



**GRIFFIN HOME HEALTH CARE, INC**

**House Committee on Small Business**

**“Medicare’s Durable Medical Equipment,  
Prosthetics, Orthotics and Supplies (DMEPOS)  
Competitive Bidding Program”**

**February 11, 2009**

**Testimony of Mr. William H. (Bill) Griffin  
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Charlotte, NC**

**On behalf of the**

**North Carolina Association  
for Medical Equipment Services**

Testimony  
of  
Griffin Home Health Care, Inc.  
before the  
Committee for Small Business  
of the  
U.S. House of Representatives

Medicare's Durable Medical Equipment, Prosthetics, Orthotics and Supplies  
(DMEPOS) Competitive Bidding Program

February 11, 2009  
10:00 AM

Good morning Mr. Chairman and distinguished members of the Subcommittee. My name is Bill Griffin. I am President/CEO of Griffin Home Health Care in Charlotte North Carolina. I am very honored to have this opportunity to speak to you. Thank you!

I founded the company in 1983 in the corner of a small independent drug store out of a very strong desire to be of service for my fellowman, which is my own personal mission in life. At the time I started the business, there was primarily one provider of medical equipment and supplies in the market place and they did not accept Medicare or insurance assignment. That certainly opened doors and created a niche for my firm. My background had been funeral service and retail pharmacy. I had learned much about taking care of patients and families and having compassion for others. Consequently, I brought these characteristics with me into the medical equipment industry and therefore we have taken great pride in serving our clients and their needs.

I have personally been active in State and National Concerns of the Durable Medical Equipment Industry (DME). I worked very closely with the NC Department of Health and Human Services to reduce the spending for DME by over 10 million dollars. While serving as President of our State Association, I helped our state to clarify and implement the Sales Tax laws for our industry and worked with the State Attorney General to interrupt the laws governing "bedding." During my time as president of the NC Association for Medical Equipment Services, we hosted Congressional Receptions for our State Delegation. I served on the House of Delegates for our National Association and most recently on the DME/RT Council of AA Homecare. I have walked the halls of the Congressional Office Buildings, visited with Senator Richard Burr on several occasions, Senator Dole, Representative Myrick, Hayes, Price, Watt, and others. In other words, I have a passion for not only the industry but also the clients we serve.

The DME Providers of North Carolina were the very first in the Nation to push for and help to require licensure for our industry. We did this as providers to proactively provide safety and quality to the patients being served and to help maintain very high standards for our providers. At the current time CMS reports that 38 states require Oxygen Providers to be licensed. We as an Industry in North Carolina have been very supportive of Respiratory Care Practices in assuring that providers are licensed and providing ethical and caring services to the residents of North Carolina.

I am proud of my accomplishments as an individual but greater still I'm proud of our state and our industry. Certainly the DME Industry provides a vital part for the care of the individuals in our health care system. It is very important to understand that the DME Medicare Benefits are less than 2% of the total Medicare Budget. Much of that is a result of Small Business. The owners of these small to medium size businesses are the individuals that you see at the Rotary Club Meetings; these are the people with whom you serve on committees at the local churches and synagogues; they provide the care to the mothers, grandparents, and family members of those we know and see at the local PTA Meetings.

Mr. Chairman and Committee Members, there is no debate that our health care system is broken and in need of major overhaul. Competition in its purest form is very healthy. Competition keeps businesses honest; service oriented, and ultimately keeps prices competitive. My impression is that CMS wants to eliminate competition by eliminating DME providers of which many are small businesses. I don't have to remind you that Small Business is the backbone of this Country and generates many jobs.

Being in Charlotte, my company was in the first round to bid or compete in the National Competitive Bidding Process. The process in itself was antiquated and very cumbersome to say the least. We bid for 5 out of the 10 categories and unfortunately or fortunately did not win a single product category. The information I received from the NCB Contractor was that our bid prices were too high. Why? Because I looked at my overhead and schooled myself very carefully before committing to prices that would only allow substandard service, poor quality products, and ultimately "drive us in the ground." There are many troubling issues surrounding the fact that we as a "stellar" organization had a local presence for over 25 years, serving patients and clients and now would be unable to continue providing those services. The fact that we were told that our prices were too high is a very clear indication that many provider/suppliers "bid to win" rather than bid so as to fulfill the commitment of the bid contract. Let me share with you; The DME Industry is a Service Industry! It is not a commodity. It is virtually impossible to place a price on or bid on the value of added services that are provided while delivering a hospital bed, setting up oxygen in the home, or assisting a patient with a Sleep Apnea machine. I've been in business for a

long time and I was very careful, methodical, & analytical to compile a bid that I could work with, live with, and stay in business.

I'd like to share just a few of the troubling issues:

Many of the Bid Winners had No physical Presence in the local Communities like Charlotte. CMS awarded these Bid Contracts to providers who were not even licensed in the State of North Carolina.

Inexperienced and under capitalized companies were awarded winning bids. Several of the bid winners are young companies, some 2-4 years in existence. Many of the Bid Winners had never provided services for the winning product categories, were not licensed nor accredited for winning categories, which was a requirement from CMS.

