. The figure of \$22.68 includes the cost to deliver as many tanks as the patient needs per month. Delivery costs on a single monthly delivery, exceeds the proposed reimbursement. Furthermore, substantially reduced Medicare payments on all other items, eliminates the supplier's ability to cover losses in one area with net income in another.

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- The servicing of Oxygen patients will be even more complicated and financially disadvantageous starting January 1st, 2009. At which date all of the patients who have been using Oxygen prior to and since January 1, 2006, will become owners of their Oxygen equipment.
- Oxygen was always paid for monthly for as long as it was medically necessary for the patient to use it. Now the patient owns the oxygen system after 36 months.
- In the Miami MSA the rental payment by Medicare for oxygen will be reduced to less than \$140.00 per month. That monthly reimbursement includes the cost of filters, tubing, cannulas, oxygen masks, humidifiers, patient retraining, maintenance and any necessary replacement of the equipment.
- After January 1, 2009, when the patient owns their oxygen system, the bid winners will only receive a few dollars for the cost of replacement supplies and cannot bill for the travel time to and from the patients residence. It is obvious to suppliers that costs will substantially exceed reimbursements
- Therefore industry experts feel that, as a necessity for survival of the winning bid suppliers, the service and maintenance of the patient's Oxygen systems will be unavoidably severely neglected. They feel that repairs and maintenance of the systems will be very hard for patients to receive, especially by patients who own their systems after January 1, 2009.
- Today companies compete to have Oxygen repaired within a few hours and by providing service 24 hours a day, as quickly as possible to keep their patients happy.
- There are no specific time requirements in the current Medicare Supplier Standards or in the Competitive Bidding Program for the delivery, repair or servicing of Oxygen equipment. In the past that did not matter, because reimbursement was sufficient to allow suppliers to compete on the basis of the speed and efficiency with which they provided these services. That will no longer be true.
- After the Competitive Bidding Program begins, it will be very difficult for a patient to change their provider for any reason, whether valid or not.
- Industry experts believe that after the program begins, the larger companies will purchase the smaller ones and the few remaining companies will have a monopoly.
- When the monopolies occur, every community will lose virtually all its local suppliers. As a result, in addition to the serious deterioration of services to insured patients, uninsured patients and patients with limited medical equipment coverage will pay higher retail prices from the remaining providers.
- The patient's access to care and services are already being affected in the 10 MSAs. Bid winners have already sent information to Hospital Discharge Planners, Case Managers and Doctors explaining that they will no longer deliver Bedside Commodes and other less expensive equipment if it is not accompanied with an oxygen order. Before the bid, providers would provide these less expensive items in order to compete in the market as a "one stop shop".
- With such low margins, bid winners do not have to provide services that the community took for granted such as a timely response or even delivery. This is another example of how this program will affect patients, as the remaining providers will not provide services that they have not won or are no longer profitable. Patients will be forced to either travel outside of their area to obtain home medical equipment or pay a high cost for delivery which they never had to in the past. Unfortunately it is more likely that the patient will not go through the extra cost or hassle to get the equipment they need. This will cause more incidents of home slip and falls, poor patient outcomes and eventual greater costs to the entire Medicare system.

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Rob Brant

From: Rebecca_Burnett@doh.state.fl.us
Sent: Tuesday, June 17, 2008 8:40 AM
To: rob@citymedical.com
Subject: RE: Please verify that the following companies do not have Medical Oxygen Retailer Licenses

Good Morning Mr. Brant,

The companies listed are not currently licensed as Medical Oxygen Retail establishments with the Florida Department of Health, Drugs, Devices, and Cosmetics Program.

Rebecca

From: Rob Brant [mailto:rob@citymedical.com]
Sent: Thursday, June 12, 2008 1:21 PM
To: Burnett, Rebecca J
Subject: Please verify that the following companies do not have Medical Oxygen Retailer Licenses

To: Rebecca Burnett – Regulatory Specialist, Florida Department of Health
From: Rob Brant, AMEPA - President

Dear Ms. Burnett

On behalf of the members of the Accredited Medical Equipment Providers of America (AMEPA), I wanted to thank you for taking the time to resolve the very important issue of proper Medical Oxygen Retailer Licensure.

