Centers for Medicare & Medicaid Services

Special Open Door Forum:

Surety Bond Requirement for Durable Medical Equipment,

Prothetics, Orthotics and Supplies (DMEPOS) Suppliers

Tuesday, March 17, 2009

2:00PM – 3:30PM ET

The Centers for Medicare & Medicaid Services (CMS) will hold a Special Open Door Forum (ODF) to discuss the implementation of surety bonds for certain DMEPOS suppliers. On December 29, 2008, CMS announced that it was requiring certain DMEPOS supplier suppliers to post a surety bond in an amount not less than $50,000. Existing suppliers subject the bonding requirement must comply with this requirement by October 2, 2009 while newly enrolling suppliers subject to the bonding requirement must meet this requirement by May 4, 2009.

During this ODF CMS staff will discuss the:

- Key provisions of the January 2, 2009 Final Rule,
- Exemptions to surety bond requirement,
- Implementation dates,
- Definition of a final adverse action, and
- Elevated surety bond amounts.

Afterwards, there will be an opportunity for the public to ask questions.

We look forward to your participation.

Special Open Door Forum Participation Instructions:

Dial: 1-800-837-1935

Reference Conference 88857015

Note: TTY Communications Relay Services are available for the Hearing Impaired.

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An audio recording and transcript of this Special Open Door Forum will be posted to the Special Open Door Forum website: http://www.cms.hhs.gov/OpenDoorForums/05_ODF_SpecialODF.asp and will be accessible for downloading beginning March 25, 2009.

For automatic emails of Open Door Forum schedule updates (E-Mailing list subscriptions) and to view Frequently Asked Questions please visit our website at
http://www.cms.hhs.gov/opendoorforums/

Thank you for your interest in CMS Open Door Forums.

Audio file for this transcript:

http://media.cms.hhs.gov/audio/SuretyBondRequirementsforDEMEPOS%20Suppliers_03-17-09.mp3

CENTERS FOR MEDICARE AND MEDICAID SERVICES
Special Open Door Forum:
Surety Bond Requirements for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Suppliers
Moderator: Natalie Highsmith
March 17, 2009
2:00 pm ET

Operator: Good afternoon. My name is (April) and I'll be your conference facilitator today. At this time, I'd like to welcome everyone to the Centers for Medicare and Medicaid Services Special Open Door Forum: DMEPOS Suppliers Surety Bonds Requirements Conference Call.

All lines have been placed on mute to prevent any background noise. After the speakers' remarks, the will be a question and answer session. If you'd like to ask a question during this time, simply press star then the number 1 on your telephone keypad. If you'd like to withdrawal your question, please the pound key.

Thank you. And Ms. Highsmith, you may begin your conference.

Natalie Highsmith: Thank you, (April), and good day to everyone, and thank you for joining us for this Special Open Door Forum to discuss the implementation of surety bonds for certain DMEPOS suppliers.

CMS announced on December 29, 2008 that is was requiring certain DMEPOS suppliers to post a surety bond in the amount not less than $50,000. Today, CMS staff will discuss the key provisions of the January 2, 2009 final rules, exemptions to surety bond requirement, implementation date, definition of the final adverse action and elevated surety bond amount.

And of course, we will have an open Q&A session afterward. There will be a transcript and audio file posted on the Special Open Door Forum Web page and that will be accessible for downloading beginning March 25. I will now turn the call over to Mr. Frank Whelan. Frank?

Frank Whelan: Hi. Thank you very much, Natalie. Good afternoon everyone. Again, my name is Frank Whelan and I work in the division of Provider and Supplier Enrollment here at CMS. And today we'd like to take some time to talk about the DMEPOS surety bond requirement.

Presentation is going to be broken down into three segments. First, we will furnish a very brief historical background of the bond requirement. Second, we will go over the major provisions of the surety bond regulation and discuss some of the key issues and questions that have arisen over the past few weeks. We will then conclude with some general information.

And we'll talk a little bit about the background. On January 2, 2009, CMS published in the Federal Register a final rule that requires certain suppliers of durable medical equipment, prosthetics, orthotics and supplies with DMEPOS to obtain a surety bond as a requirement to enroll in or to maintain one's enrollment in the Medicare program.

The final rule was enacted pursuant to Section 1834(a)(16)(B) of the Social Security Act. This can be accessed - the final rule can be accessed at the Federal Register's Web site at www.gpoaccess.gov/fr/. Again, that's www.gpoaccess.gov/fr/. And when you go to that link you want to look for the January 2, 2009 edition of the Federal Register.

Now, on January 20, 2009, the White House issued an executive order regarding regulatory review. Pursuant thereto, we reviewed the collection of pending HHS regulations that were in various stages of completion to determine which of those fell under the parameters laid out by White House Chief of Staff, Ron Emanuel's memo of January 20.

Until that review was completed, it was not possible to determine which ones were affected and as such, for several weeks we were unable to provide further information regarding the implementation of the surety bond rule.

This review was recently completed, however, and it was determined that the surety bond final rule will be implemented as planned and in accordance with the time frames identified in that regulation. So, in short, the surety bond requirement will be implemented.

Now I would like to talk a little bit about the major provisions. This will be broken down into about five or six different parts, different subject matters. The first subject matter will be the effective date for the bond requirements.

DMEPOS suppliers that are enrolling in the Medicare program for the first time or are existing suppliers undergoing a change of ownership or are existing suppliers establishing a new practice location are required to submit a surety bond to the NSC with their CMS-855S enrollment application on or before May 4, 2009.

Let me repeat that again. DMEPOS suppliers enrolling in the Medicare program for the first time or existing suppliers undergoing a change of ownership or existing suppliers establishing a new practice location are required to submit a surety bond to the NSC with their CMS-855S application on or before May 4, 2009.

This means that, absent an exception to the bonding requirement - and we'll talk about exceptions in a few minutes - absent an exception to the bond requirement, the NSC will reject a pending supplier enrollment application if the supplier has not submitted a valid surety bond by May 4, 2009.

Put another way, and this is really the crux of the matter, if the supplier has an application pending with the NSC as of May 4, 2009 and the supplier has not submitted a surety bond to the NSC by that date, that pending application will be automatically rejected.

In addition, for any CMS-855S application submitted on or after May 4, 2009 by one of the suppliers that I just mentioned, the NSC will reject the application if a supplier does not furnish a valid surety bond at the time it submits its application.

Now, for enrolled DMEPOS suppliers - and for purposes of our discussion we're talking about those suppliers that don't fall within the group of suppliers that I just mentioned and who are subject to the May 4 deadline. Enrolled DMEPOS suppliers who are subject to the bond requirement are required to submit a valid surety bond to the NSC by October 2, 2009.

Again, enrolled DMEPOS suppliers are required to submit a valid surety bond to the NSC by October 2, 2009. A failure to do so will result in the revocation of the supplier's billing privileges.

So the bottom line is that May 4, 2009 and October 2, 2009, and these were the dates that are published in the rule, these are really to two key dates to remember.

And the next topic I'd like to talk about is the bond amount. Surety bond must in an amount not less than $50,000. It's predicated on the NPI. It is not predicated on the tax identification number.

So if a supplier has two separately enrolled DMEPOS locations, each with its own NPI, a $50,000 bond must be obtained for each site. Now however, a supplier can obtain a single bond that encompasses multiple NPIs and locations.

So, for instance, if a supplier has ten separately enrolled DMEPOS locations, it can obtain a $500,000 bond that covers all ten locations. Likewise, if a supplier wants to enroll a new location, it can submit to the NSC an amendment or rider to the existing bond rather than a new, separate surety bond.

However, if the supplier elects to secure one bond that encompasses multiple locations, the bond must specify the locations that it covers.

Some suppliers will be subject to a higher bond amount, however. Specifically, supplier will be required to maintain an elevated surety bond amount of $50,000 for each final adverse action imposed against it within the ten years preceding enrollment or reenrollment. This amount is in addition to, and not in lieu of, the base $50,000 amount that must be maintained.

So, for instance, if a supplier has had two final adverse actions imposed against it, the bond amount will be $150,000, $50,000 for the base amount and $100,000 for the two adverse actions. Now what exactly is a final adverse action?

