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Medicare Provider Enrollment Demonstration Involving Suppliers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) in High-Risk Areas

On June 28, 2007, the Centers for Medicare & Medicaid Services (CMS) announced plans to implement a two-year demonstration project involving the enrollment of suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) into Medicare. The goal of this project is to strengthen CMS's ability to detect and prevent fraudulent activity and will focus specifically on DMEPOS suppliers in South Florida and the Los Angeles metropolitan area.

Background

The fraudulent business practices of unscrupulous DMEPOS suppliers continue to cost the Medicare program millions of dollars nationally. Within the last 18 months, CMS and the Office of Inspector General (OIG) have identified and documented a significant amount of fraud being committed by DMEPOS suppliers in South Florida and the Los Angeles metropolitan area. South Florida and Southern California have a high number of Medicare beneficiaries. Growth of DMEPOS providers has nearly doubled over the past two years in those locations. In addition, Medicare billing from suppliers in those regions is disproportionately high.

South Florida

During FY 2006, the National Supplier Clearinghouse (NSC), the national enrollment contractor for DMEPOS suppliers, conducted 1,472 inspections of South Florida DMEPOS suppliers. As of October 2006, the billing numbers of 634 DMEPOS suppliers had been revoked, including 143 suppliers that had been enrolled within the previous twelve months. This effort, which is still ongoing, resulted in a projected savings of \$317 million. The NSC spent approximately \$3 million on all enrollment efforts in South Florida, resulting in a Return on Investment (ROI) of greater than 100:1 (\$100 in savings for each dollar spent to conduct the project).

The aforementioned inspections included, but were not limited to, the following sub-initiatives:

- In January 2006, the NSC conducted ad hoc site visits of 480 DMEPOS suppliers in Miami-Dade and Broward counties in a one-week period. At the conclusion of the project, 191 DMEPOS suppliers had their billing privileges revoked.

- In June 2006, the NSC initiated inspections of DMEPOS suppliers that had billed in excess of \$200,000 in any one month over a six-month period. Cases were opened on 18 DMEPOS suppliers, of which 15 were in Miami-Dade County. Of these 15 suppliers, 12 were revoked and two voluntarily deactivated their numbers.
- In May and August of 2006, the NSC examined a number of recently enrolled DMEPOS suppliers in Miami-Dade County. Of the 35 suppliers reviewed, 28 have had their billing privileges revoked as of mid-April 2007. Also in 2006, a separate project was undertaken in which 70 enrolled DMEPOS suppliers received site visits. It was discovered that 51 of these suppliers were not open for business. As such, these suppliers had their billing privileges revoked on January 3, 2007, even though the suppliers – prior to their enrollment – received site visits and were found to be in compliance with the DMEPOS standards.

The following charts show, for each of the last five fiscal years: (1) the number of DMEPOS suppliers in each of the three South Florida counties (as of the beginning of the denoted fiscal year); (2) the amount of billings by DMEPOS suppliers in these counties and in the State of Florida as a whole; and (3) the number of DMEPOS revocations in these counties, in Florida, and nationwide:

NUMBER OF DMEPOS SUPPLIERS			
FY	Miami-Dade	Broward	Palm Beach
2002	1,349	765	622
2003	1,616	788	633
2004	1,697	838	662
2005	1,430	818	675
2006	1,554	830	684
2007	1,580	831	702
As of April 2, 2007	1,245	761	666

(As of April 2, 2007, there were 8,017 DMEPOS suppliers in the State of Florida.)

