SEC. 1124. DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

(a) COVERAGE.- The items and services described in this section are-

(1) durable medical equipment;

(2) prosthetic devices (other than dental devices) which replace all or part of the function of an internal body organ (including devices that are surgically inserted, devices that are physically attached to the body, such as colostomy bags and supplies directly related to colostomy care, and external devices;

(3) orthotics (leg, arm, back and neck braces) and prosthetics (artificial legs, arms and eyes); and

(4) (A) accessories and supplies which are used directly with equipment or devices described in paragraphs (1)-(3) to achieve the therapeutic benefits of such equipment or devices or to assure the proper functioning of such equipment or devices,

(B) replacements of such equipment or devices when required in cases of loss, irreparable damage, wear, or because of a change in the patient's condition, and

(C) repair and maintenance of such equipment and devices;

(5) fitting (including adjustments) and training for use of the items described in paragraphs (1) through (4).

(b) LIMITATION.-An item or service described in this section is covered only if it improves functional ability or prevents or minimizes deterioration in function.

(c) DURABLE MEDICAL EQUIPMENT.- For purposes of this subtitle, the term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

SEC. 1124. DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND **PROSTHETICS.**

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(1) durable medical equipment;

(2) prosthetic devices (other than dental devices) which replace all or part of the function of an internal body organ **(including devices that are surgically inserted, devices that are physically attached to the body,** such as colostomy bags and supplies directly related to colostomy care, and **external devices;**

or external body parts

(3) **orthotics** (leg, arm, back and neck braces) and **prosthetics** (artificial legs, arms, ~~and~~ eyes); and

including

and breasts

(4) (A) accessories and supplies ~~which~~ are used directly with **equipment or devices described in paragraphs** (1)-(3) to achieve the therapeutic benefits of such equipment or devices or to assure the proper functioning of such equipment or devices,

(B) replacements of such equipment or devices **when required in cases of loss, irreparable damage, wear, or because of a change in the patient's condition,** and

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(c) DURABLE MEDICAL EQUIPMENT.- For purposes of this subtitle, the term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

EXPLANATION OF THE PROPOSED CHANGES

1. DURABLE MEDICAL EQUIPMENT

The bill includes "accessories and supplies necessary for repair, function, and maintenance" of DME; it is silent on "replacement." Replacement of DME is clearly covered under current Medicare policy. Under the proposed amendment, coverage for all of these services is moved to separate paragraphs (see below).

2. PROSTHETIC DEVICES

The bill specifies that prosthetic devices (other than dental devices) are covered if they "replace all or part of the function of an internal body organ." This is a "functional" test i.e., does the device replace all or part of the function of an internal body organ. The bill is not limited to replacing all or part of the body organ. No change to this language is proposed. However, clarifications to other aspects of this section of the bill are proposed.

First, the proposal simply clarifies the meaning of the phrase "prosthetic devices (other than dental devices) which replace all or part of the function of an internal body organ." One generally accepted category of "prosthetic devices" includes devices that are "physically attached to the body". The bill does not reference this general category; instead, it includes one specific application of this general category ("including colostomy bags and supplies directly related to colostomy care"). This is confusing because a specific application of a general category is set out in the statute in lieu of the general category and other generally accepted categories are not referenced, i.e., devices that are surgically inserted and external devices.

The proposed amendment explicitly recognizes all three categories. The proposal recognizes that prosthetic devices include devices that are surgically inserted. An example of such a device would be a pacemaker. The proposal also recognizes that prosthetic devices include devices that are physically attached to the body, such as colostomy bags and supplies directly related to colostomy care.

In addition, the proposal recognizes that prosthetic devices include external devices such as augmentative communication devices. Augmentative communication devices replace a mal- or nonfunctioning element of the body's oral motor mechanisms consisting of the speech center of the brain as well as the nerves, muscles, and organs that together control the production of speech and improve the functions of speaking for individuals whose oral motor mechanisms do not work. Obviously, "improving functional ability" includes improving the ability to speak; otherwise, Medicare and private insurance policies would not pay

for an artificial larynx.

