



2021

COMPETITIVE ACQUISITION OMBUDSMAN REPORT TO CONGRESS



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THANK YOU FROM TONYA DAVIS, ACTING OMBUDSMAN

The Centers for Medicare & Medicaid Services (CMS) is grateful for the talent Tangita Daramola brought to the Ombudsman role and the impact her work had on the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program (DMEPOS CBP) and its stakeholders before her retirement from federal service in early 2025. Her relationship building skills and keen focus on both industry and beneficiary perspectives were a terrific asset. CMS is looking forward to continuing this work on the tremendous foundation she built. The following report is provided on her behalf.

A MESSAGE FROM THE FORMER OMBUDSMAN

I am pleased to share the Competitive Acquisition Ombudsman (CAO) 2021 Report to Congress, required by section 1847(f) of the Social Security Act.¹ The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) mandated that the Secretary of the Department of Health and Human Services establish the role of the CAO to receive and respond to inquiries and complaints related to the application of the DMEPOS CBP and to report these findings to Congress. To identify and manage stakeholder concerns, the CAO performs outreach, conducts research, engages with supplier and beneficiary advocates, and facilitates responses to inquiries and complaints. This report describes key activities in calendar year (CY) 2021 and provides Congress with perspectives from the experiences of suppliers, beneficiaries, and other stakeholders who utilize or participate in the DMEPOS CBP.

Tangita Daramola

Competitive Acquisition Ombudsman (retired from federal service 2025)

OVERVIEW OF ROUND 2021 OF THE DURABLE MEDICAL EQUIPMENT, PROSTHETICS, ORTHOTICS, AND SUPPLIES COMPETITIVE BIDDING PROGRAM

The Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program has reduced costs of durable medical equipment and supplies while ensuring that beneficiaries continue to receive quality items and services.² Round 2021 of the DMEPOS CBP began on January 1, 2021, and extended through December 31, 2023. This round included 127 competitive bidding areas (CBAs) and implemented changes to provide policy and operational efficiencies to support the long-term sustainability of the program. One such update established criteria to change the calculation for single payment amounts (SPAs) from the median of the winning bid amount to the maximum winning bid amount for the “lead item” in each product category, which provided efficiencies in the bid submission process. Bids submitted for the 13 product categories previously included in the DMEPOS CBP were not included because CMS determined the competition for these categories would not achieve expected savings. Another product category for non-invasive ventilators was removed in April 2020 due to the coronavirus disease 2019 (COVID-19) public health emergency. For additional information on the lead item methodology and bid limits, refer to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Updates in the CY 2026 Home Health Prospective Payment System final rule at 90 FR 55342.³

Round 2021 of the DMEPOS CBP only awarded contracts for off-the-shelf (OTS) back braces and OTS knee braces.^{4,5} A brace is a rigid or semi-rigid device used for the purpose of supporting a weak or deformed body member or restricting or eliminating motion in a diseased or injured part of the body.⁶ The designation of “OTS” refers to items that require minimal self-adjustment for appropriate use and do not require expertise in trimming, bending, molding, assembling or customizing to fit a beneficiary.⁷

During Round 2021 of the DMEPOS CBP, if a beneficiary lived in or visited a CBA, CMS would only pay for competitively bid OTS back and knee braces furnished by a contract supplier. However, a beneficiary could obtain a competitively bid item from a non-contract supplier in limited situations:

- The beneficiary’s doctor or treating health care provider (including physical therapists and occupational therapists) has the option to supply an OTS back or knee brace without being a contract supplier if they give the beneficiary the brace during the appointment as part of the clinical service.
- The beneficiary’s doctor or treating health care provider can supply an OTS back or knee brace while the beneficiary is admitted to the hospital or on the day the beneficiary is discharged.⁸

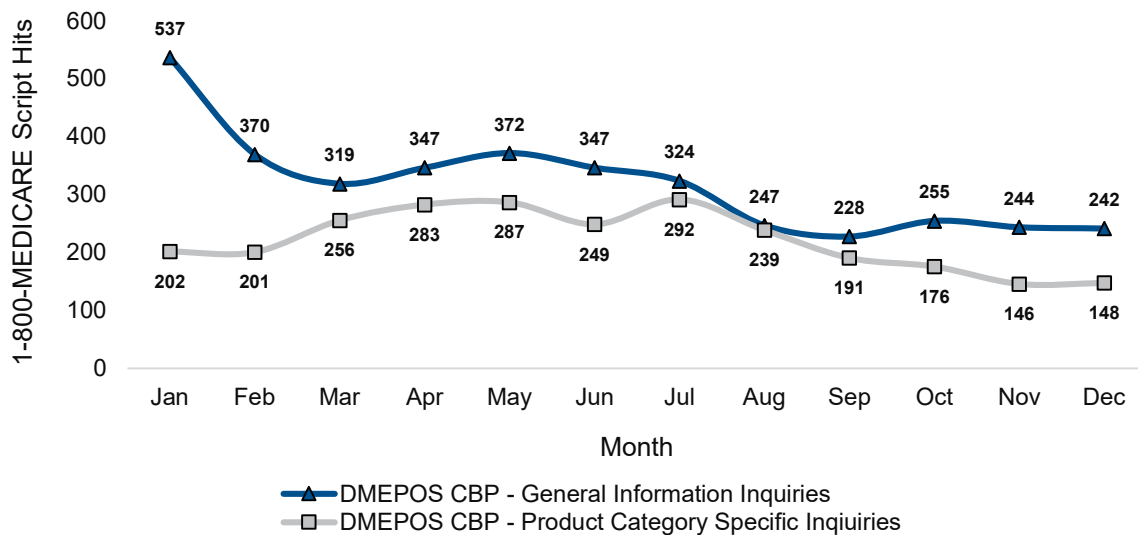
[Inquiries and Complaints on Competitive Bidding Product Categories](#)

