
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that medicare
2 beneficiaries in Hawaii are experiencing a reduction in access
3 to quality care as a result of the change in the way medicare
4 purchases its durable medical equipment and prosthetics,
5 orthotics, and supplies. The second round of medicare's durable
6 medical equipment competitive bidding program began July 1,
7 2013, in the city and county of Honolulu. The unintended
8 consequences of the implementation of this national program in
9 Honolulu have been detrimental. Only thirteen of the ninety-
10 seven vendors selected through the competitive bidding program
11 are located within Hawaii. The vendors do not have special
12 phone or service hours to accommodate the time difference, which
13 means the offices are closed when medicare beneficiaries in
14 Hawaii call for services.

15 Without access to timely, local services, medicare
16 beneficiaries in Hawaii have been forced to forego necessary
17 durable medical equipment devices. This restricted access to
18 care has led to reductions in quality of health, increases in



1 preventable hospital admissions and readmissions, increases in
2 costs to beneficiaries and the medicare system, and decreases in
3 quality of life for medicare patients.

4 The legislature further finds that the national bidding
5 program has the laudable intention of cutting down on fraud and
6 abuse and reducing medicare costs nationally. However, a
7 reduction in cost by twelve to fifty-six per cent in Hawaii is
8 unsustainable given the local fixed costs that businesses face
9 such as higher rent, utility, and shipping costs. Hawaii's fees
10 are now on par with fees in the Washington, D.C. area, even
11 though the cost of living index in Honolulu is 21.4 per cent
12 higher than in Washington, D.C. A review of 2011 fee-for-
13 service medicare spending for durable medical equipment shows
14 that Hawaii has the lowest per capita durable medical equipment
15 cost in the nation. On average, each Hawaii beneficiary
16 consumes only \$82.54 in durable medical equipment, compared with
17 \$230.16 nationally. Furthermore, the total medicare cost for a
18 Hawaii beneficiary, on average, is only \$530.98, compared with
19 \$792.99 nationally.

20 The following are examples of the significant barriers to
21 accessing doctor-prescribed equipment and services on account of
22 the bidding program in Honolulu and surrounding areas:



- 1 (1) Delayed discharges from hospitals, long term care
2 facilities, and hospice facilities;
- 3 (2) Delayed wait times for physician-ordered medicare
4 hospital beds and wheelchairs, which is four to eight
5 weeks for patients in Hawaii;
- 6 (3) Delayed access to oxygen, continual feeding, and other
7 life-sustaining equipment and replacement parts, which
8 is typically two to four days for patients, because
9 there is no same day or overnight express shipping
10 option to Hawaii;
- 11 (4) Inability of selected mainland suppliers to
12 subcontract with local vendors because the prices are
13 below cost of supplying equipment in Hawaii once
14 shipping costs are taken into account;
- 15 (5) Furloughing of employees at local durable medical
16 equipment suppliers due to the decrease in medicare
17 reimbursement rates; and
- 18 (6) Possibility of local businesses with a substantial
19 number of medicare customers shutting down completely,
20 which will further limit access to care in the State.

21 The purpose of this Act is to require durable medical
22 equipment suppliers to meet state licensing and business



1 registration requirements to ensure that Hawaii's durable
2 medical equipment patients have access to the critical, life
3 sustaining medical supplies they need.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 **"CHAPTER**

8 **DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSING AND PATIENT**

9 **SAFETY PROGRAM**

10 **§ -1 Definitions.** As used in this chapter, unless the
11 context requires otherwise:

12 "Appropriate physical location" means a physical facility
13 within the State that meets the following requirements:

14 (1) The facility is staffed during normal business hours
15 by at least one employee;

16 (2) The facility has adequate square footage to store
17 durable medical equipment inventory for sale and
18 distribution within the State;

19 (3) The facility maintains a working business telephone
20 line for customer service and sales;

21 (4) The facility maintains an inventory of durable medical
22 equipment sufficient to meet fifty per cent of



1 anticipated quarterly demands for products offered for
2 sale or distribution within the State;

3 (5) The facility is in a location that is:

4 (A) Accessible to the public; and

5 (B) Maintains a permanent visible sign in plain view
6 and posts hours of operation; provided that if
7 the supplier's place of business is located
8 within a building complex, the sign must be
9 visible at the main entrance of the building or
10 the hours can be posted at the entrance of the
11 supplier; and

12 (6) The facility meets all county and state regulatory
13 requirements, including but not limited to zoning
14 requirements, for operation as a durable medical
15 supplier doing business in the State.

16 "Durable medical equipment" means equipment that can stand
17 repeated use, is primarily and customarily used to serve a
18 medical purpose, is generally not useful to a person in the
19 absence of an illness or injury, and is appropriate for use in
20 the home.

21 "Supplier" means a durable medical equipment supplier
22 participating in the nationwide competitive bidding program for



1 durable medical equipment, prosthetics, orthotics, and supplies
2 established by Section 302 of the Medicare Modernization Act of
3 2003.

4 **§ -2. Licensing.** All suppliers shall be licensed. A
5 supplier shall be deemed licensed if:

- 6 (1) The supplier maintains an appropriate physical
7 location within the State;
- 8 (2) The supplier meets all applicable requirements under
9 federal law, including but not limited to title 42
10 Code of Federal Regulations section 424.57 and title
11 42 Code of Federal Regulations section 424.58; and
- 12 (3) The supplier complies with all state legal
13 requirements for a business engaged in the sale of
14 goods in the State, including but not limited to:
- 15 (A) Business registration;
- 16 (B) Payment of taxes; and
- 17 (C) Maintenance of proper accreditation and
18 credentialing for participation in the nationwide
19 competitive bidding program for durable medical
20 equipment, prosthetics, orthotics, and supplies
21 established by Section 302 of the Medicare
22 Modernization Act of 2003.



1 **§ -3 Violations; complaints.** (a) A supplier that
2 engages in the sale of durable medical equipment in violation of
3 this chapter commits an unfair and unlawful business practice
4 pursuant to section 480-2.

5 (b) Complaints of violations of this chapter shall be
6 filed with the office of consumer protection.

7 **§ -4 Severability.** If any provision of this chapter or
8 the application thereof to any person or circumstance is held
9 invalid, the invalidity shall not affect the other provisions or
10 application, and to this end the provisions of this chapter are
11 severable."

12 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Licensing Requirements; Appropriate Physical Location; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies; Bidding Program

Description:

Establishes state licensing requirements for vendors participating in the competitive bidding program for durable medical equipment, prosthetics, orthotics, and supplies established by Section 302 of the Medicare Modernization Act of 2003. Effective 7/1/2050. (SD1)

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