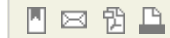


CBIC / Round 2021

Round 2021

Contract Suppliers

CONTRACT SUPPLIER OBLIGATIONS, MONITORING, AND EDUCATION FACT SHEET



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On April 9, 2020, the non-invasive ventilators product category was removed from Round 2021 due to the novel COVID-19 pandemic. *On October 27, 2020, the Centers for Medicare & Medicaid Services (CMS) announced the single payment amounts and began offering contracts for the off-the-shelf (OTS) back braces and OTS knee braces product categories. All other product categories were removed from Round 2021. Please see the CMS announcement for additional information.*

Contract suppliers must comply with all terms of their contracts for the full duration of the contract period. The following are key contract terms suppliers should consider when preparing their bids. The information provided in this fact sheet is merely guidance and does not represent the scope of the program rules. Suppliers should also refer to the [Request for Bids \(RFB\) Instructions](#), statute, and regulations for specific rules and requirements.

- Contract suppliers, including all enrolled contract supplier locations (identified by a Provider Transaction Access Number (PTAN)), must comply with the Medicare enrollment requirements specified in [42 CFR §424.57\(c\)](#) throughout the duration of the contract period. The requirements in 42 CFR §424.57(c) include (but are not limited to) maintaining Medicare billing privileges and complying with state licensing and accreditation requirements. Only properly enrolled supplier locations that are included on the supplier's contract will be eligible to furnish competitively bid items and be reimbursed by Medicare.
- Medicare payment for competitively bid items is made on an assignment-related basis. Contract suppliers must accept assignment on all items under their contracts. Medicare payment for items under the contract will be based on the item's single payment amount. See [42 CFR §414.408](#) for more information in regards to the DMEPOS Competitive Bidding Program payment rules.
- Contract suppliers are responsible for completing the intake and assessment process, submitting claims on behalf of the beneficiary, coordination of care with the physician, delivering DMEPOS items, and, as applicable, setting up the equipment and providing training/instruction to the beneficiary and/or caregiver(s). Contract suppliers are accountable for ensuring that all of the services associated with furnishing the item, including subcontracted services, are performed in compliance with the physician's order and Medicare rules and guidelines.
- Contract suppliers cannot discriminate against Medicare beneficiaries. As specified in [42 CFR §414.422\(c\)](#) the items a contract supplier makes available to Medicare beneficiaries under its competitive bidding contract must be the same items furnished to other customers. A contract supplier must furnish all competitively bid items under its contract to any beneficiary who maintains a permanent residence in or visits a CBA and requests the competitive bidding item(s)

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from the contract supplier. A list of the Round 2021 ZIP codes is on the Competitive Bidding Implementation Contractor (CBIC) website.

The exception to this rule is a skilled nursing facility (SNF) or nursing facility (NF) that has been awarded a contract as a specialty supplier. As specified in 42 CFR §414.422(e)(2), SNFs and NFs that are specialty suppliers may furnish the items in the enteral nutrition product category to their own SNF or NF residents exclusively. For more information, please see the [Skilled Nursing Facilities \(SNFs\) and Nursing Facilities \(NFs\)](#) fact sheet.

- As specified in [42 CFR §414.420\(b\)](#), if a physician or other treating practitioner orders a specific brand of an item or mode of delivery to avoid an adverse medical outcome for a beneficiary, the contract supplier must: 1) furnish that specific brand or mode of delivery, 2) consult with the physician or treating practitioner to find an appropriate alternative and obtain a revised written prescription, or 3) assist the beneficiary in locating a contract supplier that furnishes that specific brand or mode of delivery. For more information, please see the [Prescription for Specific Brand or Mode of Delivery to Avoid an Adverse Medical Outcome](#) fact sheet.
- The sale of a competitive bidding contract is prohibited, and is grounds for contract termination. CMS may allow for a change of ownership (CHOW). However, a CHOW does not automatically grant contract supplier status to a new entity. A contract supplier has specific obligations to notify CMS when it is negotiating a CHOW. The successor or new entity in a CHOW must meet all DMEPOS Competitive Bidding Program requirements, and assume all rights, obligations, and liabilities of the competitive bidding contract in order for CMS to consider transfer of the contract to the new entity. See 42 CFR §414.422(d) for more information in regards to the DMEPOS Competitive Bidding Program CHOW requirements.
- Contract suppliers are responsible for furnishing competitively bid items directly or through the use of subcontractors. The only permissible subcontracting arrangements are those that comply with the DMEPOS Supplier Standard specified in 42 CFR § 424.57(c) and applicable accreditation requirements. If a contract supplier decides to use a subcontractor to furnish items and services under the contract, both the contract supplier and the subcontractor must have all of the applicable state licenses.
- Contract suppliers must notify CMS of any subcontracting relationship(s) that they have entered into for purposes of furnishing items under the program. They must also disclose whether the subcontractor meets accreditation requirements necessary to furnish these services. After the award of contracts, contract suppliers must disclose to CMS within 10 business days each subcontracting relationship that each supplier has in furnishing items and services under the contract. After that initial disclosure, contract suppliers must notify CMS within 10 business days of entering into any subsequent agreements with subcontractors. Notification is completed in Connexion, the DMEPOS Competitive Bidding Programs' secure portal.
- The actions or inactions of a subcontractor will not excuse a contract supplier from complying with the terms of its competitive bidding contract. If a subcontractor does not perform in compliance with the terms of the contract, the contract supplier will still be held accountable for the potential breach of contract. For additional information on subcontracting, please see the [Subcontracting of DMEPOS Services](#) fact sheet.
- Contract suppliers are not guaranteed a minimum amount of business. Contract suppliers must furnish all items for which they have been awarded a contract even if they have reached the estimated capacity they included on their bid.