AMOUNT OF DMEPOS BILLINGS				
FY	Miami-Dade	Broward	Palm Beach	Florida
2002	\$470,633,154	\$160,061,057	\$134,286,220	\$2,402,182,019
2003	\$655,988,877	\$196,562,054	\$149,286,575	\$3,027,144,468
2004	\$1,205,548,846	\$313,763,809	\$178,487,683	\$4,104,966,256
2005	\$1,120,339,084	\$380,392,021	\$201,772,190	\$4,277,763,719
2006	\$1,683,844,455	\$469,071,787	\$185,720,998	\$5,011,393,012
2007 *	\$994,067,829	\$285,666,136	\$94,931,350	\$2,714,303,431

*As of April 2, 2007

NUMBER OF REVOCATIONS					
FY	Miami-Dade	Broward	Palm Beach	Florida	Nation
2002	50	7	2	91	277
2003	185	3	1	203	653
2004	450	23	8	511	1,264
2005	259	18	11	319	633
2006	548	40	10	630	995
2007 *	619	79	36	743	938

*As of April 2, 2007

Several disturbing trends are evident here. First, between 21 percent (FY 2002) and 78 percent (FY 2007) of all revocations nationwide occurred in South Florida. Second, while the number of DMEPOS suppliers has risen moderately since FY 2002, the amount of monies billed to Medicare by DMEPOS suppliers in Miami-Dade and Broward counties has risen by well over 200 percent during this same period.

Los Angeles Metropolitan Area

A number of inspections of DMEPOS suppliers in the Los Angeles metropolitan area have uncovered the following:

- In August 2006, a special project focused on the performance of site visits for highly suspicious DMEPOS suppliers suspected of committing Medicare fraud. The NSC conducted 401 site visit inspections, with 95 DMEPOS suppliers having their billing privileges revoked as of mid-April 2007.
- In February 2006, the NSC joined with several agencies – including CMS and the State of California Food and Drug Branch (CFDB) – in conducting site visits of 34 DMEPOS suppliers; of this figure, 12 were revoked.
- In February and March 2005, the NSC – in coordination with CFDB and MediCal - conducted inspections of 138 DMEPOS suppliers. Of this total, 31 had their billing privileges revoked.

The following charts show, for each of the last five fiscal years: (1) the number of DMEPOS suppliers in each of the four California counties (as of the beginning of the denoted fiscal year); (2) the amount of billings by DMEPOS suppliers in these counties and in California as a whole; and (3) the number of DMEPOS revocations in these counties and in California.

NUMBER OF DMEPOS SUPPLIERS				
YEAR	Los Angeles	Orange	Riverside	San Bernardino
2002	2,715	927	376	399
2003	2,779	956	381	431
2004	2,751	939	378	420
2005	2,870	942	419	436
2006	3,052	966	442	460
2007 *	3,156	984	486	471
As of April 2, 2007	2,941	945	470	454

(As of April 2, 2007, there were 10,012 DMEPOS suppliers in the State of California.)

AMOUNT OF DMEPOS BILLINGS					
FY	Los Angeles	Orange	Riverside	San Bernadino	California
2002	\$398,110,282	\$111,209,599	\$54,670,820	\$50,439,566	\$1,226,899,643
2003	\$493,807,758	\$141,772,383	\$59,312,977	\$66,694,036	\$1,440,346,297
2004	\$522,591,217	\$128,958,579	\$61,070,693	\$58,762,917	\$1,563,765,336
2005	\$583,215,921	\$174,388,059	\$67,323,161	\$48,192,633	\$1,697,970,838
2006	\$625,403,266	\$198,623,951	\$68,089,967	\$52,953,689	\$1,873,741,517
2007 *	\$339,924,990	\$104,633,377	\$38,921,689	\$28,520,693	\$975,696,352

*As of March 31, 2007

NUMBER OF REVOCATIONS					
FY	Los Angeles	Orange	Riverside	San Bernadino	California
2002	35	0	0	3	42
2003	33	1	3	4	48
2004	92	23	5	16	148
2005	73	7	5	14	113
2006	86	8	8	6	117
2007 *	83	10	9	6	123

*As of April 2, 2007

In looking at all of the above charts, there has been – with a few exceptions – a steady increase in the number of DMEPOS suppliers in the demonstration locales, as well as in the amount of dollars billed in these areas. Naturally, this places more Medicare dollars at risk. Perhaps the most disconcerting statistic involves the aforementioned inspections. Of the nearly 2,000 DMEPOS suppliers that were the subjects of these initiatives, approximately 770 – or about 37% - had their billing privileges revoked. This is a staggering figure that highlights two things. First, South Florida and the Los Angeles area are major hotbeds for fraudulent activity involving DMEPOS suppliers. Second, it is imperative that CMS do everything in its power to ensure that such suppliers never enter the Medicare program in the first

place. Indeed, using administrative means for rooting out potentially fraudulent suppliers at the time of enrollment can help preserve the important investigative resources of the Office of Inspector General (OIG) and the prosecutorial resources of the Department of Justice (DOJ).