Clearly, such external devices are subject to the general policy that all devices provided under the comprehensive benefits package must be prescribed by a qualified health care professional within the scope of the professional's practice and must be medically necessary or appropriate under the comprehensive benefit package.

As explained above, the first change to the bill clarifies the scope of the term "prosthetic device." Second, the bill is silent with respect to "repair, function, and maintenance." It does not appear that the bill intended to preclude payment for repair, function, and maintenance. (See current policy under Medicare, for example, under which rules governing prosthetic devices incorporate by reference policies regarding repair, function, and maintenance under DME. The proposal covers these functions (see below).

Third, the bill covers accessories and supplies which are used directly with a prosthetic device. The proposal moves this provision to a separate paragraph, which is then made applicable to all categories of devices.

3. ORTHOTICS AND PROSTHETICS

The bill includes two lists of covered equipment. The proposal simply includes a term to describe each of these lists--"orthotics" to describe leg, arm, back and neck braces; and "prosthetics" to describe artificial legs, arms, and eyes. Thus, no intent to change policy in bill.

The bill includes "replacement if required because of a change in the patient's physical condition" with respect to artificial legs, arms, and eyes; but is silent with respect to leg, arm, back and neck braces. This provision is modeled on Medicare policy, which not only covers replacement for both categories of equipment but also provides coverage for repair, function, and maintenance.

The proposal makes "replacement..." applicable to both orthotics and prosthetics" and includes "repair, function, and maintenance" under a new separate paragraph (see below).

4. ACCESSORIES AND SUPPLIES.

The bill covers accessories and supplies necessary for repair, function, and maintenance of DME. The bill also covers accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device.

It is unclear why such "accessories and supplies" only apply to prosthetic devices and durable medical equipment and not to

orthotics, and prosthetics as well. The proposed amendment makes this section applicable to all equipment and devices covered by this section.

This proposed change is consistent with current policy and therefore should not add any additional costs.

5. REPLACEMENT, REPAIR, FUNCTION AND MAINTENANCE.

Current policy under Medicare developed by HCFA covers payment for replacement, repair, and maintenance for all of the equipment and devices included in the bill. The bill unintentionally treats these functions in a disparate fashion.

The proposal codifies current policy under Medicare with respect to replacement, repair, and maintenance of the categories of devices and equipment covered under the bill. In other words, this new paragraph does not change current policy.

6. FITTING

The bill covers "fitting." The proposed amendment clarifies that "fitting" includes "adjustments." Adjustments are covered under current Medicare rules. Thus, by codifying current policy, this proposal does not add any costs.

7. LIMITATIONS.

The bill specifies that an item or service is covered only if it "improves functional ability or prevents further deterioration in function." The proposal inserts "or minimizes". after "prevents." This change is consistent with overall purposes of the devices and equipment made available and conforms the provision to the language in the section of the bill pertaining to outpatient rehabilitation therapies.

COMMITTEE ON LABOR AND HUMAN RESOURCES
SUBCOMMITTEE ON DISABILITY POLICY

TO: Jennifer Keine, 456-2878
FROM: Andy D. & Bobby S.
Number of Pages To Follow: 5

COMMENTS:

If you have any transmittal errors,
please call the subcommittee's staff assistant

TEL: (202) 224-6265
FAX: (202) 228-2923
TTY: (202) 224-3457

Thank You

No cost implications of these changes.

Better drafting

MEMORANDUM

TO: JUDY FEDER
FROM: DAVID NEXON AND MARY BETH FISKE (SENATOR KENNEDY) AND BOB SILVERSTEIN (SENATOR HARKIN)
SUBJECT: AMENDMENT TO DME, PROSTHETIC AND ORTHOTIC DEVICES SECTION OF THE HEALTH SECURITY ACT.
DATE: FEBRUARY 1, 1994
****

Attached is a staff discussion draft amendment to the DME, prosthetic and orthotic devices section of the Health Security Act.

It is our belief that the proposal includes technical and conforming modifications to the policy in the Health Security Act. Therefore, we believe it is not necessary to "cost" out these changes.