For purposes of the bond requirement, it's one of the following: a Medicare imposed revocation of Medicare billing privileges, suspension or revocation of a license to provide healthcare by any state licensing authority, revocation or suspension by an accreditation organization, conviction of a federal or state felony offense within the last ten years proceeding enrollment or reenrollment, or an exclusion or debarment from participation in the federal or state healthcare program.

The next topic I'd like to talk about is available sureties. The list of sureties from which a bond can be secured is found at the Department of the Treasuries listing of certified surety bond companies.

The Web site, it's a little long so just bear with me here, it's www dot F as in Frank, M and in Mary, S as in Sam, dot T as in Tom, R, E, A, S as in Sam, dot gov, forward slash, C as in Charlie, 5-7-0, forward slash, C as in Charlie, 5-7-0, space, A-V, dot html.

Now, for purposes of the surety bond requirement, these sureties are considered authorized sureties and are therefore the only sureties from which the suppler may obtain a bond.

Now do be advised that if the surety determines that a supplier poses a higher risk of loss, some sureties may choose not to offer the supplier a bond or may offer the supplier a bond but only at an elevated cost.

Okay, the next topic is going to be exceptions and this may take a couple of minutes, so just stay with on this.

All DMEPOS suppliers are subject the surety bond requirement except the following. Government operated DMEPOS suppliers are exempted if the supplier has provided CMS with a comparable surety bond under state law.

State licensed orthotic and prosthetic personnel, which for purposes of the surety bond requirement does not include pedorthics, state licensed orthotic, prosthetic personnel in private practice making custom-made orthotics and prosthetics are exempted if the business is solely owned and operated by the orthotic and prosthetic personnel and the business is only billing for orthotics, prosthetics and supplies.

The third exception is physicians and non-physician practitioners are exempted if the items are furnished only to the physician or non-physician practitioner's own patient as part of his or her physician service.

Non-physicians covered under this exception are physician assistants, nurse practitioners, clinical nurse specialists, CRNAs, certified nurse midwives, clinical social workers, clinical psychologists and registered dietitians or nutrition professionals.

Final exemption, physical and occupational therapists in private practice are exempted if the business is solely owned and operated by the physical or occupational therapist, the items are furnished only to the physical or occupational therapist's own patient as part of his or her professional service and that the business is only billing for orthotics, prosthetics and supplies.

The previously exempted DMEPOS supplier no longer qualifies for an exception. It must submit a surety bond to the NSC within 60 days after it knows or has reason to know that it no longer meets the criteria for exception.

Okay, this next point I really want to stress very strongly. Please note that the categories of suppliers that I just mentioned, these are the only exceptions to the surety bond requirement.

All suppliers that do not fall within one of these categories - and these include pharmacies, chain pharmacies, nursing homes, hospitals, medical supply companies - these suppliers must obtain a surety bond.

We also stress that the DMEPOS accreditation requirements have no relation to the surety bond requirement. Just because a supplier qualifies for an exemption under accreditation does not mean that it will automatically be exempted from the bond requirement. They're two completely separate mandates and we really cannot emphasis that point enough.

Couple of other notes about the exemptions. The exception for state licensed prosthetist and orthotist applies only to those that have a state license. So if the prosthetist or orthotist within the state that does not licensed prosthetist or orthotist, the exception does not apply and a bond must be obtained.

If you are a state licensed prosthetist or orthotist in solo, private practice, it does not make a difference if the practice is set up as a solely owned corporation or LLC rather than as a sole proprietorship.

So long as its prosthetist or orthotist owns 100% of the business, it is immaterial whether the business is organized as a sole proprietorship or as a solely owned LLC or corporation.

One of the issues that has been raised as to whether approved practice can avail itself - let me start over. The issue has been raised as to whether the approved practice can avail itself of the exception to the surety bond requirement.

And as a general rule, approved practice is eligible for an exception to the surety bond if each member of the group would - if he or she was operating as a sole practitioner, each member of the group would qualify for the exemption on his or her own.

So, for instance, if three prosthetists are in private practice together, each person must be licensed by the state and have an ownership interest in the business. Moreover, the three prosthetists must be the only owners and operators of the business.

Likewise, if two physicians operate their own group practice, each physician in the practice must furnish DMEPOS items only to his or her own patients as part of his or her own service in order for the physician group to qualify for the bond exemption.

What this means is that groups like multispecialty clinics, hospital outpatient clinics and group practices that have non-exempt personnel, these are not exempt from the surety bond requirement.

And there's one final note regarding the exemptions. Regarding the exception for state licensed orthotists in private practice, the language and the regulation - and let me give the specific regulation. It's 42CFR 424.57. And I apologize for not mentioning that before.

The language with respect to this exemption in the regulation, it reads as follows: state licensed orthotic and prosthetic personnel in private practice making custom-made orthotics and prosthetics are provided an exception to the surety bond requirements, blah, blah, blah.

The key word in there is making custom-made orthotics and prosthetics. And what that means is that the practitioner has to be making custom-made orthotics and prosthetics.

And if not, that person is excluded from the exclusion. They can't avail themselves of it. So you're furnishing only prefabricated or off-the-shelf items, that does not qualify for an exemption.

The final category is terms of the bond - and we've received a number of questions as to whether there currently is a standard surety bond form. And in fact, I would say most of the questions that I have received basically fall within this category. The bottom line is that there no standard, on-size-fits-all, federal government approved bond form that had been created.

Now having said that, there are specific items that the bond must cover and certain terms that must be included in the bond. These are as follows - and, just as a side note, all of these are outlined in the final rule itself.

The bond must have a guarantee that the surety will within 30 days of receiving written notice from CMS containing sufficient evidence to establish the surety's liability under the bond of unpaid claims, civil monetary penalties or assessments, guarantee that the surety will pay CMS the total of up to the full penal amount of the bond, in the following amounts: A, the amount of unpaid claims plus accrued interest for which the DMEPOS supplier is responsible and B, the amount of any unpaid claims, civil monetary penalties or assessments imposed by CMS or the Office of Inspector General on the DMEPOS supplier plus accrued interest.

The bond must also contain a statement that the surety is liable for unpaid claims, civil monetary penalties or assessments that occur during the term of the bond and also contain the statement that actions under the bond may be brought by CMS or by CMS contractors. And also list the surety's name, street address or P.O. Box number, city, state and zip code.

The bond must also name the DMEPOS supplier as the principal, CMS as the obligee and the surety and its heirs, executors, administrators, successors and assignees jointly and separately as the surety.

In sum, the suppliers required to submit a bond that, on its face, reflects the requirements of the surety bond's final rule. The term of the initial bond must effective on the date that the application is submitted to the NSC and, of course, the bond must be continuous as well.

Now in terms of the paperwork that the supplier needs to submit to prove that it has obtained the necessary surety bond, a copy of the bond agreement but not the original, as well as any certificates of proof should be submitted. If the NSC additional supporting documentation, it will contact the supplier accordingly.

So for instance, DMEPOS suppliers subject to the October 2, 2009 bonding requirement should submit a copy of the acquired surety bond to the NSC by furnishing the necessary bond paperwork, a signed CMS-855S Certification Statement, as well a letter that explains the submission and identifies the practice location in question.

With respect to reenrollment and revalidation applications, the supplier must furnish the applicable bond paperwork with the application unless it already has the information on file with the NSC.

So for instance, if a supplier has submitted a continuous surety bond to the NSC prior to submission of its reenrollment application, a new copy of the surety bond is not required unless the NSC specifically requests it.

Now having said all that, we have finally hit our closing remarks. We previously indicated that we will be posting a list of FAQs our CMS client enrollment Web site.

These should be posted any day now and they can be accessed at the following Web site: www.cms.hhs.gov/medicareprovidersupenroll. And these will be constantly updated as more issues arise.

There's two other items that I wanted to mention. CMS change request 6392, which deals with surety bonds, will be issued and available for public review either this Friday or - probably more likely the following Friday. Likewise, (unintelligible) article on this change request will be made available shortly thereafter.

In addition, a revised version of the CMS-855S enrollment application will be posted very shortly. When it is posted, suppliers should begin using it immediately.

In the meantime, if you have any questions, any questions at all, don't hesitate to contact via email and my email address is frank.whelan@cms.hhs.gov and I'll be more than happy to help you.

