August 29, 2025

Hon. Mehmet Oz, MD, MBA
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Comment on CY 2026 Proposed Rule including Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Updates

Dear Administrator Oz:

On behalf of the undersigned patient advocacy organizations and medical professional societies, I am writing to convey our deep concerns regarding the DMEPOS Competitive Bidding Program Updates component of the CY 2026 Proposed Rule. Specifically, our community is alarmed that the proposed rule, in its current form, will reapply the Competitive Bidding Program (CBP) to oxygen therapy and aggravate the devastating access challenges many Medicare beneficiaries with COPD already face. For the reasons described in this letter, we urge CMS to exempt oxygen therapy from CBP.

At least 1.5 million Americans rely on long-term oxygen therapy to stay active in the workforce, remain engaged with their communities, reduce hospital stays, and optimize their quality of life. Many of those individuals have COPD. Decades of reductions in Medicare's oxygen therapy benefit reimbursement, most notably by previous rounds of CBP, have significantly impacted the ability of many beneficiaries to obtain equipment that fits their health goals. Some delivery modalities, such as portable liquid oxygen, have become essentially unavailable, forcing people to instead use equipment that may be too

heavy or cumbersome for them to use effectively, forcing them to remain increasingly confined to their homes. This situation has become so critical that we have joined with other respiratory health advocates to support the Supplemental Oxygen Access Reform (SOAR) Act pending in Congress to help ensure access to appropriate equipment.

Beginning in 2019, CMS rightly noted there were significant flaws in previous rounds of CBP bidding and paused future rounds. We believe reintroducing competitive bidding at this time risks compounding the flawed assumptions and methods that have dogged the CBP since its inception. For example, the CMS proposed rule states, "[A] supplier with a contract to furnish oxygen and oxygen equipment, a product category that includes highly profitable items like oxygen concentrators, and less profitable items like liquid oxygen, must provide access to liquid oxygen as a term of their contract. Contract suppliers may not elect to only furnish the more profitable items and services included in a product category under their contract or to only furnish the items and services to beneficiaries who are less costly to serve (due to, for example, lower shipping or delivery costs for those that live in close proximity to the contract supplier's location)." However, peer-reviewed research based on CMS's own claims data clearly indicates that both the number of suppliers providing liquid oxygen equipment and the number of beneficiaries able to receive this equipment has dropped precipitously under the CBP.[1]

We are additionally concerned about the methodology the Proposed Rule uses for setting the number of winning contractors in existing Competitive Bidding Areas for product categories previously bid upon (including medical oxygen equipment). The Proposed Rule methodology does not take into account the historic or projected demand in each CBA, nor does it consider the actual capacity of suppliers in the CBAs. We appreciate the various concerns about how CMS has determined demand and supply in the past, but we are deeply troubled that CMS is proposing to adopt an untested policy that could easily result in patients losing access to life-sustaining equipment, like medical oxygen equipment and other respiratory devices. An alternative rate-setting methodology that protects access while managing risk can be found with a more collaborative approach that does not threaten the health of beneficiaries.

Medical oxygen is a complex therapeutic modality that must be tailored to each individual. Yet, as one COPD patient advocate puts it, "our system treats it pretty much the same as a bedpan." The loss of access noted above demonstrates that CBP places undue burdens on Medicare beneficiaries. In addition to the shrinkage and consolidation over the past several years in the supplier community, two major oxygen equipment manufacturers have chosen to exit the US market since initiation of the CBP.

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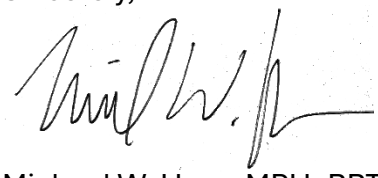
[1] Duan et al. "Long-Term Trends in Home Respiratory Medical Equipment among U.S. Medicare Patients, 2013–2019." American Journal of Respiratory and Critical Care Medicine vol 206, issue 4 (2022): 509. (https://doi.org/10.1164/rccm.202202-0238LE)

As another COPD advocate notes, “someone’s respiratory condition should not define them; therefore, policymakers should recognize oxygen users as active, engaged members of their communities.” We strongly urge CMS to do that. Acknowledge the need for people who require supplemental oxygen to the appropriate equipment for them to maintain independence and empower them to better manage their chronic condition.

To help improve the health of Americans living with COPD, we respectfully call on CMS to exempt oxygen equipment from competitive bidding under the 2026 DMEPOS rule.

Sincerely,



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on behalf of:

Alpha-1 Foundation
American Academy of Sleep Medicine
American Lung Association
American Thoracic Society
Bronchiectasis & NTM Association
COPD Foundation
Pulmonary Fibrosis Foundation
Pulmonary Hypertension Association
Respiratory Health Association
Running on Air