- Each contract supplier must submit a semi-annual report (Form C) in Connexion indicating the manufacturer and model of specific items it offers to all customers. The supplier should also review the information in the Supplier Directory before submitting the report to determine if the information is current. A Form C containing current information must be submitted to the CBIC within 10 business days after each of the following dates: June 30 and December 31. If the due date for a particular semi-annual report falls on a Saturday, Sunday, or federal holiday, the report is due on the next business day.

Failure to adhere to the terms of a contract, including but not limited to compliance with governmental agency or state licensing requirements, constitutes a breach of contract. If a supplier breaches the contract, CMS may take action(s) pursuant to 42 CFR §414.422(g)(2). For example, CMS could terminate the contract and preclude the contract supplier from participating in the next round of the DMEPOS Competitive Bidding Program.

Contract Supplier Education and Monitoring Program

Contract suppliers are monitored to ensure they comply with the contract terms specified in 42 CFR §414.422 and conduct business in a manner that meets the [Medicare Supplier Standards](#) and the [CMS Quality Standards](#). The monitoring program includes routine analysis of supplier performance indicators, claims data monitoring, Medicare enrollment data, and a formal complaint monitoring system. In addition, extensive education is provided to ensure suppliers, beneficiaries, providers, and referral agents understand the rules that govern the DMEPOS Competitive Bidding Program.

CMS encourages anyone to report complaints or problems, including beneficiaries, caregivers, referral agents, providers, and suppliers. Resolving complaints or other reported issues quickly is CMS' primary goal. Following resolution, other monitoring tools are utilized to confirm a contract supplier's ongoing compliance with the terms of the contract. If it is determined that a contract supplier is not willing or able to furnish items and services in accordance with the contract, a competitive bidding liaison (CBL) may provide additional education to the supplier's authorized officials and/or other designated employees (e.g., compliance officer), if appropriate, or CMS may issue a notice of breach of contract to the contract supplier. See [42 CFR §414.423](#) for more information in regards to the DMEPOS Competitive Bidding Program breach of contract actions and appeals process.

Claims data and routine secret shopper calls are valuable monitoring tools used to determine if contract suppliers are furnishing competitively bid items and services in compliance with the terms of their contract. If an issue is identified either through claims analysis and/or a routine secret shopper call, a CBL contacts the contract supplier to review the issue and educate the supplier on its contractual obligations. The supplier may be given the opportunity to correct the potential infraction, but if the identified issue is not promptly resolved or a previous infraction occurred, the contract supplier may be issued a notice of breach of contract as described above.

Changes in the Provider Enrollment, Chain, and Ownership System (PECOS) enrollment records are routinely monitored to identify contract suppliers that are not complying with program eligibility requirements, such as maintaining an active Medicare billing number, licensing, or accreditation. When an issue is identified, a CBL will discuss the issue with the suppliers and give them the opportunity to promptly correct the issue. Contract suppliers who are unable to resolve a Medicare supplier enrollment issue will be issued a notice of breach of contract.

Health status monitoring has been performed by CMS since January 1, 2011, by conducting real-time claims analyses of Medicare beneficiaries in CBAs. Health status reports for DMEPOS competitive bidding contract periods are updated on a quarterly basis and are published on the CMS website. Each product category file includes a written summary of health status monitoring results and graphical displays of beneficiaries' health status and their access to competitively bid items. The data is derived from claims for Medicare populations in each CBA and a corresponding "comparator" region that is similar to the CBA.

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