Now before we go to the open forum portion of today's call, we do want to emphasis that while we try to answer as many questions as we can, there are going to be a fair number of topics that we simply will not be able to address on this call.

And these include, but they're not limited to, certain legal interpretations, actual scenarios that are outside of those we've already addressed, determinations as to whether a supplier's particular business arrangement qualifies it for an exception, and issues that are currently under internal CMS consideration.

So if there is a particular question that you have that we cannot address today, just please feel free to send me an email and, again, I'll be more than happy to help you. Natalie, that's all I have.

Natalie Highsmith: Okay. Thank you, Frank. Now we will go ahead and move into our open Q&A. (April), if you can just remind everyone on how to get into the queue to ask their questions.

And everyone, please remember when it is your turn to re-state your name, what state you are calling from and what provider or organization you are representing today.

And also, we do have several hundred on the phone line, so please, we are asking that you limit your questions to two - your questions or your comments, to two. And if you have more than that, if you would get back into the queue to ask or state your remaining comments or questions. (April)?

Operator: Yes, ma'am. At this time, I would like to remind everyone if you do have a question, please press star then the number 1 on your telephone keypad. Just give me one moment to compile the Q&A roster.

And our first question is from Warren Freeman of Iowa. Your line is open.

Warren Freeman: Hi, thank you. Again, Warren Freeman from Iowa. And with the large number of bonds and future cancellation notices, has CMS given any consideration to allowing electronic filing of these bonds and notices of cancellations?

Frank Whelan: No, I'm not aware that any consideration has been given to that, though I appreciate you bringing it up. And it is certainly something that I can pass on. It can be discussed internally.

Warren Freeman: Okay. And on that, will you be releasing a physical address and where we can send bonds and notices of cancellations soon?

Frank Whelan: To the NSC.

Frank Whelan: Yes, they can be sent to the NSC if there's -

(Cross talk).

Frank Whelan: Sir, what we'll do is we will post a specific address on the FAQ Web site.

Warren Freeman: Okay.

Frank Whelan: Okay?

Warren Freeman: Thank you.

Frank Whelan: You're welcome.

Operator: And the next question is from Alexandra Bennewith of Virginia. Your line is open.

Alexandra Bennewith: Yes, good afternoon. Thank you. Frank, thank you for your remarks on the surety bond. I did have a couple of questions for you. And of course, as you know, a lot of our members are very keen on knowing all the details about this.

But when a supplier closes a location and it terminates its status with the NSC but is required to keep the NPI active until all the billing is completed and paid, which may take a few months, would the supplier need to get a surety bond for that closed location?

Frank Whelan: I'm sorry. Could you repeat the first part of that? I didn't quite hear that. I'm sorry.

Alexandra Bennewith: Absolutely. Let me repeat it. When a supplier closes a location and the provider status with the NSC is terminated but it's required to keep the NPI active until all the billing is completed and paid, which may take a few months, would the supplier need to get a surety bond for a closed location?

Frank Whelan: After closing. No, I don't - no.

Alexandra Bennewith: And related to that question, if one location has multiple NPIs, for example, for pharmacy or for oxygen, does that also require more than one bond?

Frank Whelan: Oh, I'm sorry. We were having an internal discussion here. Can you repast that please? I'm sorry.

Alexandra Bennewith: Sure. Related to the first question, if one location has multiple NPIs, for example, for pharmacy, for enteral, for oxygen, are they required to get more than one surety bond?

Frank Whelan: Okay, we'll deal with it.

Frank Whelan: If you can send me an email, I think that's something that we would like to discuss internally. Can you send me an email on that please?

Alexandra Bennewith: Absolutely.

Frank Whelan: Okay, thank you very much.

Operator: The next question is from Jerry Waller of California. Your line is open.

Jerry Waller: Thank you and thank you for hosting this. I'm sorry. I just need a quick review. I had some bad noise on the line. Could you go over the adverse action listing again please?

I got Medicare revocation, suspension by state healthcare organizations of any licenses, et cetera, (jaco) revocation then I didn't get the...

((Crosstalk))

Frank Whelan: I'm sorry. Okay, I'll go ahead and read this again for you.

Jerry Waller: Thank you.

Frank Whelan: Just bear with me here.

Jerry Waller: And I have one follow up when we're done.

Frank Whelan: Okay. Some supplier will be subjected to a higher bond amount. Specifically, a supplier will be required to maintain an elevated surety bond amount of $50,000 for each final adverse action. And the adverse actions are as follows.

A Medicare imposed revocation of billing Medicare billing privileges, suspension or revocation of a license to provide healthcare by any state licensing authority, revocation or suspension by an accreditation organization, a conviction of a federal or state felony offense within the last ten years preceding enrolling or reenrollment or an exclusion or debarment from participation in a federal or state healthcare program.

Jerry Waller: Thank you. Then the follow up is, again, because of a bad connection. I just need the Web site again, www.fms.treas.gov C570. I missed part of that.

Frank Whelan: No, that's okay. It's www.fms.treas.gov/C570/C570 A-Z.html.

Jerry Waller: Great. And by the way, I think I was supposed to mention I'm from Option One Home Medical Equipment. Thank you very much.

Frank Whelan: Thanks.

Operator: And the next question is from Susan Fiske of Texas. Your line is open. Ms. Fiske, your line is open. We will move to the next person. It comes from Robert Brant of Florida. Your line is open.

Robert Brant: Thank you. I have two questions. One is that there - providers in Florida have asked about if you have a Medicaid bond for the State of Florida, is that bond valid for the Medicare surety bond requirement and I have a followup question after that.

Frank Whelan: Okay. We'll be posting an FAQ on that question very shortly. We're in the process of drafting that now.

Robert Brant: Okay. The other is that there were a number of providers in south Florida that had Medicare inspections and they had their numbers revoked with they had inspections done but then they had their numbers re - they go their numbers back.

My question is what period of time and if you weren't sure if there was a difference between your number being revoked and your number being suspended, how would you know - how would you be informed that your number was actually revoked, it wasn't suspended because there are some providers that believe that their number was suspended for a period of time, not revoked.

Frank Whelan: If your number was revoked, we sent - the NSC sent you a notice clearly stating that it was revoked. If you had since been activated, that was a different letter.

Robert Brant: Okay. I'm calling an organization of Florida providers, so that's the reason - that's what I wanted to pass along to them. So - and - for the period of time of being revoked, it was basically any period of time over the last ten years that they may have been revoked?

Frank Whelan: Yes. That's correct.

Robert Brant: Okay. And on the Web site, you said it was sms. - is it G as in golf, R-E-A-S or T as in Thomas - R-E-A-S?

Frank Whelan: T as in Thomas.

Robert Brant: Thank you.

Operator: Your next question is from Laraine Forry of Pennsylvania. Your line is open.

Laraine Forry: Yes, I just have a quick question regarding the implementation time. I realize that on May 4 if you're a first time provider, you have a change of ownership or a new location, my question is if you have submitted the application prior to that date, but it hasn't been finalized, I believe I understood you to say that you would need the surety bond. Is that correct or not?

Frank Whelan: I'm not prepared to answer that. Yes actually that's an issue that we've been discussing internally and we will post an FAQ on that as soon as we can. We understand that that is an issue of some concern. And like I said, we are discussing it internally.

We will post something on that very, very soon because we do understand that the May 4 deadline is rapidly approaching.

Laraine Forry: Yes, I just wanted to make sure that if it was anything submitted after May 4 or if it was something in the process as of May 4.

Frank Whelan: I completely understand and yes that issue has been raised and we are working to resolve that as rapidly as possible.

Laraine Forry: Thanks Frank, I'll look forward to that answer.

Frank Whelan: Sure, you bet.

Operator: And the next question is from Randal Minor of Florida. Your line is open.

Randal Minor: Hi, this is Randal Minor from Ocular Prosthetics here in Tampa, Florida. I just had a quick question on under the exemptions or exceptions.

Here in Florida we're not licensed by the state to produce ocular prosthetics, although, in my case I'm certified by the Florida Department of Education and also certified by the National Examining Board of Ocular (unintelligible).

I'm unclear as to how you are seeing - was there an exemption for I'm a sole operator solely owned and operated, I own 100% of the company and I manufacture ocular prosthetics for use for my patients only. Does that qualify for an exemption or no?