Many businesses will close their doors. One industry expert calculated that only 9% are going to win the bid. Consequently 91% of the current Medicare Oxygen Providers will adjust their business model and/or will likely go out of business under the current competitive bidding plan. This is a direct result of the fact that oxygen is a primary source of revenue for most DME Providers. Obviously this will do away with hundreds and thousands of jobs throughout the country. In Charlotte, with one product category out of 10, that is likely to equal up to 1200 jobs. You can multiply that by 10 product categories and the 10 MSA's – just in the FIRST ROUND alone!

In this first round, CMS announced that an estimated 130 oxygen providers in and around Charlotte would be reduced to 11. CMS's selection of a relatively small number of suppliers would have resulted in a tremendous and unrealistic increase in the ratio of beneficiaries to supplier. Another way to look at this is that less than 10% of the existing suppliers survived the bid. Ladies and Gentlemen, there is no way that these 11 providers can adequately satisfy the needs of the patients that 130 providers had been supplying in the Charlotte/Gastonia CBA. Specifically, CMS provided information that in 2006 the allowed oxygen concentrator services totaled 79,353 distributed by 130 suppliers or 610 per provider. The bid winning 11 suppliers will now be providing services for over 7,200. Will not happen!! Last week, we had a snow shower in Charlotte resulting in ice. This often shuts down the community. How can these 11 suppliers provide emergency service to all the patients affected by an ice storm in a six county area? I was personally delivering oxygen tanks during the days following Hurricane Hugo. We were without power for weeks.

To narrow down the results of the competitive bid program for my company; we have eliminated 7 positions; 4 full time positions and 3 part time positions. This is 30% of my staffing level. That is very painful as a business owner; many of these were long time friends and colleagues.

Full Service DME suppliers can traditionally provide all the DME needs of the patient. Items such as wheelchairs, hospital beds, oxygen, enteral nutrients, and walkers may be provided by as many as five (5) different suppliers under the proposed competitive bidding plan. How confusing will this be Medicare Beneficiary's, caregivers, and those who facilitate the discharge planning for patients leaving the hospital?

Ultimately, access will be an issue. We spoke of the service component but the remaining few suppliers will result in service access for many of our nations' seniors.

On a very personal note: Our company has been contacted on many occasions after hours or on weekends by Clinical Case Managers wanting to execute a discharge from the hospital. More times than I can tell you, the referral source tells us they contacted one of competitors and could not get anyone to return their phone call. They have told us they know they can always depend on us because of our Service Component. Under the proposed Competitive Bidding Scheme the small number of providers can only provide sub-standard service because they will be spread so thin. Patients will suffer and ultimately there will be a cost shift from paying DME providers to paying for extended hospital stays because the hospitals will not be able to discharge the patients due to the equipment not being delivered. Home DME saves the government money!!

During the period of time that we were notified that we were not invited to the first round of bidding through the day that the program officially started, March 24 – June 30<sup>th</sup> we were constantly working to notify our patients of the change. The information that CMS sent to the beneficiaries was very confusing and left a lot to the imagination. We sent letters to our Medicare Beneficiaries explaining to them of the need to change providers. We had patients and clients up in arms saying they did not want to change providers. They were making comments that they had purchased their supplies from Griffin for years.

Also, we had planned on moving our facility and expanding, but due to the loss of the Competitive Bidding Contract; we placed all those plans on "hold."

The reality is that we lost the bid but we truly were the Winner! I am totally convinced that the limited number of bid winners will be unable to fulfill their commitment of the contract. I feel very strongly that many of the bid winners will not be able to provide any level of quality care or service to the Medicare Beneficiary. The poor service will cost our health care system additional dollars, create additional hospital admissions, and ultimately cost the Medicare Program higher prices due to the lack of competition.

The DME Industry is highly regulated – Nationally by The Office of Inspector General, Medicare's Anti Fraud Unit & Benefit Integrity Unit, The Judicial System, National Supplier Clearinghouse, and in North Carolina, The NC Board of

Pharmacy, NC Department of Health & Human Services, The NC Respiratory Care Board, and various other entities. Additionally, CMS is requiring the DME Companies be accredited by an ISO 9001:2000 Certified Accrediting Companies.

Medicare has many choices to reduce costs within the entire program. The attached peer review, an independent study by Brett Katzman and Kerry Anne McGeary states the following: “*The competitive bidding process is examined on a theoretical level. It is shown that the CMS competitive bidding process (auction) is inefficient, leads to price increases, and may cause decreases in the quality of services.*” The Competitive Bidding Process is Bad Policy; bad for consumers, bad for suppliers, and provides no significant savings to the government. It is inefficient and will ultimately create higher prices. We ask that the Medicare Competitive Bidding implementation be eliminated. At the very least let’s have an in-depth and detailed review, work with the industry insiders to seek alternatives that will preserve the program integrity, maintain beneficiary freedom of choice in the selection of their provider and ultimately maintain a competitive marketplace that will drive value added services with competitive pricing.

I am very grateful for the opportunity to speak to you and just like I shared with President Obama in a recent letter, I welcome the opportunity to assist in seeking solutions.

Thank you!