Based on meetings with a broad representation of the disability and provider community, we believe that we can get them to "sign-off" on this approach.

If you have any questions, please call Bob Silverstein (224-6265) or Mary Beth Fiske (224-7675).

SEC. 1124. DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

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(B) replacements of such equipment or devices when required in cases of loss, irreparable damage, wear, or because of a change in the patient's condition, and

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(c) DURABLE MEDICAL EQUIPMENT.- For purposes of this title, the term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

EXPLANATION OF THE PROPOSED CHANGES

1. DURABLE MEDICAL EQUIPMENT

The bill includes "accessories and supplies necessary for repair, function, and maintenance" of DME; it is silent on "replacement." Replacement of DME is clearly covered under current Medicare policy. Under the proposed amendment, coverage for all of these services is moved to separate paragraphs (see below).

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First, the proposal simply clarifies the meaning of the phrase "prosthetic devices (other than dental devices) which replace all or part of the function of an internal body organ." One generally accepted category of "prosthetic devices" includes devices that are "physically attached to the body". The bill does not reference this general category; instead, it includes one specific application of this general category ("including colostomy bags and supplies directly related to colostomy care"). This is confusing because a specific application of a general category is set out in the statute in lieu of the general category and other generally accepted categories are not referenced, i.e., devices that are surgically inserted and external devices.

The proposed amendment explicitly recognizes all three categories. The proposal recognizes that prosthetic devices include devices that are surgically inserted. An example of such a device would be a pacemaker. The proposal also recognizes that prosthetic devices include devices that are physically attached to the body, such as colostomy bags and supplies directly related to colostomy care.

In addition, the proposal recognizes that prosthetic devices include external devices such as augmentative communication devices. Augmentative communication devices replace a mal- or nonfunctioning element of the body's oral motor mechanisms consisting of the speech center of the brain as well as the nerves, muscles, and organs that together control the production of speech and improve the functions of speaking for individuals whose oral motor mechanisms do not work. Obviously, "improving functional ability" includes improving the ability to speak; otherwise, Medicare and private insurance policies would not pay

for an artificial larynx.

Clearly, such external devices are subject to the general policy that all devices provided under the comprehensive benefits package must be prescribed by a qualified health care professional within the scope of the professional's practice and must be medically necessary or appropriate under the comprehensive benefit package.

As explained above, the first change to the bill clarifies the scope of the term "prosthetic device." Second, the bill is silent with respect to "repair, function, and maintenance." It does not appear that the bill intended to preclude payment for repair, function, and maintenance. (See current policy under Medicare, for example, under which rules governing prosthetic devices incorporate by reference policies regarding repair, function, and maintenance under DME. The proposal covers these functions (see below).

Third, the bill covers accessories and supplies which are used directly with a prosthetic device. The proposal moves this provision to a separate paragraph, which is then made applicable to all categories of devices.

3. ORTHOTICS AND PROSTHETICS

The bill includes two lists of covered equipment. The proposal simply includes a term to describe each of these lists--"orthotics" to describe leg, arm, back and neck braces; and "prosthetics" to describe artificial legs, arms, and eyes. Thus, no intent to change policy in bill.

The bill includes "replacement if required because of a change in the patient's physical condition" with respect to artificial legs, arms, and eyes; but is silent with respect to leg, arm, back and neck braces. This provision is modeled on Medicare policy, which not only covers replacement for both categories of equipment but also provides coverage for repair, function, and maintenance.

The proposal makes "replacement..." applicable to both orthotics and prosthetics" and includes "repair, function, and maintenance" under a new separate paragraph (see below).

4. ACCESSORIES AND SUPPLIES.

The bill covers accessories and supplies necessary for repair, function, and maintenance of DME. The bill also covers accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device.

It is unclear why such "accessories and supplies" only apply to prosthetic devices and durable medical equipment and not to

orthotics, and prosthetics as well. The proposed amendment makes this section applicable to all equipment and devices covered by this section.

This proposed change is consistent with current policy and therefore should not add any additional costs.