Frank Whelan: You need to be state licensed and if you're located in a state that does not license prosthetist or orthotist, you do not qualify for the exemption.

Randal Minor: Okay thank you.

Frank Whelan: You're welcome.

Operator: And our next question is from Diane P. Michigan. Your line is open. Diane, your line is open. We've moved...

Diane Pantaleo: Hello?

Natalie Highsmith: Hello.

Diane Pantaleo: Hi, I'm Diane from Michigan and my question probably goes along with the other lady's. I have, we have submitted our 855S right about the same time this was coming out.

We have been trying in Michigan to find someone to do a surety bond and are unable to do that, even VGM has a site for it that and they don't even have conclusion on it. So I was wondering at what point, you know, this all happens if we can't find anyone to do a surety bond for us.

Frank Whelan: Thanks. If we could discuss this offline because I'm interested in finding out about your particular circumstances. If you could send me an email with your phone number I'll be more than happy to call you sometime later this afternoon if that's possible.

Diane Pantaleo: Absolutely so, it's frank.whelan - w-h-e-l-a-n -@cms.hhs.gov?

Frank Whelan: Yes ma'am, that's correct. And if you just - again, just send me your email because I would like to get more information on the particular circumstances that you're encountering. Is that okay?

Diane Pantaleo: That'll work, thank you.

Frank Whelan: You bet.

Operator: The next question is from Lisa Williford of Virginia. Your line is open.

Lisa Williford: Yes, this is Lisa Williford from Eye Response Technologies in Virginia and I was asking if you could possibly give me a reference for the final rule. You'd given a link to cpoaccess.gov and where can I actually - what do I actually type in to get the final rules to read it?

Frank Whelan: Okay you would go to that Web site.

Lisa Williford: Yes

Frank Whelan: And you would go to the year 2009, I think it's - once you get to the front page it'll be towards the bottom - the middle or bottom part of that page there's a list - there's a scroll down menu of years.

You click on 2009 and I believe it will list every addition issued so far in 2009 of the Federal Register. And I think the January 2 one should be the one at the very, very bottom of the page.

Lisa Williford: So it's by date?

Frank Whelan: Yes generally so. If you run into problems send me an email and we can - I can walk you through it.

Lisa Williford: Thank you.

Operator: And the next question is from Connie Woods of Indiana. Your line is open.

Connie Woods: Hi, I have a question about the exemption. If an ophthalmologist has an optical dispensary and they dispense to other than their own patients, they do have to have the surety bond. Is that correct?

Frank Whelan: That's correct, yes.

Connie Woods: Okay. Suppose they choose not to dispense to anybody other than their own patients, then they don't, is that correct?

Frank Whelan: Well again, if it's to their own patients then the exception will apply, yes.

Connie Woods: Okay but does that apply only to Medicare patients? Could they see patients from the outside that were not Medicare or is that just to all patients?

Frank Whelan: Ma'am I'll bet quite honest with you, that is a good question and let us go ahead and discuss that internally. That's an excellent question. If you could send that to me via email so we have it on record...

Connie Woods: Okay.

Frank Whelan: ...and then we'll get back to you on that. Thank you for brining that up.

Connie Woods: I'll do that, thank you.

Operator: The next question is from Robert Duke of D.C. Your line is open.

Robert Duke: Yes, thank you. My name is Robert Duke and I'm with The Surety and Fadility Association. And just two questions, one regarding bonds with multiple NPIs. You said one bond could cover multiple NPIs. Now how are those NPIs identified? Should they be scheduled on the bond form?

Frank Whelan: Bob, how you doing? That's something I will go ahead and I'll get back to you on. I think that if we're talking about multiple locations, I think we're talking more the address itself, we're not so much focusing on the NPI number being on the bond form.

Robert Duke: Right, okay. But you would want some identification rather than some ominous line saying you're just covering them all?

Frank Whelan: Yes, that's correct.

Robert Duke: Okay and then secondly in terms of your statement as far as, you know, what's a bond need to cover - I just wanted clarification. One of the things is the statement that surety is liable for unpaid claims, penalties or assessments that occur during the top term of the bond.

And there's been some discussion in the past as far as the term of the bond is supposed to cover, you know, is it supposed to cover, you know, the activities of the provider during the term of the bond or is it supposed to cover claims assessed against the bond during that time regardless of when those activities occurred?

Frank Whelan: And I know that that question has been raised before and we know that there is a very fine line in defining that type of terminology.

We are in the process of developing a couple of FAQs that basically kind of address the surety aspect of the surety bond requirement. Most of the things that we talked about today have dealt primarily with the supplier side of the house.

We are in the process of developing guidance "surety only guidance". And I know that that's one of the issues that has been raised and we do - I recognize that we do need to address and we will do so as soon as possible.

Robert Duke: Okay, thank you.

Frank Whelan: You bet.

Operator: And the next question comes if from Ravi U. of Virginia. Your line is open.

Ravi Upadhyay: Thank you, just two very quick questions. One is sort of the echo of the concern raised earlier about the difficulty in obtaining bonds because of the questions that surety companies have as well.

And the question is if a chain chooses to go through with the one bond option can all stores of an existing chain including those that open after May 4 obtain the bonds at the same time, that is in October 2009 so they only have to go through the process once?

Natalie Highsmith: Okay we're going to have an offline discussion for a hot second, hold on one second.

Frank Whelan: I am sorry. We had an offline discussion. We are aware of this issue and we're going to be addressing it in an FAQ.

We understand that chain organizations - that they are truly your concerns obviously with the number of locations that are involved and this is a matter that we've discussed internally and we will be encapsulating this issue in an FAQ very soon.

Ravi Upadhyay: Any indication of when the FAQ might be available. The May 4 deadline is rapidly approaching and there has been tremendous amount of questions from the provider community as well as those that have to provide the surety - the bond itself. So we'd like to some sense of when we might expect specific answers on some of these questions.

Frank Whelan: Okay. A couple of things, number one the FAQs will be posted any day now. This will be the first batch of FAQs and they will be updated on a regular basis.

And the other thing that I want to mention is that while I do understand your concern about this, we also believe it's important that provide consistent answers to the supplier community.

We'll try to do so as rapidly as we can, but we want to make sure that everybody is on the same page which is why we believe that this FAQ format is the most appropriate way to do that.

Believe me, I understand your frustration and we're doing the best that we can and we're working as hard as we can to get you the answers that you need.

Ravi Upadhyay: Thank you.

Operator: The next question is from Sherri Marion of North Carolina. Your line is open.

Sherri Marion: Yes this is Sherri Marion with Bethlehem Pharmacy in North Carolina. And Frank, I think I understood (young lady asked) earlier about we are a single pharmacy that does therapeutic shoes and oxygen and we were questioning the number, if the bond is based off the number of NPIs that we have or if it's just one to cover our entire location?

Frank Whelan: It's based on the NPI.

Sherri Marion: Okay so if we have - like we have five pharmacists and then therapeutic shoe and then oxygen programs, I need a surety bond for each of my pharmacists also?

Frank Whelan: Again, it's one bond for each NPI that you have.

Sherri Marion: Okay, so it would have to be. Then would you give me the email address that - when we were going over the guarantees and the final rule, it was www.cms.hhs.gov/medicare and then I lost you.

Frank Whelan: Right. That's the provider enrollment Web site. That's the Web site on which the FAQs will be posted.

Sherri Marion: Okay. Could you give me that again?

Frank Whelan: Sure, www.cms.hhs.gov/medicareprovidersupenroll.

Sherri Marion: Thank you very much.

Frank Whelan: You're welcome.

Operator: And your next question is from Kimberlie Roger of Pennsylvania. Your line is open.

Kimberlie Roger: Hi, yes thank you very much for hosting this call. As a national provider if you do have multiple locations and you're adding a new location which in theory you would be submitting a new application. Are you required to be meeting the May 4 deadline?

Or because you're already an existing provider with an established, you know, profile at the NSC, is your deadline October 2?

Frank Whelan: If you're adding a new location you would be subject to the May 4 deadline for that new location.

Kimberlie Roger: Okay and then how about if you're going through a re-enrollment process with any of your existing numbers?