Medicare beneficiaries are encouraged to contact 1-800-MEDICARE with questions or concerns about their Medicare benefits. Competitive bidding-related inquiries are defined as “complaints” if they cannot be resolved by the initial customer service representative who receives the call and, for that reason, are escalated for further assistance. The CAO monitors inquiries and complaints related to the DMEPOS CBP and products subject to competitive bidding to stay

abreast of issues and concerns. Inquiries are received via 1-800-MEDICARE and competitive bidding-related complaints are escalated to the Competitive Bidding Implementation Contractor (CBIC).

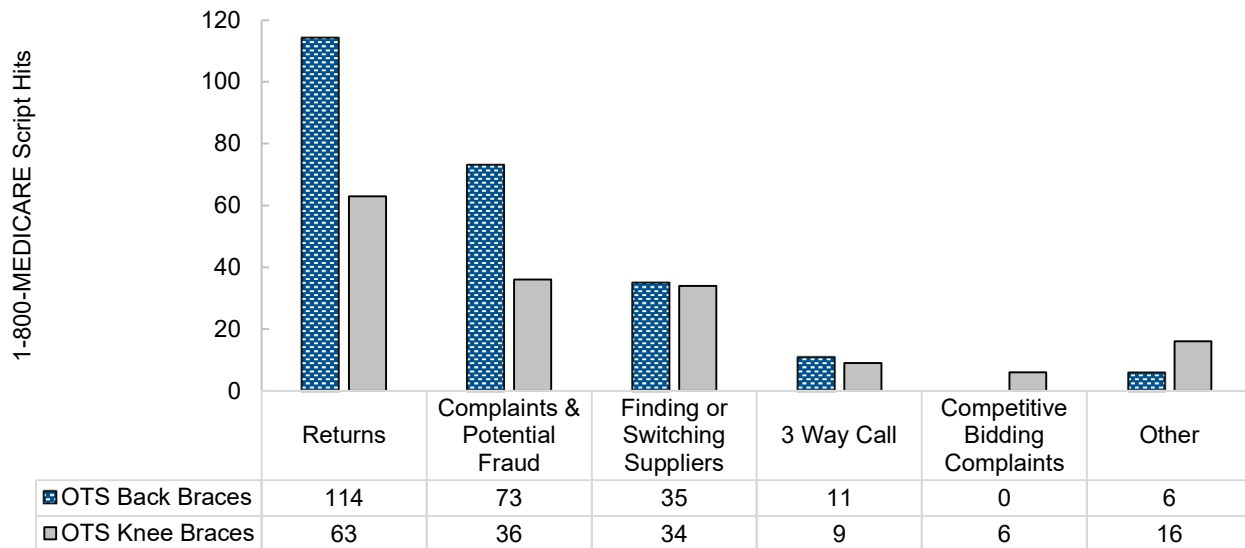
CMS received higher volumes of inquiries about the DMEPOS CBP during the first few months of 2021 compared to the rest of the year. General information inquiries encompass questions about what the DMEPOS CBP is, what areas were included in the DMEPOS CBP, and which products were included in the DMEPOS CBP. Product category-specific inquiries peaked in July 2021 and then decreased throughout the remainder of the year. See *Figure 1* below.

Figure 1: 1-800-MEDICARE Inquiries⁹ Related to the DMEPOS CBP and Competitively Bid Product Categories, Jan. 2021 – Dec. 2021.



Drivers for product category specific inquiries were related to questions about returns; complaints and potential fraud; and finding or switching suppliers.¹⁰ See *Figure 2* below.

Figure 2: 1-800-MEDICARE Script Topics for Competitive Bidding Products*



*Script topic counts for OTS back braces and OTS knee braces were not available prior to May 2021.

Throughout 2021, there was a trend of lower inquiry volumes, which was mirrored by decreased utilization of OTS back and knee braces in CBAs compared to prior years once Round 2021 of the DMEPOS CBP went into effect. There was also a slight increase in claims for custom back and custom knee braces in CBAs after the program went into effect.