5. REPLACEMENT, REPAIR, FUNCTION AND MAINTENANCE.

Current policy under Medicare developed by HCFA covers payment for replacement, repair, and maintenance for all of the equipment and devices included in the bill. The bill unintentionally treats these functions in a disparate fashion.

The proposal codifies current policy under Medicare with respect to replacement, repair, and maintenance of the categories of devices and equipment covered under the bill. In other words, this new paragraph does not change current policy.

6. FITTING

The bill covers "fitting." The proposed amendment clarifies that "fitting" includes "adjustments." Adjustments are covered under current Medicare rules. Thus, by codifying current policy, this proposal does not add any costs.

7. LIMITATIONS.

The bill specifies that an item or service is covered only if it "improves functional ability or prevents further deterioration in function." The proposal inserts "**or minimizes**". after "prevents." This change is consistent with overall purposes of the devices and equipment made available and conforms the provision to the language in the section of the bill pertaining to outpatient rehabilitation therapies.

COMMITTEE ON LABOR AND HUMAN RESOURCES
SUBCOMMITTEE ON DISABILITY POLICY

TO: Sara R.
FROM: Bobby S.
Number of Pages To Follow: 5

COMMENTS:

If you have any transmittal errors,
please call the subcommittee's staff assistant

TEL: (202) 224-6265
FAX: (202) 228-2923
TTY: (202) 224-3457

Thank You

MEMORANDUM

TO: PERSONS ATTENDING DEC. 22 MEETING RE DME, ORTHOTICS AND PROSTHETIC DEVICES
FROM: BOBBY AND ANDY
SUBJECT: REVISED DRAFT OF DME FIX
DATE: JANUARY 27, 1993
****

Attached is a revised draft of the "fix" for DME etc. and an accompanying explanation.

Please be prepared to discuss the draft and explanation at a meeting on TUESDAY, FEBRUARY 1, 1994 at 10:00 AM. IN ROOM 531 HART SENATE OFFICE BUILDING.

PLEASE NOTE: THE EXPLANATION IS FOR THE ADMINISTRATION AND CBO. We are not requesting report language at this time. Such a request will be made after we reach consensus on the bill language.

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(3) orthotics (leg, arm, back and neck braces) and p tics (artificial legs, arms and eyes); and

(4) (A) accessories and supplies which are used directly with equipment or devices described in paragraphs (1)-(3) to achieve the therapeutic benefits of such equipment or devices or to assure the proper functioning of such equipment devices,

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(b) LIMITATION.-An item or service described in this section is covered only if it improves functional ability or prevents or minimizes deterioration in function.

(c) DURABLE MEDICAL EQUIPMENT.- For purposes of this subtitle, the term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act except that such term also includes equipment that does not meet all of the criteria under such section when such equipment is the least costly therapeutically effective alternative and is either functionally equivalent to equipment described in such section or is functionally equivalent to the services that the person otherwise would receive in a hospital setting under this part.

EXPLANATION OF THE PROPOSED CHANGES

1. DURABLE MEDICAL EQUIPMENT

The bill includes "repair, function, and maintenance" of DME; it is silent on "replacement." Replacement of DME is clearly covered under current Medicare policy. Under the proposed amendment, coverage for all of these services is moved to a separate paragraph (see below).

The bill also incorporates by reference the definition of "DME" set out in section 1861(n) of the Social Security Act. The proposal covers equipment that does not meet all of the criteria under such section when such equipment is the least costly therapeutically effective alternative and is either functionally equivalent to equipment described in such section or is functionally equivalent to the services that the person otherwise would receive in a hospital setting under this part.

The proposed amendment addresses the problem that currently Medicare may be required to pay more for a particular piece of equipment to meet the "used exclusively to serve a medical purpose" test than is necessary when there is available a less costly piece of equipment that is therapeutically effective in addressing the health care needs of the patient. For example,

This amendment should in no way be construed as modifying the rule that DME must be prescribed by a qualified health care professional within the scope of the professional's practice and must be medically necessary or appropriate under the comprehensive benefits package.

This proposal will not add to the cost of the bill because, by definition, the exception applies only when the alternative piece of equipment is "the least costly..."

