



December 10, 2020

*Sent via email*

Secretary Jennifer Sullivan, M.D., M.P.H.  
Indiana Family & Social Services Administration (FSSA)  
402 W. Washington Street  
Indianapolis, IN 46204

Dr. Sullivan,

We would like to thank you for taking time on Friday, Nov. 13, 2020 to meet with Sen. Ron Grooms, Rep. Ron Bacon and Rep. Steve Davisson regarding the 21<sup>st</sup> Century Cures Act fee schedule adjustments and bringing some fairness to the reimbursement schedule proposed to take effect Feb. 1, 2021. Our industry has tried to work with FSSA since the implementation of the CURES Act and we have brought to the table several opportunities for FSSA to come into compliance with the Act's fiscal requirements but to no avail. Each time we have engaged the Medicaid Department we have been received cordially but after often lengthy delays in response time we end up with "the lowest Medicare rate" for our services. This shows no genuine intent to work with us as providers and if the fee schedule is implemented as proposed in Feb. 2021, we will certainly lose more providers of these services.

In the past three years since the passing of the 21<sup>st</sup> Century CURES Act, CMS has taken a decidedly different approach to rural reimbursements. In the ESRD Final

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Rule of 2017, CMS noted an adjustment should be made for suppliers of Home Medical Equipment because of the more sparse populations we serve and the distances that must be traversed to serve them. That adjustment was extended until Dec. 31, 2020. In the CARES Act of 2020, CMS extended increased fee adjustments to the non-Rural areas which indicates that CMS believes the “lowest Medicare rate” will limit the number of providers of life sustaining equipment during the COVID-19 pandemic. Those rates remain in place for the duration of the Public Health Emergency (PHE).

Previous rounds of competitive bidding, which were used to set the Medicare reimbursement rates for certain products, utilized the median price of all bids to set the price for products, so the prices were not truly reflective of the actual market. In the most recent round of bidding, dubbed Round 2021, CMS used a “clearing price” methodology, which would provide a more accurate representation of the marketplace and the reimbursement rates required to take care of ALL beneficiaries in a given area. After evaluating all of the bids they received for Round 2021, CMS announced the removal of 13 out of 15 product categories, stating they would not achieve expected savings if they moved forward with the program as stated, which is further evidence that the lowest Medicare reimbursement rates currently in place are not sufficient to sustain a healthy provider community. Today’s market and a program structured to represent true market conditions would have cost more (rates would need to be increased), so they removed those categories from the program.

The PHE has profoundly affected the cost structure and operational environment for DME suppliers. An April 2020 survey of more than 500 DME suppliers by Dobson DaVanzo and the American Association for Homecare, titled *“Impact of COVID-19 Supply Chain Disruption and Increased Costs on DME Suppliers”*, shows that the costs of obtaining equipment and supplies has increased significantly for products directly related to serving COVID-19 patients and other individuals with respiratory challenges, along with significant disruption in the supply chain for these products, as shown on the following page.

	% Experiencing Supply Chain Disruption	Length of Delay in Receiving Products*	% Incurring Increased Costs	% of Cost Increase*
<b>PRODUCT CATEGORIES NEEDED FOR TREATING COVID-19</b>				
<b>Personal Protective Equipment</b>	<b>97%</b>	<b>35%</b> - up to 60 days <b>46%</b> - unknown timeframe/ETA	<b>86%</b>	<b>44%</b> - over 30% increase
<b>Oxygen</b>	<b>81%</b>	<b>32%</b> - 30-60 days <b>25%</b> - unknown timeframe/ETA	<b>67%</b>	<b>56%</b> - up to 20% increase
<b>Ventilators</b>	<b>81%</b>	<b>27%</b> - up to 60 days <b>53%</b> - unknown timeframe/ETA	<b>48%</b>	<b>34%</b> - up to 20% increase
<b>Nebulizers</b>	<b>49%</b>	<b>65%</b> - up to 60 days	<b>32%</b>	<b>37%</b> - up to 20% increase
<b>CPAPs/RADs</b>	<b>53%</b>	<b>62%</b> - up to 60 days	<b>29%</b>	<b>32%</b> - up to 20% increase
<b>Hospital Beds</b>	<b>59%</b>	<b>64%</b> - up to 60 days	<b>47%</b>	<b>49%</b> - up to 20% increase

With these product cost increases, as well as new operational costs associated with ensuring safety for both patients and delivery personnel, the DME industry cannot sustain any reductions in reimbursement. We are attaching a summary of the survey to this letter via email with further details on the burdens our industry is facing during this crisis.

We would ask the State Medicaid program to consider:

- 1) Flat-lining the DMEPOS Fee Schedule to “lowest Medicare rate” during the PHE will reduce the number of providers of Home Medical Equipment and will thus limit access to receiving life sustaining equipment in their home.
- 2) CMS has recognized the increased cost to providers in rural areas and is willing to adjust their fee schedule accordingly.
- 3) The original language in the CURES Act mandates that the State Medicaid plans not only negotiate with providers in good faith, but that they also “recognize variability between competitive and non-competitive bidding areas when using competitive bidding process information to set reimbursement rates for non-competitive bidding areas”
- 4) Other states have recognized the increased cost and the importance of the HME providers during the pandemic. In North Carolina, they utilized the PHE funding given to states to increase rates across the board by 5%.

Dr. Sullivan, our industry is a much-needed component of health care in Indiana. Without the equipment, training, and on-call service we provide, your beneficiaries would not be able to remain at home during this PHE. Since the

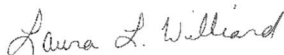
Competitive Bidding Program's inception, Indiana has lost over 30% of providers of this life-sustaining equipment. If Indiana Medicaid does not reconsider their plan to make their DMEPOS fee schedule equal to "the lowest Medicare rate available", Medicaid beneficiaries –especially in rural parts of Indiana – will find it increasingly difficult to find providers for oxygen, hospital beds, ventilators, apnea monitors, and wheelchairs.

We respectfully ask that FSSA re-engage with our group Great Lakes Home Medical Services Association and that we come to an agreement on the DMEPOS fee schedule which will help the State Medicaid program comply with the CURES Act but will also ensure the provider community will remain a vital component of health care in Indiana.

Again thank you,



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Senior Director of Reimbursement, The VGM Group



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VP, Payer Relations, American Association for Homecare



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CC:

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