DMEPOS ACCESS DURING DISASTERS & EMERGENCIES

Providing access to DMEPOS for beneficiaries under normal circumstances requires significant coordination in both acute and home care settings. Ensuring DMEPOS access for beneficiaries during a disaster or other health emergency requires even greater coordination and is vitally important since some beneficiaries that do not have access to their home equipment may need to be hospitalized. During the reporting period, the continuation of the COVID-19 public health emergency (PHE), weather emergencies, and disasters presented challenges in maintaining quick and efficient processes to obtain DMEPOS after it was lost or destroyed during a disaster.

External Engagements

These challenges led to initiatives established by partners, which were aimed at improving government and industry coordination. For example, the CAO worked with the supplier associations who formed the Emergency Preparedness for Home Medical Equipment Suppliers Committee. This subgroup, created by and comprised of DMEPOS state association leaders, formed to help strengthen important linkages to Federal partners. Working with this industry subgroup helped to continue building cohesive integration with state emergency managers, the Federal Emergency Management Agency (FEMA), CMS, and the Administration for Strategic Preparedness and Response (ASPR).

Supporting DMEPOS Access Following Disasters

Additionally, during the reporting period, the CAO continued to work with the home medical equipment industry to develop a consistent framework for addressing concerns about providing

services to beneficiaries after a disaster. The February 2021 winter storms in Texas and Oklahoma illustrated these issues, specifically showing that suppliers faced confusion about who to provide feedback to about on-the-ground barriers they experienced in serving beneficiaries that used energy-dependent products.

In the aftermath of these storms, the CAO monitored feedback from suppliers and patient entities and heard about concerns, including:

- Defective portable oxygen concentrators sending patients back to the hospital;
- Difficulty replacing or upgrading supplemental oxygen equipment given increased demand during the COVID-19 PHE;
- Lack of reliable power supply to operate oxygen concentrators; and
- Short supply of compressed oxygen cylinders.

Disaster Response Training

Finally, work was completed on a training developed in partnership with ASPR and FEMA. The web-based training, titled *Replacing Durable Medical Equipment & Prescription Drugs after a Disaster: Addressing the Needs of Medicare Beneficiaries*, provides basic plain-language content and guidance about replacing DMEPOS and prescription drugs that are lost or irreparably damaged during disasters and emergencies. The training is available on Medicare's YouTube channel.¹¹ There are strong indications from initial evaluations that partners who work directly with Medicare beneficiaries such as State Health Insurance Assistance Programs (SHIPs), stakeholders such as advocacy organizations, and disaster first responders found this information helpful as they sought to stabilize disaster survivors.

CONCLUSION

Access to affordable, high-quality DMEPOS is essential for the millions of people with Medicare that rely on it. The DMEPOS CBP continues to be a critical component of the Medicare program with the goals of reducing out-of-pocket costs for beneficiaries and ensuring suppliers provide high-quality DMEPOS products and services. Looking ahead, the CAO will continue to monitor inquiries and complaints related to the application of the DMEPOS CBP so that the agency can consider this feedback. The CAO will also continue to engage with stakeholders and collaborate with partners to listen and strengthen the feedback loop between CMS and those impacted by its policies.

NOTES & REFERENCES

¹ Social Security Act § 1847(f), 42 U.S.C. 1395w–3(f).

https://www.ssa.gov/OP_Home/ssact/title18/1847.htm

² Competitive Acquisition Ombudsman (CAO) Temporary Gap Period Fact Sheet, available at

<https://www.cms.gov/medicare/payment/fee-schedules/dmepos-competitive-bidding/acquisition-ombudsman-cao>

³ Medicare and Medicaid Programs; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Updates, 90 FR 55342(December 2, 2025) (FR Doc.2025-21767), available at <https://www.federalregister.gov/documents/2025/12/02/2025-21767/medicare-and-medicare-programs-calendar-year-2026-home-health-prospective-payment-system-hh-pps-rate>

⁴ Centers for Medicare & Medicaid Services. (2020, October 27). *Round 2021 DMEPOS Competitive Bidding Program Single Payment Amounts and Contract Offers*. Retrieved September 8, 2022, from <https://www.cms.gov/files/document/round-2021-dmepos-cbp-single-payment-amts-fact-sheet.pdf>

⁵ Competitive Bidding Implementation Contractor. (2020, October 27). *Round 2021 Product Categories. DMEPOS Competitive Bidding Program*. Retrieved October 11, 2022, from

<https://dmecompetitivebid.com/cbic/cbicr2021.nsf/DocsCat/IOH71ITDM2>

⁶ 42 CFR § 410.2. <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-A/section-410.2>

⁷ 42 CFR § 414.402. <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-414/subpart-F/section-414.402>

⁸ 42 CFR § 414.404(b). <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-414/subpart-F/section-414.404>

⁹ Script hits serve as a proxy for inquiries. Script hits are the number of times a 1-800 MEDICARE customer service representative reads a particular script.

¹⁰ Some inquiries labeled with “complaints and potential fraud” are not counted as complaints and are not escalated to the CBIC.

¹¹ *Replacing Durable Medical Equipment & Prescription Drugs after a Disaster: Addressing the Needs of Medicare Beneficiaries* can be found at <https://www.youtube.com/watch?v=5FIGFKks1Zc>