Frank Whelan: Okay. Just hang tight for a second - just hold on. I think the scenario you're posing is a little bit different. It has a little bit of a different twist. If you could send me an email and I will go ahead and get back to you on that.

Kimberlie Roger: In reference to the re-enrollment question?

Frank Whelan: Yes. Yes. If you could, I think the scenario you're posing has a little bit different twist so if you could send that to me I'll be more than happy to get back to you.

Kimberlie Roger: All right, thank you.

Operator: And the next question is from Stuart Meltzer, Florida. Your line is open.

Stuart Meltzer: Hi my question is similar to the last one. My company's already enrolled and we're planning on a move before October of '09. Does that mean we have to have a surety bond - will we fail (unintelligible) for the new location or do we only have requirement after October 2?

Frank Whelan: When exactly are you going to be putting in that new location? I know you're moving but when will the...

Stuart Meltzer: We're not sure. It's potential. It's not even decided we are going to move but if we were let's say fictitiously July.

Frank Whelan: Yes if it was July...

Barry Bromberg: There's a difference between moving and adding an additional new location.

Frank Whelan: Exactly.

Barry Bromberg: If you were just moving and you're already enrolled then I don't believe that would apply to you. If you're adding an additional location or terminating a location and then adding a new location well then it clearly would.

Stuart Meltzer: In my scenario I'm talking about moving the whole facility from one location to another. So basically you just said that only is required by October 2 - the surety bond?

Frank Whelan: If you could encapsulate that in an email...

Stuart Meltzer: Okay sure thing.

Frank Whelan: Yes we need to - I think we need to discuss this offline a little bit. And again, as I - and I appreciate the question but again, as I mentioned in the latter part of my opening remarks, we do appreciate the factual scenarios being brought to our attention, but do keep in mind that some of them we're simply not going to be able to address today.

But again, we do thank you for bringing them to our attention and to the extent that we can, we'll address these in the FAQs.

Stuart Meltzer: Okay, thank you.

Frank Whelan: You bet.

Operator: The next question is from Eric Sokol of D.C. Your line is open.

Eric Sokol: Yes hi, this is Eric Sokol with Power Mobility Coalition. Thanks for holding this forum. Frank, your last name is spelled W-h-a-l-e-n.

Frank Whelan: No actually the e and the a should be flip-flopped, W-h-e-l-a-n.

Eric Sokol: Got it, thanks. And one last question to put a finer point on adverse actions, corporate integrity group agreements are not considered adverse actions, right?

Frank Whelan: Yes, that's correct.

Eric Sokol: Okay thank you. Have a great St. Patrick's Day.

Operator: The next question is from Chris Lee of Michigan. Your line is open.

Chris Lee: Yes I'm just checking. We are a single specialty provider with employed OTs and we do have DME provider NPI numbers and I guess I'm confused on whether we're exempt or not exempt.

Frank Whelan: Thanks. Again, as I mentioned before, we're not really in a position to make declarations as to whether a particular provider is exempt or not. However, if you'd like to have a telephone conversation later on today...

Chris Lee: Okay.

Frank Whelan: ...I'd be more than happy to try to shed some light on that.

Chris Lee: All right.

Frank Whelan: If you want to send me an email with your phone number...

Chris Lee: Okay.

Frank Whelan: ...I can certainly get back to you later today.

Chris Lee: Okay, thank you. I appreciate that.

Frank Whelan: You bet.

Operator: Next question is from Cheryl Ward of California. Your line is open.

Cheryl Ward: Hello, Cheryl Ward in California with the Agape Medical Management and I had a question regarding existing applications or pending applications as of May 4. I understand that Mr. Whelan is going to get back to us.

But he specifically stated that applications pending as of May 4 will be automatically rejected. Is that - did you have a side bar during the actual (unintelligible) forum?

Frank Whelan: Yes, there's an issue related to that that we've been discussing internally and it was raised by the questioner that we had to have the sidebar conversation with. So basically what I said for the most part stands.

However, there could be a bit of a twist to that based on that question. So, like I said, we're going to offer some clarification on that.

Cheryl Ward: Okay and my next question, will there be a new CMS 855S application which will have a section for the surety bond to be reported?

Frank Whelan: Yes ma'am there will be.

Cheryl Ward: And do you know when that's coming out?

Frank Whelan: It should be coming out relatively soon. And as I announced in my opening remarks, I think I have an exact date here but...

Cheryl Ward: Maybe next Friday, not this Friday but next Friday?

Frank Whelan: Yes, I would think within the next couple of weeks or so. That would be my best guess.

Cheryl Ward: Okay, I'll email you regarding the pending application (unintelligible) response. Thank you. Bye-bye.

Frank Whelan: Sure, that's fine, thank you. You bet.

Operator: Your next question is from Patrick Cucinelli of New York. Your line is open.

Patrick Cucinelli: Thank you. When you listed the agency specifically not eligible for an exemption you included nursing homes and pharmacies. I wasn't able to note whether you included home health agencies on that list of not eligible for an exemption.

Frank Whelan: Yes, home health agencies are not eligible for the exemption.

Patrick Cucinelli: Okay and if you have a nursing home which subcontracts all of its DMEPOS functions and performs no billing, will the - that nursing home would not need a bond, is that correct?

Frank Whelan: Well is the nursing home enrolled as a DMEPOS supplier?

Patrick Cucinelli: I don't know.

Frank Whelan: Okay.

Patrick Cucinelli: If they're enrolled they would need the bond. If not - if they subcontract everything and they're not enrolled then they would not need a bond?

Frank Whelan: Okay, if you could email me that question, I think I have a decision on that. But if you could just go ahead and email that to me, I'll get back to you sometime later today.

Patrick Cucinelli: Okay thank you.

Frank Whelan: You bet.

Operator: And the next question comes from Marine of New York. Your line is open.

Marine Ekimyan: Hi, actually I think I got an answer to my question because a few people raised it already regarding the pending applications that haven't been approved yet by Medicare as a new facility regarding the bonding issue.

I was just wondering - I guess I could just send an email to Frank and just get an answer on that one because I don't think you guys have one yet.

Frank Whelan: You’re more than welcome to send me an email, that's fine.

Marine Ekimyan: Okay. Thank you very much.

Frank Whelan: You bet.

Operator: And the next question Pooja of New Jersey. Your line is open. Ms. Marella your line is open.

Pooja Marella: Oh hi, I'm sorry my name was pronounced wrong. I kept thinking it was somebody else. This is Pooja. I'm from Quality Home Care Providers in New Jersey. My question was I didn't - I listened to the earlier questions and most of mine were answered.

But I still don't have the address to where the copy of the surety bond and the letter explaining would need to be sent?

Frank Whelan: Ma'am, we are going to post that on our Web site. It would be the National Supplier Clearinghouse - that's where it would be sent. But we will get you a specific address.

Pooja Marella: Okay and one more question.

Frank Whelan: Sure.

Pooja Marella: What about - we have the (unintelligible) medical equipment supplier but we also have a pharmacy attached that would have their own NPI, so as to my understanding, both of us need surety bond of $50,000...

Frank Whelan: Right, if they're separately enrolled as two separate - yes they would each need a bond.

Pooja Marella: Okay even though we are at the same location?

Frank Whelan: Yes, that's correct.

Pooja Marella: Okay, thank you very much.

Operator: And the next question is from Richard Sutton of Kentucky. Your line is open.

Richard Sutton: I'm sorry, mine has already been answered.

Operator: Your next question is from Kelly McLane of Florida. Your line is open.

Kelly McLane: Hi. Yes, we're calling from A Perfect Fit in Florida and number 1, I would like to have Frank's email address. I keep getting most of it but not the end of it. I think it's frank.whelan.cms-hhs.gov?

Frank Whelan: It's frank.w-h-e-l-a-n...

Kelly McLane: Right.

Frank Whelan: @cms...

Kelly McLane: At. Okay.

Frank Whelan: ...hhs

Kelly McLane: Now wait a minute @cms...

Frank Whelan: .hhs.

Kelly McLane: .hhs?

Frank Whelan: .gov.

Kelly McLane: Right, and that's it?

Frank Whelan: That's it.

Kelly McLane: Okay because then I think it'd be easier for me just to send you an email and get my other answers.

Frank Whelan: That’s fine.