As we discussed earlier, there is a new Medicare Competitive Bidding in Home Medical Equipment which is scheduled to begin on July 1, 2008. The program will be implemented in the South Florida Counties of Miami-Dade, Broward and Palm Beach (Miami MSA) and also the Central Florida Counties of Lake, Orange, Osceola and Seminole (Orlando MSA).

Once the program begins, only Bid Contract Winners may provide new oxygen service to Medicare Part B Beneficiaries in those affected areas. That is why it is very important that we verify if Bid Winning Companies have Medical Oxygen Retailer's Licenses or have the appropriate Pharmacy License in order to dispense oxygen.

According to the Florida Department of Health's Search Website, the following companies do not have Medical Retailer Oxygen Licenses and are not Pharmacies:

- 1) Bestcare Medical, Inc. – Orlando, FL
- 2) D & E Supplies, LLC – Sunrise, FL
- 3) Easy Life Medical Supply, Inc. – Hollywood, FL
- 4) HEB Homecare, Inc – Hurst, TX
- 5) Home Medical Equipment of Fort Worth – Richardson, TX
- 6) Plus Medical, LLC – Delray Beach, FL
- 7) PRO2 Respiratory Services, LLC – Cincinnati, OH
- 8) Scooter Store – Boca Raton, FL

Casselberry, FL
Jacksonville, FL
Orlando, FL

9) Super Care, Inc. – City of Industry, CA

Please reply if the Florida Department of Health's Search Website is current and up to date.

Please respond as quickly as possible. The companies that are listed above are already listed on Medicare's Website as the Oxygen Bid Winners

Very Truly Yours,

Rob Brant

President

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Charlie Crist
Governor

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary of Health

July 12, 2007

City Medical Services, Inc
20815 NE 16 Ave, #B-34
N. Miami Beach, FL 33179

Dear Administrator,

Thank you for the submission of your agency's Comprehensive Emergency Management Plan (CEMP) Your plan has been reviewed and meets the basic criteria established by Florida Administrative Code (FAC).

It is your agency's responsibility to review your plan annually. When there are changes, please include a completed criteria form on which such changes are highlighted. Your reviews must be completed annually from the date of this letter.

Please note a copy of this approval letter along with your CEMP will be retained by the county health department in the county in which you are licensed.

If you have questions or concerns, please call the Office of Public Health Preparedness. at (786) 845-0226.

Sincerely,
Myra C Markowski
CEMP reviewer and
Special Need Coord
MIAMI DADE COUNTY
HEALTH DEPARTMENT



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July 3, 2008

United States Senator Bill Nelson
Washington, DC 20510

Dear Senator Nelson,

As the Chief of Staff at Aventura Hospital in Miami-Dade County, I am writing to stop the Competitive Bidding Program in Durable Medical Equipment, Prosthetics and Orthotics (DMEPOS) which began on July 1st.

None of the accredited DMEPOS companies that my staff has been working with for over ten years won bids. I instructed my staff to work with the list of bid winners as instructed and provided by the Center for Medicare Services, CMS. In over ten years working in the South Florida area I have never heard of these companies before.

Yesterday, an order was placed for liquid oxygen for a patient on a high liter flow. Typically the equipment is delivered by a Licensed Respiratory Therapist, who reports back to the discharging Pulmonologist or Critical Care Physician. We found that none of the companies we called carry liquid oxygen systems. I found out that with the goal of finding the lowest bidder companies can sub-contract specialized oxygen services through un-accredited companies. They are not required to have the equipment set-up by or have the patient trained or evaluated by a Respiratory Therapist.

In one case, my office manager placed a call with a bid winner before noon for oxygen equipment. She was told that the equipment could be delivered tomorrow or the next day. Typically oxygen is delivered to a patient in hours not days. That policy will create countless problems for Aventura Hospital and the other Hospital in the area. We cannot wait days for equipment to be delivered to the hospital or to the patient's home before they are discharged. The hospital needs the patient's room and we are unable to bill Medicare additional days for a hospital stay.

I have included a letter our case managers received back in April from a bid winner. The letter states that the company refuses to deliver commodes, crutches or canes (non bid items) if the order is not placed with oxygen or other rented equipment. If a patient needs to be discharged with only a quad cane and a commode without oxygen, how is the patient going to get the equipment if the few bid winners are refusing to provide this medically necessary equipment because they no longer have to compete in the marketplace?