2. PROSTHETIC DEVICES

The bill specifies that prosthetic devices (other than dental devices) are covered if they "replace all or part of the function of an internal body organ." No change to this language is proposed. However, changes to other aspects of this section of the bill are proposed.

First, the proposal clarifies the scope of the term "prosthetic device." One generally accepted category of "prosthetic devices" includes devices that are "physically attached to the body". The bill does not reference this general category; instead, it includes one specific application of this general category ("including colostomy bags and supplies directly related to colostomy care"). This is confusing because a specific application of a general category is set out in the statute in lieu of the general category and other generally accepted categories are not referenced, i.e., devices that are surgically

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As explained above, the first change to the bill clarifies the scope of the term "prosthetic device." Second, the bill includes "replacement of such devices." The proposal moves this policy to a separate paragraph (see below).

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The bill covers accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device.

It is unclear why such "accessories and supplies" only apply to prosthetic devices and not durable medical equipment, orthotics, and prosthetics as well. The proposed amendment makes this section applicable to all equipment and devices covered by this section. This proposed change is consistent with current policy and therefore should not add any additional costs.

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The bill covers "fitting." The proposed amendment clarifies that "fitting" includes "adjustments." Adjustments are covered under current Medicare rules. Thus, by codifying current policy, this proposal does not add any costs.

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TO: Ira Magaziner
FROM: Jennifer Klein
DATE: 2/23/94
RE: DME

Attached please find Invacare's suggested amendments to the DME provision of the bill. As I think Marilyn has noted in her memo, this is not a controversial amendment and is in keeping with our overall philosophy to permit people to purchase services beyond the comprehensive benefit package.

I will sit in on the meeting with Invacare tomorrow at Marilyn's request.

BAKER & HOSTETLER

COUNSELLORS AT LAW

Washington Square, Suite 1100 • 1050 Connecticut Avenue NW • Washington, DC 20036 • (202) 861-1500
Fax (202) 861-1783 • Telex (650) 2357276

TELECOPIER COVER SHEET

DATE: January 28, 1994 LAW#:0081

CLIENT CODE: 19076-90001

TO: Lynn Margherio
Senior Project Analyst, Domestic Policy Council

FROM: Fred Graefe

MESSAGE: FYI

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TELECOPIER COVER SHEET

DATE: 2/21/91 LAW#: 0081

CLIENT CODE: 19076 -90001

TO: Jeanni Lee Klein

FROM: Fred Cornfeld

MESSAGE: Per our conversation.

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B:\FORMS\FAX.CLR

INVACARE
Innovation in Health Care

September 17, 1993

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of Invacare Corporation and the home care industry, I want to thank you for the opportunities you have provided us to present our views on health care and in particular, the opportunity to review your comprehensive health care reform proposal. Invacare is the world's leading manufacturer and distributor of home medical equipment (HME) with over 3,400 employees worldwide and 1993 sales expected to top $370 million.

I am impressed with your level of understanding of the role home health care can play in increasing access to health care while reducing costs. It is clear you understand that home health care is a viable alternative to facility-based care for both acute and long-term care. From your record in Arkansas and the emphasis on home care in the proposed American Health Security Act, it is clear that you know that 70% of Americans polled state that they would rather recover from an accident or illness in their home. It is also clear you understand that, in many cases, home care can yield clinical outcomes equal to or better than facility-based care.

I have reviewed the *working group draft* of the plan and are most appreciative of the fact that you have included both home health care services and HME as covered items in the basic benefits package which will be the central focus of the American Health Security Act of 1993. I believe you have proposed meaningful reform that is good for America and with the inclusion of coverage for home care services and HME, your plan can meet the twin objectives of reducing costs while insuring access to health care for every American.

Many arguments will be mounted in opposition to your proposal and I am sure that one of them will be a projected adverse impact on employment. Those who would make this argument have lost sight of the growth potential for home care. The demand for nurses, therapists and aides to provide home health services is already high and it will increase if your plan is adopted. As home health care is made available to the 37 million uninsured Americans and home care is extended to others as a covered long-term care option, businesses like Invacare will continue to grow and create jobs in the U.S.A.