The types of fraud committed by the DMEPOS suppliers in South Florida and the Los Angeles metropolitan area included: (1) billing for services not rendered, which involved claims for power wheelchairs, scooters, nutritional products (i.e., Ensure), orthotics, prosthesis, hospital beds, etc., and (2) billing for services not “medically necessary.” CMS and its contractors have identified thousands of Medicare beneficiaries living in California and Florida who are receiving DMEPOS items that they did not require based upon their medical history and/or are receiving Medicare EOBs for items that are not only unnecessary, but never ordered by their physician and never received by the beneficiary. CMS staff in Los Angeles and Miami has interviewed multiple physicians who have provided attestations that they never saw the patients for which DME was ordered and correspondingly never ordered the suspect DME.

Section 402(a)(1)(J), 42 U.S.C. § 1395b-1(a)(1)(J), of the Social Security Amendments of 1967 permits the Secretary to “develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.” Pursuant to this authority, therefore, CMS seeks to implement this demonstration to improve CMS’s ability to detect potential fraudulent behavior at both the pre-enrollment stage as well as after suppliers are enrolled in Medicare. CMS believes that the results of this demonstration will provide CMS with additional tools to address, combat, and prosecute similar fraud and abuse by DMEPOS suppliers across the country.

Components of the Demonstration

There are three major components to this demonstration:

1. **Immediate submission of CMS-855S application** – Each DMEPOS supplier in the demonstration locales will be required to submit a CMS-855S Medicare enrollment application to the NSC within 30 days after the NSC requests such data.
2. **Revocation of billing privileges** – Under this demonstration, a DMEPOS supplier’s Medicare billing privileges will be revoked in the following circumstances:
 - The DMEPOS supplier failed to submit a CMS-855B application within the aforementioned 30-day timeframe.
 - The DMEPOS supplier failed to report a change in ownership or address at least 30 days prior to the effective date of the change.
 - The DMEPOS supplier failed to obtain accreditation from an approved DMEPOS accrediting organization within 90 days of notification from the NSC to do so.
 - The DMEPOS supplier has an owner or managing employee that has had a felony conviction within the last 10 years.
 - The DMEPOS supplier no longer meets each and every requirement necessary for enrollment as a DMEPOS supplier.

If the supplier's billing privileges are revoked, CMS will implement recoupment measures when appropriate.

3. Enhanced review of “remaining” DMEPOS suppliers - DMEPOS suppliers that do not have their Medicare billing privileges revoked based on the information contained in the CMS-855S application they submitted will be subject to an enhanced review. Under this process, the NSC will use a fraud level indicator for each DMEPOS supplier. In assessing a fraud level indicator, the NSC will consider such factors as:

- Experience as a DMEPOS supplier with other payers;
- Prior Medicare experience;
- Specific supplier location;
- Fraud potential of products and services listed;
- Site visit results;
- Inventory observed and contracted; and
- Accreditation of the supplier

Evaluation

CMS will evaluate the effectiveness of this demonstration project by utilizing certain criteria, including, but not limited to:

- Comparing the revocations made during the demonstration period with the revocations made in the demonstration locales during the 12 months prior to the demonstration period. Sub-criteria will include the total number of revocations, the reason(s) for each revocation, and the applicable risk category.
- The average length of time it takes for the NSC to review the enrollment applications in question.
- The overall effectiveness of the enhanced review process.

Moreover, CMS will determine if the processes and procedures used in this demonstration can and should be implemented in other parts of the country as a means of deterring fraudulent conduct.

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