In the past local providers competed for our business by working with case managers to help us with these sensitive issues. Today the lowest bid is costing the hospital in the form of increased hours by case managers, juggling multiple bid winners trying to coordinate the discharge of a single patient. If a patient requires a hospital bed, walker, enteral tube feeding, therapeutic ventilation and oxygen case managers may have to coordinate with 5 separate bid winners to get the patient home.

Fortunately the program is only days old and the damage is minimum but if it continues throughout Hurricane season it will be disastrous. Nine bid winners do not have Oxygen Licenses and cannot purchase gaseous or liquid oxygen. They will be relied on while other companies close.

For these reasons and more, I again ask that you stop this program which will cost South Florida Hospitals untold millions.

Sincerely,



Natarajan Rajagopalan, M.D., MRCP, FRCP(C), FCCP

Competitive Bidding Facts

- Competitive Bidding goes into effect July 1, 2008 in the first 10 MSA's. In 2009 it will affect 70 more MSA's
- Patient choice of suppliers will be severely decreased
- Access to quality brand name products will cease to exist
- Ingenuity and Research and Development for better products will decline
- Thousands of small companies will go out of business and thousands of workers will be laid off
- DME companies will be forced to cut programs and services provided to beneficiaries

Pulmocair won in the following product categories

- Oxygen and oxygen equipment
- Standard power wheelchairs, scooters and related accessories
- Mail-order diabetic supplies
- Enteral nutrients, supplies and equipment
- Continuous Positive Airway Pressure devices, respiratory assist devices and related supplies and accessories
- Hospital beds and related accessories
- Negative pressure wound therapy pumps and related supplies and accessories

Pulmocair lost the following product categories

- Walkers and related accessories
- Support surfaces, such as specialized mattresses to help people with pressure ulcers

As of April 1, 2008 Pulmocair will no longer provide:

- Walkers, unless privately purchased
- Commodes and Bath Safety products, unless ordered with Oxygen or other DME
- Canes, Quad Canes, and Crutches unless ordered with Oxygen or other DME
- Group II Support Surfaces, unless privately rented or purchased

As of April 1, 2008 Pulmocair Policy Changes

- All orders will be scheduled for next day delivery, except Oxygen, Nebulizers, and RT Evals or Pulse Oximetries
- Respiratory Medications will be delivered next day by Pulmocair. If medications are required same day, Pulmocair can transfer a prescription to the patient's local retail pharmacy for the patient to pick up. Monthly reorders will continue to be provided through Pulmocair's mail order pharmacy.
- All Oxygen orders must be accompanied by qualified results. If results are not available, Pulmocair will arrange for oximetry testing in the home prior to delivery of oxygen. Once the patient is tested and qualifies per Medicare guidelines, then the oxygen equipment will be delivered and the patient will be seen by a Respiratory Therapist.

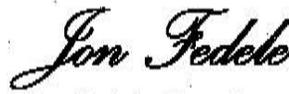
Between now and July 1, 2008 we want to help you maintain order and reduce confusion for your patients. We ask that when placing orders for any Competitive Bid items please ask your current DME provider which products they won the contracts for. If you refer a patient to a non winning supplier for a Competitive Bid product you may have a service problem in the future as they may not be in business to service the patient when needed.

To close, we at Pulmocair have been serving the needs of the medical community for 10 years. During that time we have endured many challenges and Competitive Bidding is just the latest. We have always strived to provide our patients and our referral sources with the highest level of quality care. You have our word that we will do everything in our power to maintain a level of service that you can be proud of. Thank you for your continued support!