Invacare Corporation 899 Cleveland Street PO Box 4028 Elyria OH 44036-2125 Phone 216 329 6000 FAX 216 366 4901

INVACARE

The President
September 17, 1993
Page Two

Mr. President, I truly believe that the basic benefits package you will propose to Congress next week as part of the American Health Security Act will be good for America and Americans, and I am willing to publicly express my support for this package in whatever way you may find appropriate. Toward that end, I would like to extend an invitation to you and Mrs. Clinton to visit Invacare either at our world headquarters in Elyria, Ohio or at our major manufacturing facility in Sanford, Florida. These would be great venues to speak about your support of home care and the reasons why you have included it in your basic benefits package.

I also serve on the Board of Directors and Executive Committee of The Cleveland Clinic Foundation, one of the most advanced heath care institutions in the world. One of the fastest growing programs at The Clinic is our home care subsidiary which provides cost-effective and clinically-appropriate services to people with severe heath conditions - including patients awaiting heart transplant surgery! This would be a very appropriate venue to discuss the role of home care in meeting the needs of patients with acute illness.

In closing, I want to thank you for your leadership on this important issue and congratulate your staff and the White House Task Force on Health Care Reform for a job well done. As the debate on this important issue heats up, please know that I support your basic benefits package and stand ready to articulate that support upon request.

Sincerely,

A. Malachi Mixon, III
Chairman, President and
Chief Executive Officer

AMM:bjh

C:\word5\dw\clinton2
DTW:9/16/93

NAMES
National Association for Medical Equipment Services

POSITION PAPER

Competitive bidding

Background

The Clinton Administration submitted to Congress in October proposed legislation to reform the nation's health care system. Included in the "Health Security Act" is a provision to implement competitive bidding for oxygen, oxygen equipment and other items and services where competitive bidding may be determined by the Department of Health and Human Services to be cost-effective.

Status

The "Health Security Act" includes a provision requiring "competitive bidding" for oxygen, oxygen equipment and "such other items and services as determined by the Secretary of Health and Human Services." NAMES has a number of specific objections to competitive bidding for the HME services industry. However, our major objection can be summed up simply: **Competitive bidding will not ensure quality HME services at reduced payment levels and could curtail access of home medical equipment to Americans.** Such a radical restructuring of how HME is provided virtually would ensure that there would be a serious deterioration in the quality of HME services. In fact, in instances where competitive bidding already has been attempted, some suppliers submitted unreasonably low bids to win the contract but then could not cover the costs of providing the services and were forced to cut corners — with horrible results.

The following points illustrate extremely serious problems inherent with competitive bidding for home medical equipment (HME):

- It is very hard to design and administer any competitive bidding process without damaging the market. If a winning bid is awarded solely to one provider, within a given "service area" as proposed by the Clinton Administration, this certainly will drive many small companies out of business; the sole winner in future years thus would have a considerably reduced level of competition.
- Competitive bidding for certain selected HME items has been tried and subsequently abandoned in a number of states. There are enormous complexities involved in dividing the entire nation into multiple and reasonable service areas. Few suppliers provide all possible HME services, so it would be necessary to define different service areas for different kinds of equipment. It currently takes on average 90 days for HME suppliers to get paid. As a result, it is highly unlikely any company would have the capital necessary to expand into new services in order to take on large competitively bid contracts.
- With any competitive bidding system, the first issue to consider must be a determination of what level of service provided by HME suppliers the government is willing to pay. Otherwise, the government should be concerned that the service component — so integral to assuring patient health and safety — may diminish or disappear. Competitive bidding is known to work poorly both for the Defense Department and the VA, places where it already is used on a large scale similar to what Medicare would require.
- VA hospitals have experienced deficiencies documented by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) due to the poor quality of home care provided by VA contract winners. Medicare would have to expect similar, if not greater, problems in access and quality. The VA, once acquiring a signed contract in certain states, has monitored the provider for provisions of services only to find they have no awareness of home oxygen and HME items in the areas of: quality; appropriateness of equipment; various types of equipment; safety features of equipment; and current pricing of equipment.

