Bidding (Gasp!) in Medicare

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It is Eakinomics' fondest hope that it will turn its readership into a cadre of health policy nerds (and regulation nerds, trade nerds, budget nerds…). To that end, a must-read is Laura Hobbs' treatise on Medicare Part B's Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP).

In addition to having a really spiffy title, the program's adoption in 2011 was a move toward reality in Part B. As Hobbs put it: "Prior to 2011, CMS [Center for Medicare and Medicaid Services] paid for all DMEPOS products via a fee schedule determined by supplier charges set from July 1986 to June 1987. For products offered after this period, CMS used unadjusted list prices for products. This fee schedule, which was not updated to reflect changes in technology or the market, may have caused CMS to overpay for certain products. For example, the Department of Health and Human Services Office of the Inspector General found that 'Medicare will allow $7,215 for 36 months for [oxygen] concentrators that cost $587, on average, to purchase.' These overpayments likely incentivized inappropriate utilization. CMS found that DMEPOS had a 46.3 percent improper payment rate compared to 11.7 percent for the overall Part B program and 9.7 percent for Part A in 2016. Furthermore, MedPAC published data that compared Medicare's payment rate and private-payer rates for the top 10 highest expenditure non-CBP products in 2015. For nine out of the 10 products, MedPAC found that Medicare's median payment rate was 18 percent to 57 percent higher than the median of the private-payer rates."

In light of this, there are a couple of things to know about CBP. First, it was incredibly controversial. CBP for DMEPOS was passed into law in 2003 in the Medicare Modernization Act that produced the Part D prescription drug program. But it was delayed until 2011 by a withering lobbying assault by firms fearing the idea of competition. Never mind that competition is the best thing for patients.

Second, it was a reform in an era of conscious efforts to improve the quality and value of the Medicare program. It was in the same era that CMS finally stopped reimbursing (at a full rate) for "never" events, such as leaving the scalpel inside the patient after surgery. It is hard to believe there was so little emphasis on quality until that time, but "pay for performance" became a health policy buzzword. (The rest of the economy presumably thought "what else would you do?") Finally, the Part D program and DME purchase program put competitive bidding at the heart of reforms. Little of that energy remains.

Third, it worked. As Hobbs notes, "Medicare experienced both a decline in price as well as quantity for CBP products included in earlier CBP rounds. Yet the reduction in supply did not meaningfully reduce access for clinically appropriate patients. The National Bureau of Economic Research concluded after reviewing the price reductions for DME products in the CBP that 'market forces could be a powerful instrument to reduce the high cost of health care in the U.S. generally and in the Medicare program specifically.'" Well, duh.

Finally, all this notwithstanding, CMS has barely tiptoed into the use of competitive bidding. Indeed, during the COVID-19 pandemic, CMS evidently concluded that the coronavirus crippled the ability to formulate a competitive bid and restricted its use to off-the-shelf back braces and off-the-shelf knee braces. Seriously?

With the public health emergency in the rearview mirror, CMS needs to have an aggressive restart of its

competitive bidding process.