Sincerely,



Kyle Miko, RCP Founder and Vice President



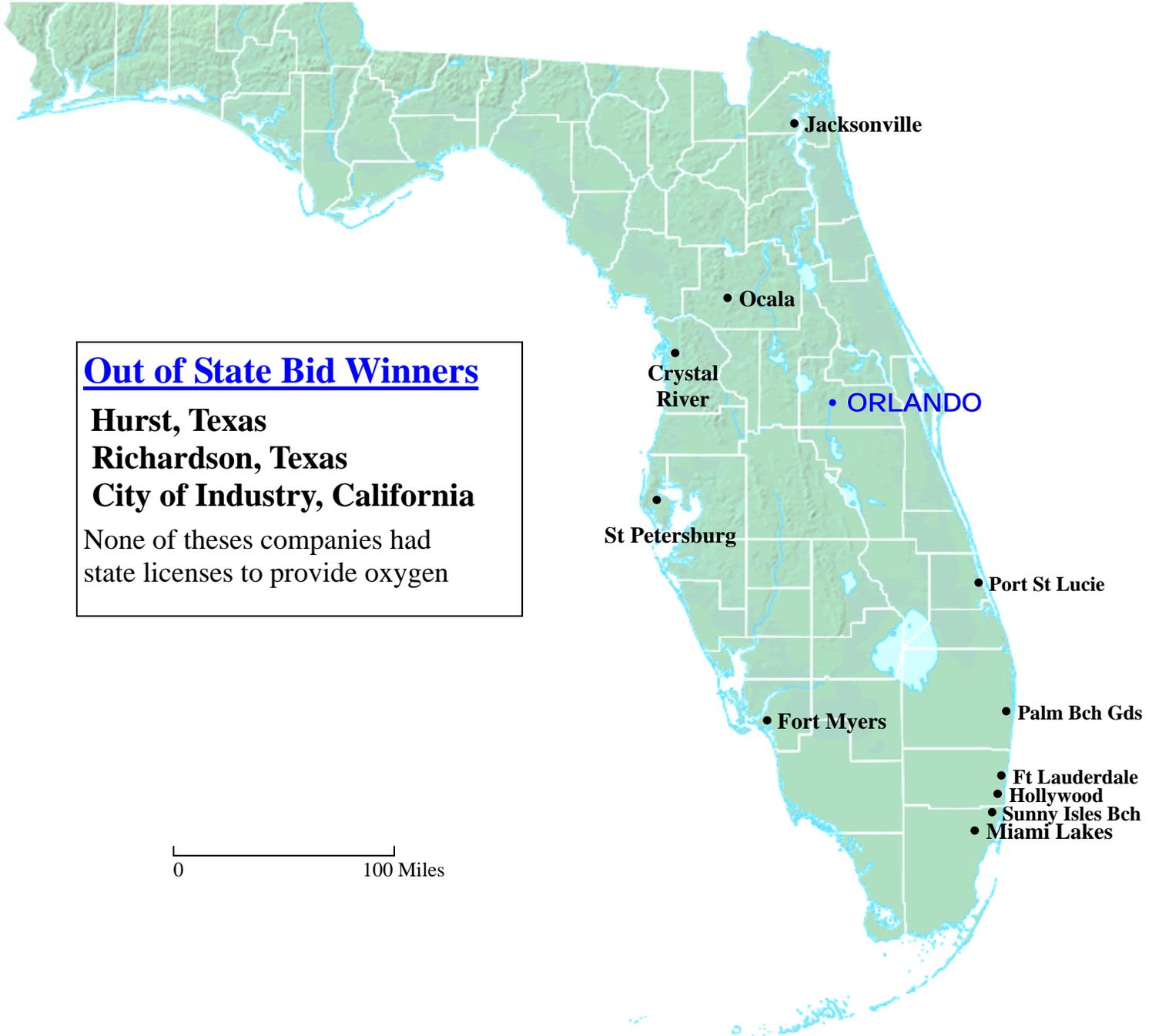
Jon Fedele, Founder and President

Out of area Oxygen Bid Winners for Orlando

Companies were awarded bids without a physical location in Orlando

16 of the 39 Bid Winners were located over an hour outside of Orlando or out of state

14 of the 39 Bid Winners were located over 100 miles outside of Orlando or out of state