Kelly McLane: Okay, thank you very much.

Frank Whelan: You bet.

Operator: And the next question is from T. Yang of California. Your line is open.

Tehshu Yang: Hi, thanks for the opportunity for us. I am an OMP certified (unintelligible) that own my company 100% and I basically provide the OMP only. I'm a little confused about the MD and orthotic prosthetic, the difference.

Is it like a (unintelligible) belongs to OMP or like a diabetic shoes will be to (unintelligible)? Which is the orthotic prosthetic?

And other question is the - you said, well California has no license for the OMP personnel and so are we exempt from the surety bond?

Frank Whelan: As I indicated before, the state does not license orthotists or prosthetists the bond requirement would - it would kick in. As respect for your first question, I didn't quite get all of that. If you could send me an email, it'd be a little bit easier for me I think to address it that way.

Tehshu Yang: Yes I would think so. Okay well thank you.

Frank Whelan: You bet.

Operator: And the next question is from Jeff Michalenok of Ohio. Your line is open.

Jeff Michalenok: Yes, Jeff Michalenok with Cailor Fleming Insurance. Question regarding the multi-location bond, will the bond amount be aggregated to $50,000 so that there's not an issue as far as the bonding company is concerned looking at, you know, potentially a multi-location bond?

Frank Whelan: I'm not sure what you mean by aggregate - if we're talking about three different locations and each one is $50,000, there can be a single bond for $150,000.

Jeff Michalenok: Right but the amount that can - that the bond would be subject to would only be $50,000?

Frank Whelan: Well okay, I see what you're saying. That's actually one of the issues that we are looking at for the surety FAQs. If you could send an email to me on that I'll go ahead and get back to you and we will of course post that information on our Web site.

Jeff Michalenok: Okay and then the last thing is just maybe a comment regarding couple of the callers and the problem in getting bonds. And the issue may be because the final wording is not done yet, the sureties are hesitant to try to put a bond together because it may not qualify or satisfy the needs of CMS.

So until CMS comes out with all of their final rulings to the bond wording, then nothing's going to get done.

Frank Whelan: And sir, I completely understand that and we are working internally to try to - again, there's no standard federal government bond but we do recognize that. I think people would like something that's relatively standardized.

And we are working with certain individuals to see if some kind of very, very, very informal blue print can be developed. What I did discuss earlier were the various items in the final rule that the bond does have to cover.

So that's pretty much the only information that we can give you at this point. But please do be assured that we are working entirely to try to get something somewhat more consistent.

Jeff Michalenok: Okay, thank you.

Frank Whelan: You bet.

Operator: And the next question is from Marisol Hernedz of New York. Your line is open.

Marisol Hernedz: My question has already been answered. Thank you so much.

Operator: Okay our next question is from Simon Ilizarov of New York. Your line is open.

Simon Ilizarov: I'm Simon. Hi my name is Simon.

Natalie Highsmith: Hi Simon.

Simon Ilizarov: How are you? Question (unintelligible) independent pharmacy with a limited DME diabetic supply (unintelligible). Do our pharmacy need surety bond? If yes, will we get by mail some information from DMEPOS?

Frank Whelan: Pharmacy's are not exempt from the surety bond requirement.

Simon Ilizarov: Not the question.

Frank Whelan: What's the question?

Simon Ilizarov: Will we get it by mail - some information from Medicare?

Barry Bromberg: Mail notification about this and I think the answer is no.

Frank Whelan: No, no there won't be any mail notification.

Simon Ilizarov: No notification?

Frank Whelan: Correct.

Simon Ilizarov: So how can I know when I have to mail (unintelligible) and to whom I have to mail it?

Frank Whelan: Well we indicated before that we will be posting the addresses to where to mail it and also we have discussed the bond requirements and who is exempt and who is not exempt. And we will be posting outreach information that basically mirrors what we have talked about today.

Simon Ilizarov: All right, thanks very much.

Operator: The next question is from Bruce Rodman of Illinois. Your line is open.

Bruce Rodman: Frank and others, thank you very much for participating today. I've got two questions. The first one is you've been asked several times about suppliers that have multiple NPI's for product lines that are being serviced out of the same location.

And at one point you had said that you would be taking that into consideration and I believe you asked someone to email to you and perhaps there would be an NPI issued - or I'm sorry and FAQ on that. But at other points you've said that there would need to be a separate surety bond for each and every NPI even though it was the same location that was enrolled.

Is this something that's affirmative in terms of what you're saying now or are you going to get back to us on that? Then I have another question after you answer that.

Frank Whelan: I think with the NPI it needs to be - there needs to be a separate bond for each NPI. I don't think that my position on that and certainly our position on that has changed.

Bruce Rodman: Well someone had asked you something to the effect of if I have an NPI for my (unintelligible) business and I have an NPI for some other type of business and you I think had said please email that to you.

Frank Whelan: I think it's because the question was - the way I understood it, the question was asked in a somewhat different context than the factual scenario that I mentioned before (unintelligible).

Bruce Rodman: Oh okay so for each NPI enrolled that's the answer to that?

Frank Whelan: Right.

Bruce Rodman: Thanks, I think that will help clarify for a lot of people.

Frank Whelan: Right, yes. There's a question that was asked earlier, there appeared to be a slightly different twist to it and that’s why I wanted to make certain that I understood it fully.

Bruce Rodman: Oh okay. And I would hope you might have an FAQ on this matter. The other is it does seem that the issues are given a very tight deadline and about a month and a half for a number of suppliers that, as we've heard, the issuers of the bonds need to have a lot of guidance that they don't have.

You know, when would you expect to have that information out to them and also how will the providers be notified of it so that they understand what those guidance are that have been issued?

Frank Whelan: Like I said, we are going to be issuing the FAQs as rapidly as possible. We will be performing outreach as well and obviously one of the purposes of this call today is to help furnish that outreach.

And again, much of what we said today is in the final rule. Now obviously final rule is pretty long and we're not necessarily expecting everybody to read it from top to bottom but much of the information regarding the surety bond requirement is in that rule and has been out there for several months.

But we certainly understand the concern about the approaching deadline and again as I mentioned before, we're doing the best that we can to get everyone the guidance that they need.

Bruce Rodman: What would you recommend to suppliers that they be doing right now before you get that guidance out?

Natalie Highsmith: I'm sorry, Bruce, what organization are you representing?

Bruce Rodman: Oh, I'm with the National Home Infusion Association.

Natalie Highsmith: Okay.

Frank Whelan: Okay, what I would recommend is to keep checking the Web site - the CMS Web site that I mentioned to you previously and again, hopefully something will be posted pretty much any day now.

Bruce Rodman: Thanks. Could you repeat that Web site?

Frank Whelan: Sure. It is www.cms.hhs.gov/medicareprovidersupenroll. And I do say to anyone else on this call, if you do have any other questions do not hesitate to contact me directly. Don't necessarily have to wait for the FAQs to be posted. If you have a question in the interim don't hesitate to contact me.

Bruce Rodman: Thank you very much Frank.

Operator: And our next question is from Frank Mester of California. Your line is open.

Frank Mester: My question's been asked and answered. Thank you.

Operator: The next question is from Perry Nedleman of Illinois. Your line is open.

Perry Nedleman: Thank you but the question's been answered. Thanks.

Operator: Our next question is from Kathy Struecker of Iowa. Your line is open.

(Steve Hoskins): Hi, Kathy's here but this is (Steve Hoskins). I'm with Pro Advantage Services. We're a division of Pharmacists Mutual Companies. We're an agency that's hoping to supply a lot of these bonds and one of the big questions we've got is that we're working with several approved surety companies who have submitted bond language to CMS for approval.

When can they expect to see those approvals so that they can start getting their wheels turning to get the bonds - or to get the bonds issued?

Frank Whelan: It should be very, very soon. Hopefully within the next week or so, we understand the approaching deadline but again we do need to review these internally and we do need to review them very, very carefully. Hence the additional time that's being required.

(Steve Hoskins): (Unintelligible).

Frank Whelan: I'm sorry go ahead. Go ahead, I'm sorry.

(Steve Hoskins): One thing I wanted to throw in there, I was - I did go online while we were talking here about the - trying to find the approved surety companies and one thing you were talking about a space. That's an underscore on the Web site.