Position

NAMES strongly opposes competitive bidding in general for the HME services industry. Competitive bidding will not ensure quality HME services and could curtail access of HME to all Americans

Action Plan

NAMES will continue to work closely with the Administration and Congress to advocate the HME services industry's position, noted above. NAMES also will urge Congress that, prior to authorizing any competitive bidding for HME, Congress closely scrutinize the prior mistakes inherent in other competitive bidding projects to date, consult closely with the HME services industry, thoroughly demonstrate the concept in select areas for a minimum of four years and have the results evaluated thoroughly by independent outside parties before proceeding further with consideration of competitive bidding proposals.

NAMES

National Association for
Medical Equipment Services

Amendment to Section 4118 of S.1757/H.R. 3600

Proposed Amendment

Section 4118 is amended by striking paragraphs (1), (2) and (3) of Subsection (c) of proposed Section 1847, and Subsection (c) of proposed Section 1847 should read as follows:

> "(c). SERVICES DESCRIBED -- The items and services to which the provisions of this section shall apply are magnetic resonance imaging tests and computerized axial tomography scans, including a physician's interpretation of the results of such tests and scans."

Explanation of Amendment

There are, at the present time, no clear and commonly accepted quality standards of care for the provision of oxygen and oxygen equipment. In addition, the Medicare program has not developed quality standards for the home medical equipment (HME) services industry. As a result, there is a wide variety in the levels of care provided by oxygen suppliers across the country. Under these circumstances, competitive bidding would place Medicare beneficiaries at risk that their oxygen suppliers will be selected for them on the sole basis of cost, to the exclusion of quality concerns. This would be an unwise policy. Thus, the amendment would delete the application of the competitive bidding requirements to oxygen and oxygen equipment.

In addition, the amendment would delete the authority granted to the Secretary to use competitive bidding for additional items and services whenever the Secretary determines that it would be "appropriate and cost-effective." This provision would enable the Secretary to erase payment policies that have been developed over a number of years, thus undoing all of the previous efforts by Congress in a particular area, simply because the Secretary concludes that it would be "appropriate and cost-effective" to do so. This would be an enormous grant of authority to the Secretary, without any limits or guidelines set by Congress. This would be an unwise policy.

If Congress wishes for a competitive bidding process to be applied to a particular area, then Congress should strictly specify that area after due consideration, serious discussions with industry, careful study and successful demonstration projects, and never abdicate this role to an administrative agency.

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Proposed Amendment to S. 1757, H.R. 3600
the Health Security Act

p. 71, Sec. 1124: DURABLE MEDICAL EQUIPMENT AND PROSTHETIC AND ORTHOTIC DEVICES.

between lines 4-5 add new subsection (c)(2):

line 4 "... Act; and

(2) For purposes of this subtitle, any individual purchasing or renting customized or upgraded durable medical equipment may do so by paying the difference between such customized or upgraded equipment at the point of sale or rental from a supplier; such supplier shall bill and receive the amount equivalent to such covered durable medical equipment as specified in this section."

Purpose:

As proposed in the Health Security Act, other industrialized Western democracies, e.g., France and Germany, cover in their health plans standard durable or home medical equipment. These countries also allow individuals to purchase or rent customized or upgraded equipment by merely paying the difference between such customized equipment and their standard equipment to the supplier, which, in turn, bills and receives payment directly from the health plan for the equivalent amount for the standard item. This proposed amendment would allow identical treatment for such customized or upgraded equipment for all covered individuals in the United States.

Cost: None.

Cross References: S. 1775, p. 70, Sec. 1124, between lines 4-5.

S. 1779, p. 68, Sec. 1124, between lines 4-5.

S. 1770, p. 89, Sec. 1301(b)(2), after line 25. or S. 1770, p. 100, add Sec. 1312(a)(2)(C), between line 8 & 9.

S. 3222, p. 110, add Sec. 1302(a)(3)(C), between lines 18 & 19.

S. 1579, p.62, Sec. 1202(d), after line 25.

Proposed Amendment to S. 1757,
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Cost: None.