Out of State Bid Winners

Hurst, Texas

Richardson, Texas

City of Industry, California

None of these companies had state licenses to provide oxygen

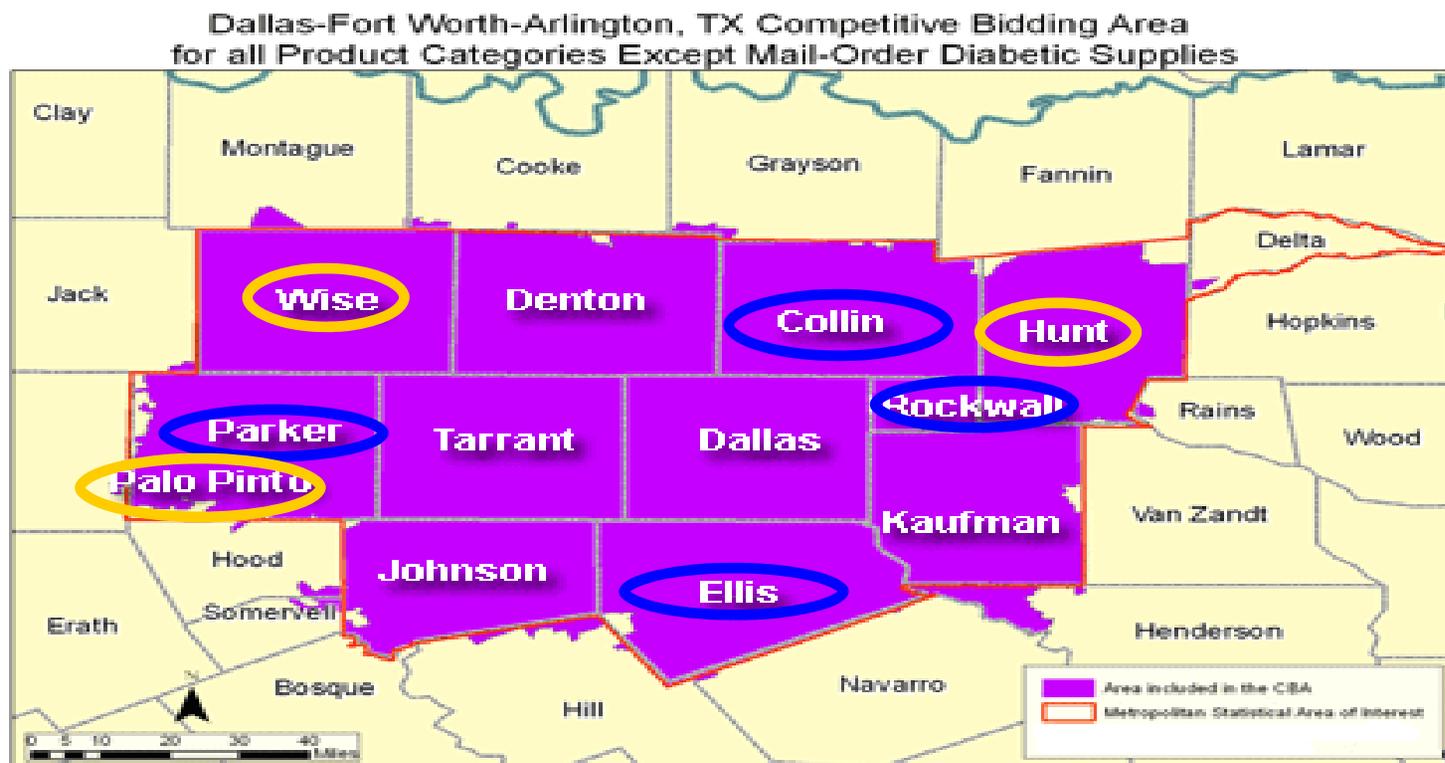
Disclaimer: This map was created by the Accredited Medical Equipment Providers of America. The cities listed corresponds with a list of Oxygen Bid Winners for Orlando in the Competitive Bidding Program for Durable Medical Equipment, which was set to begin on July 1, 2008. The 16 cities were from the list of 39 Oxygen Bid Winners for Orlando. The list was posted on the Center for Medicare and Medicaid Services' website (www.medicre.gov) in May of 2008. The background of the map was provided by geology.com.

Accredited Medical Equipment Providers of America

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Dallas Oxygen Providers - 284 Current Providers reduced to 35 Bid Winners
Dallas CPAP & Respiratory Assist Providers - Reduced to 25 Winners, 11 are either out of state or hours outside of the area



Hunt, Palo Pinto and Wise Counties have One (1) “Bid Winner” for Oxygen and CPAP & Respiratory Assist Devices.

Collin, Ellis, Parker and Rockwall Counties DO NOT have an Oxygen or a CPAP & Respiratory Assist Device Provider. There is no hospital in Rockwall County

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