Frank Whelan: Okay.

(Steve Hoskins): Www.fms.treas.gov/c570/c570_a-z.html.

Frank Whelan: I guess if they separated these lines a bit more - I guess would be a little bit easier for me to get that to you. Thank you for bringing that to my attention.

(Steve Hoskins): Then I - one other question with regard to the surety companies and the agents specifically, I believe there are a lot of questions that we have with regard to, you know, being able to supply this surety bond to our customers.

And we want to make sure that they're able to, you know, continue to do business in a timely manner. Is there possibility that you could consider doing maybe a teleconference just for the surety companies and agents to answer their specific questions?

Frank Whelan: I think that's something that we can definitely consider.

(Steve Hoskins): Okay, thank you very much.

Operator: And the next question is from Joseph B. in North Carolina. Your line is open.

Joseph Balcken: Hi yes, thank you. My question is actually a follow up to an answer you gave to a woman in North Carolina with a single pharmacy location. She had indicated that she had multiple pharmacists at her pharmacy location.

And each of those pharmacists had their individual NPIs. You had indicated, maybe I just need clarification here, that for each of those pharmacists with their individual NPIs they would need to secure a surety bond for each of those individual NPI's.

But it's my understanding that they would only need to get a bond for the billing pharmacy location NPI not for the individual pharmacist. Can you clarify that for me?

Frank Whelan: Yes, and thank you for making that clarification. I think that the issue was whether those pharmacists are individually - whether they were individually enrolled. Are they individually enrolled? I don't - doesn't seem like they are.

Joseph Balcken: Yes I don't think that they would be - I don't think pharmacists are enrolled as (unintelligible).

Frank Whelan: Right. So in that case it would just be the pharmacy itself.

Joseph Balcken: Okay thank you for that.

Frank Whelan: And I apologize. I must have misinterpreted that question.

Joseph Balcken: Okay, thank you.

Operator: And the next question is from Pamela M. of Michigan. Your line is open.

Pamela Melchi: My question has been answered. Thank you.

Operator: And the next question is from Lori Moser of Florida. Your line is open.

(Jeff): Hi, Lori had to step out. My question is for the exceptions. This is (Jeff) by the way. Lori and I own a small business here in Florida. I am licensed as an orthotist in the state of Florida.

On the ownership of the business, I - like I say, I am licensed, she is not. Does that mean that she cannot own any part of this business?

Frank Whelan: Both prosthetists or orthotists, which ever case, they both may be state licensed. They both must be state licensed, I'm sorry.

(Jeff): Okay and then second question on the custom OMP exception, that custom orthotic and prosthetic devices only or can you do custom and off the shelf?

Frank Whelan: Okay, if you could send me an email for that and I will go ahead and get back to you on that.

(Jeff): Okay.

Frank Whelan: Thank you very much.

Operator: The next question is from Dave Macke of Kentucky. Your line is open.

Dave Macke: Hi Frank, we communicated a couple months ago back in January about the surety bond for a hospital DME supplier was a department of the hospital and if operated by a county operated hospital whether they would qualify for this governmental exception.

And I guess if I'm reading this - some of the letters correctly it says that they will qualify if the DME supplier has provided CMS with comparable surety bond under state law.

So basically, it sounds like either way there would be surety bond requirement but that there is no exception for a governmental operated department (unintelligible) to the hospital like this. Is that correct?

Frank Whelan: I do remember the issue of the government operated DMEPOS suppliers being posed.

Dave Macke: Yes, it's a department of the hospital and the hospital is operated by a county. And it's in Ohio. So it's governmental and - but it's not a separate stand alone DME supplier. It is a - the hospital itself has a supplier number.

Frank Whelan: Right, it's a little bit different twist from the standard situation. Could I call you after this call, if that's possible?

Dave Macke: Certainly.

Frank Whelan: If you could send me an email with your number, I'll go ahead and I'll call you later on this afternoon.

Dave Macke: Great, thank you very much.

Frank Whelan: Yes.

Operator: And the next question is from Marcie Bough of D.C. Your line is open.

Marcie Bough: Hello, my name is Marcie Bough. I'm with the American Pharmacists Association. And you did clarify the question I had regarding pharmacists NPIs and pharmacy NPIs and I would just ask that you include that clarification in the FAQs because typically the pharmacist, while they may have an NPI, do not have the Medicare billing authority that is being sent to Medicare and CMS.

So that typically is the pharmacy NPI. So just including that clarification that the individual pharmacists in the pharmacy are not counting towards all the individual NPI's for the surety bond.

Frank Whelan: Okay, yes. We will certainly do that and again I thank the person that made that clarification for me. That was a misstatement on my part. We will definitely fix that.

Marcie Bough: Okay, thank you.

Frank Whelan: You bet.

Operator: And the next question is from Victor A. of California. Your line is open.

Victor Adevayo: Yes, I just want to confirm your email address. I'm trying to test it and it's not going through.

Frank Whelan: Sure it's frank.whelan@cms.hhs.gov.

Victor Adevayo: Okay, frank.whelan@cms.hhs.gov?

Frank Whelan: That's correct sir.

Victor Adevayo: Thank you.

Operator: And the next question is from Pat Sheehan of Illinois. Your line is open.

Pat Sheehan: Yes it's a quick one. Are mastectomy boutiques exempt?

Frank Whelan: No ma'am, it is not.

Pat Sheehan: Thank you.

Operator: And the next question is from Gail Hoover of Florida. Your line is open.

Gail Hoover: Good afternoon. Thank you very much. I learned a lot from this conference. I just have one question, if we have a Medicare provider number and we're applying for Medicaid provider number, do we need two seccurity bonds or is it covered by one?

Frank Whelan: Okay, the issue of the Medicaid - that had actually been raised earlier although your question kind of has something of a different twist to it. This is something that I think would be suitable for an FAQ so if you could just maybe hang on for a couple of days we will certainly try to address that.

In the meantime, if you'd like to send your question to me, I can definitely make sure it does get on there.

Gail Hoover: Thank you Frank. Thank you.

Frank Whelan: You bet.

Operator: And the next question comes from Rebecca Lichucki of Illinois. Your line is open.

Rebecca Lichucki: Thanks Frank. This is Rebecca Lichucki from Topco Associates. I have a question on the elevated requirements. You talked about suspension or revocation of a state issued license.

In a pharmacy scenario would that count for if a pharmacist license was suspended and they work in the pharmacy under the pharmacy NPI, would they need an elevated bond amount for that particular NPI?

Frank Whelan: No, I don't believe they would because it's the pharmacy that's enrolled in the program so no, I don't believe the elevated amount would apply in that situation.

Rebecca Lichucki: Because like, say that the suspension of the pharmacists license occurred with the suspension of the pharmacy license in something like a miss fill by the state board, then they would need it if the pharmacy license was suspended?

Frank Whelan: I'm sorry, we're just talking off line for one second, please hang on. I'm sorry about that. So the question basically was whether the pharmacy license was suspended?

Rebecca Lichucki: Yes.

Frank Whelan: Okay. All right, in that case the elevated amount would apply. But not in the situation where - that you mentioned before where the pharmacy it's that's enrolled but one of the pharmacists licenses were suspended.

Rebecca Lichucki: So it's only the pharmacy itself not necessarily technicians or pharmacists?

Frank Whelan: Okay I think so, yes. In that case the elevated bond amount would apply.

Rebecca Lichucki: It would if the pharmacy was revoked?

Frank Whelan: If the pharmacy is looking to obtain the bond and the pharmacy's license was revoked then yes, the elevated bond amount would apply.

Rebecca Lichucki: Thank you so much. Oh and are all these questions that people are emailing you, are those going to be in the FAQs?

Frank Whelan: If they involve general policy issues, yes. If it's something that can be dealt with on an individual basis, perhaps not. It really just depends on the type of question.

Rebecca Lichucki: Thank you so much.

Operator: And the next question is from Dale Smith of Missouri. Your line is open.

Dale Smith: Thank you. This is Dale Smith with PBA Hill in Kansas City, Missouri. I have two questions and I think this first one's been answered but I've just got to ask it to be sure.

If a retail pharmacy is just dispensing blood glucose strips which is considered (unintelligible) item, do they have to have a surety bond? And I have a follow up.

