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**November 29, 2011**

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## Medicare Catch-22: Licensure Conundrum under DMEPOS Competitive Bidding

By: [Paul W. Kim](#) and [Donna J. Senft](#)

CMS requires that DMEPOS suppliers participating in the federal competitive bidding program obtain and maintain all applicable state licenses. In addition, once selected as a contract supplier, the winning bidder must service any and all Medicare beneficiaries residing in the competitive bidding area (CBA). The requirement to serve all beneficiaries creates an additional licensure burden for certain DMEPOS suppliers.

Many states require licensure to provide certain in-home services and equipment, such as technically sophisticated devices. These home medical equipment laws often have licensure exemptions for services provided to residents in facilities, such as to Medicare beneficiaries residing in a nursing home. DMEPOS suppliers in these states that have chosen to limit services to only individuals residing in such facilities, have not previously had to obtain a home medical equipment license to do so. The lack of licensure, however, prohibits DMEPOS suppliers from servicing patients outside of nursing homes or other exempt facilities. Therefore, if such a DMEPOS supplier wins the bid and becomes a contract supplier, it may not be able to service all Medicare beneficiaries in the respective Contract Bidding Area unless it can obtain the necessary state licenses.

### Ober|Kaler's Comments

To the extent that CMS limits the services that may be provided by a subcontractor, a DMEPOS supplier wishing to submit a bid may need to obtain any license necessary to provide services to patients outside of a facility setting. Given that CMS has yet to release any documentation related to Round 2, it will be interesting to see how CMS addresses this catch-22.

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