Frank Whelan: Okay sir, the answer to that question is yes.

Dale Smith: Okay and then my follow up is if a pharmacy is selling and they have a surety bond for that pharmacy and the new owner comes in, they have to purchase a surety bond also, what will the pharmacy be able to bill until that new surety bond is issued?

Frank Whelan: Sir, if you could email that question to me, I just want to make sure that there aren't additional twists to your particular factual scenario in that. So if you could just email that to me and I'll be more than happy to get you a reply.

Dale Smith: Thank you so much.

Operator: And the next question is from Rita Caskey of Pennsylvania. Your line is open.

Rita Caskey: Good afternoon. As an independent pharmacy, I have an NPI number for my pharmacy dispensing prescriptions. I have an NPI number for my durable medical equipment. Why does the pharmacy NPI number require to have a surety bond when we don't use that number to bill Medicare part B?

Frank Whelan: Because the term NPI, that's the term that's used in the regulation and that's the standard by which the bond is predicated.

Rita Caskey: So it doesn't matter even if you don't use that particular NPI number, we still have to be a surety bonded on that?

Frank Whelan: So basically you're - are you saying you have two NPIs?

Rita Caskey: I have two. I have one for pharmacy. One for DME.

Frank Whelan: Okay. Could I give you a call after this call?

Rita Caskey: Sure.

Frank Whelan: I just want to make sure that we're on the same page here. Just send me your phone number and you'll get a call from me this afternoon.

Rita Caskey: Thank you.

Operator: And the next question is from Penny Lohman of Florida. Your line is open.

Penny Lohman: Thank you, we have two questions. Have you thought through the process for a surety bond is only good for a year and if we didn't do any changes regarding one of our providers we would only be doing our re-enroll every three years, so is there going to be any type of requirement to do like an annual update with CMS?

Frank Whelan: I can tell you at this point in time that there's (unintelligible) - it is not anticipated at this point in time that that will be the case.

Penny Lohman: Okay so then it would be if we did our reenroll we would turn it in and then only if it was requested or we did something between the enrollment period - again, we're expected to have it if we get audited or something like that, but we wouldn't have to provide it proactively to CMS?

Frank Whelan: Yes, that's correct ma'am.

Penny Lohman: Okay great. And then we had one other question. You went over the...

Natalie Highsmith: Wait a minute hold one second.

Frank Whelan: Ma'am I'm sorry we have an additional comment here so just hang tight...

Barry Bromberg: I did want to say that if we found out from the surety company that the bond was not renewed - if they advised us of that, then we would revoke your number.

Penny Lohman: Correct. I just want to make sure there's nothing that we would have to like annually put on a tickler list for us to fill out like an 855S to send it in when it's renewed annually?

Barry Bromberg: That's correct.

Penny Lohman: Okay, correct. All right and then our other question was - we went over this very quickly so I just want to make sure I understand. The only bonds that will be accepted will be the bonds that are on the financial management service approved bonder list. Is that correct?

Frank Whelan: Yes, that's correct.

Penny Lohman: Okay, now as far as a gentlemen asked a question earlier and he said that they don't currently - all the providers on this list, they don't currently have the final template for what these bonds need to look like for you. But that will be coming in the next few weeks?

Frank Whelan: We won't be posting any standard templates. What we're doing is several templates have been submitted to us.

Penny Lohman: Okay.

Frank Whelan: And we are on a communication with a few of the individuals who have submitted them but again, we're not going to be posting any standard form. What we'll be doing is getting back to the people who have submitted these and letting them know whether they are - whether they cover the items that need to be covered.

Penny Lohman: Okay, so is there going to be any - because I'm concerned about this May 4 deadline, so is there going to be any type of leniency in the sense that say we have a provider number that is going to be going to the re-enrollment period, because I know we're still waiting to get the final answer on that.

But just say, worst case scenario it's going through the re-enrollment period May 5, so we would then be required to have a bond.

If this hasn't been clarified, would the process be for if we send the bond that we've used from one of these approved providers and it didn't meet the specifications, would it come back to us just like any other if there was an error on our application where we would have an opportunity to correct it?

Barry Bromberg: Hi, the re-enrollment is not initial enrollment. If you get a re-enrollment before October 1 then - excuse me October 2, then you do not have to have a bond.

Penny Lohman: Okay so that - because we've kind of gotten some contradicting, at least how I understood it, how you've answered the questions. So I just want to make sure

I'm clear then. The May 4 deadline, if we did anything after May for a change of address or re-enrollment...

Barry Bromberg: No, no, no. Change of address and re-enrollment or reinstatement is not the same as a - being a new enrollee okay?

Penny Lohman: Okay.

Barry Bromberg: So you don't need that bond...

Penny Lohman: Until the October...

Barry Bromberg: ...until October the 2. Now if there is a change of ownership or you are opening a new location or a brand new facility after May 4, you need a bond.

Penny Lohman: Wonderful. Thank you for clarifying that because I think we've gone back and forth on this call. So I'm clear, if we do a re-enrollment the only time that we would need a bond would be by the October deadline - if it was just a standard reenrollment for existing provider?

If we had a change of address, not ownership, between now and October we would not need to do - send in a surety bond. After the October date we would. Is that correct?

Barry Bromberg: That’s correct.

Penny Lohman: Thank you, I appreciate the clarification.

Natalie Highsmith: Okay (April), we have time for one final question.

Operator: And that question will be from Kevin Teagarden of Missouri. Your line is open.

Kevin Teagarden: Wow, I didn't think I was going to get lucky. Thank you. This is Kevin Teagarden, I'm with Medicap Pharmacy in (Chapman), Missouri.

One of my questions - it's really more of a comment, that with pharmacy, with independent pharmacy especially, doing a small volume of DMEPOS such as my pharmacy - I do mainly diabetic supplies.

I do diabetic orthotic shoes and nebulizer drugs and some oral anticancer drugs. With that volume of business it is very difficult for me to afford a $50,000 surety bond. I am one pharmacy in a town of 3000 people.

The next closest pharmacy is 13 miles away in which a lot of these people don't drive. Has any of that been given any consideration because of the rural locations are really going to hurt when this kicks in?

And then the second part of the question or the comment is it seems as though physicians quickly get an extended date whenever it came time for them to have an NPI number and none of them had even applied for NPI numbers.

And you're coming upon a deadline with surety bond information that CMS doesn't even have all of the guidelines for yet and nobody is looking at any extensions. And I'll let you comment on those.

Frank Whelan: Sir, thank you very much for your comment. With respect to the approaching deadline, what I can tell you is that that deadline was basically put in regulation. So really we're not in a position where that can be changed.

And again as I mentioned before, the period of time between the issuance of the White House memo and right about the third week of February, things were pretty much held in abeyance. We were not in a position where we could really offer much guidance on that.

So to some degree we lost a month in that. Now with respect to your concern about being a rural DMEPOS supplier, we do understand your concern.

When the final rule - when we got comments on the proposed rule, we did receive a number of concerns from rural suppliers stating that they were the only supplier in that area and could any exceptions be made?

And we did indicate in our responses that really the issue was that there was no exceptions or no legislative language or nothing in the statute itself or the legislative history that indicated a congressional attention - congressional intention to exempt rural suppliers or to gauge the amount of the surety bond and predicate that on the volume of business a particular supplier has.

So what we really did was we tried to stick to the intent of the statute and that is the reason why we came out as we did on that issue.

We - but again, we do understand your concerns and I guess I can close with this comment right now. We do wish we could've come out some more guidance on this issue but again, we're doing the best that we can and we will try to get the information to you as soon as possible.

And again, in the interim if you do have any questions don't hesitate to contact me.

Natalie Highsmith: Okay (April), we have exceeded our 3:30 hour here on the east coast. Everyone, thank you all again for joining us. (April) can you tell us how many people joined us from the phone?

Operator: Yes ma'am, we had 776.

Natalie Highsmith: Okay great. Thank you and everyone please remember if you need to look at the Web site it's www.cms.hhs.gov/medicareprovidersupenroll. And also again, Frank's email is frank.

Frank Whelan: .whelan@cms.hhs.gov.

Natalie Highsmith: Thank you everyone.

Operator: This will conclude today's presentation you may disconnect.

END