

THE NEW BUREAUCRATIC ORDER:

Resource Requirements

**Needed to Carry Out the Mandates in Section 511 of the Proposed
Medicare Modernization and Prescription Drug Act of 2002**

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I. Executive Summary

This analysis estimates that the Centers for Medicare and Medicaid's (CMS's) bureaucracy would need to increase by over 1,620 personnel, or over one-third of its current size, in order to carry out the congressional mandates contained in the draft legislation creating a new Medicare competitive bidding program for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS). Much of the new staffing requirements is the result of the proposed mandate to establish multiple Competitive Acquisition Areas (CAAs) throughout the country, each of which would require its own bureaucracy in addition to increases in the bureaucracy in CMS regional offices and in CMS's headquarters. A competitive bidding process aimed at delivering services and items to Medicare patients would be extremely labor-intensive. Based on both demonstration projects being conducted by CMS and the nature of the DMEPOS industry, the most likely scenario is that a CAA would be established in each metropolitan area, or over 260 across the country.

II. Overview

Staffing requirement estimates are developed below for each of the Offices identified in the MBS *New Bureaucratic Order* chart. Staffing requirements are estimated in terms of FTEs (Full Time Equivalents). Estimates are developed both for the total number of FTEs needed to conduct the proposed competitive bidding program as well as the number of new FTEs (1,626) which would be needed to carry out the congressional mandates in Section 511.

The resource demands on the private sector from the proposed new system, such as completing RFPs, is not considered in this analysis. All data sources and assumptions are clearly stated. The staffing estimates developed in this paper are static, i.e., the estimates are for a given point in time and do not account for any growth in the program. All Medicare-financed staff required for the program are assumed to be CMS employees even though some work may be done by government-paid contractors. Although most of the mandates are imposed on CMS, a few mandates apply to GAO.

III. Methodology and Estimated Staffing Requirements

A. *Number of Competitive Acquisition Areas*

The draft legislation would require Medicare to set up an unspecified number of Competitive Acquisition Areas (CAA). The number of Competitive Acquisition Areas established will play a major role in determining overall staffing levels since many of the key tasks flowing from the congressional mandates would need to be duplicated in each CAA. Furthermore, since the competitive situation for various product categories of durable medical equipment would be different in each CAA, it would not be practical for the CAAs to operate off a single national bidding template. Specifically, each CAA bureaucracy would need to assess the competitive situation in its area and determine which DMEPOS items would be subject to the competitive bidding system and which would remain under the current system. Furthermore, CAAs would not operate in rural areas. Thus, the proposed competitive bidding system would be in addition to, rather than replacing, the current system of ensuring Medicare recipients receive appropriate durable medical equipment. Some Medicare recipients who utilize a single supplier for all of their DMEPOS needs may be forced to go to multiple suppliers if some of the equipment they need is available through the competitive bidding system while other items, less competitively supplied in their area, remain under the current system.

Based on both the competitive bidding demonstration projects currently underway, as well as the nature of the durable medical equipment supply industry, it appears that separate CAAs would be established in each Metropolitan Statistical Area (MSA). For example, a competitive bidding demonstration project is nearing completion in Polk County, Florida, which is centered on the Lakeland-Winter Haven MSA. Another demonstration project is underway in San Antonio, Texas, also an MSA. Based on the most recent OMB list of Metropolitan Areas¹ in the United States and Puerto Rico, this analysis assumes that 261 MSA-based Competitive Acquisition Areas would be established under Section 511 of the proposed legislation.

1. **Office of Bid Management**

The Office of Bid Management has three main functions, as described in the accompanying report and chart: contracts; education and outreach; and technology. Contract work performed in this office includes developing RFPs,

¹ OMB Bulletin 99-04.

managing RFP responses, meeting with bidders, and developing contract terms. This analysis assumes that all contract work within Bid Management would be performed by one FTE per Competitive Acquisition Area plus one FTE at each of the ten CMS Regional/Field offices to coordinate the activities in the CAAs. In addition to the contract FTEs, we also assume that one FTE in the national office would handle all education and outreach activities for Bid Management and that a second FTE in the national office would manage the technology issues for Bid Management. Thus, it is estimated that 273 FTEs (261 for each MSA-based CAA, plus 10 for the CMS regions plus two on the national staff) would be required by Office of Bid Management.

2. Office of Bid Review

The Office of Bid Review includes contract specialists whose duties would include developing RFP criteria, analyzing RFP responses against the criteria as well as assuring cost savings and other specified mandates in Section 511, as discussed in the accompanying report. This analysis assumes that all contract work within Bid Review would be performed by one FTE per Competitive Acquisition Area plus 10 FTEs in the CMS regional offices acting as contract supervisors (271 FTEs total). We also assume that, in addition to the contracting FTEs described above, Bid Review would require two FTEs in the national office, one to serve as a quality control specialist and another working as an economic analyst to assess program impact on beneficiaries. Thus, the Office of Bid Review would likely be staffed by 273 FTEs.

3. Office of Contract & Provider Data Management

This office includes two basic functions, data management for current and new fee schedule data, and contract scheduling. This analysis assumes that both functions would be performed by one FTE per CAA, or 261 total FTEs. To be conservative, no additional FTEs for Regional or national coordination are considered.

4. Office of Program & Market Oversight

Program and Market Oversight would be responsible for a wide range of information collection, management and analysis issues. Data management issues would encompass information for products, product suppliers, product dynamics, beneficiary behavior and other variables. This analysis assumes one FTE would manage the above data management work per CAA.

In addition to data management functions described above, Program and Market Oversight would be also responsible for developing important models and performing a wide range of analyses. Tasks include developing demand models, developing supply models, performing cost-benefit analyses, analyzing administrative expenses and other analytic work. To be conservative, this analysis assumes one FTE would handle all such analytic tasks per CMS Regional/Field Office.

The Office of Program and Market Oversight would also be responsible for monitoring and reporting on customer service. This analysis assumes one FTE would manage all customer service monitoring and reporting requirements including coordination with the Ombudsmen around the country (see below). A program planning function is also included under this Office for the purpose of developing CMS's understanding of factors ranging from competitive areas to beneficiary demographics to product categories. One FTE will be assumed to be capable of managing these planning tasks.

Thus, it is estimated that Program and Market Oversight would require 273 FTEs.

5. Office of Public Affairs

This analysis assumes, based on the demonstration projects, that each Competitive Acquisition Area would have its own Ombudsman to address complaints and other concerns from beneficiaries, bidding entities and the medical community. To be conservative, the analysis assumes that all other Public Affairs work related to the competitive bidding program, such as developing press releases on program developments and managing the program's website, could be handled by existing staff.

B. Relation Between Claims Processing and Staffing Requirements

This analysis assumes that no additional CMS personnel or contractors are necessary to handle claims processing and the processing of claims appeals. The analyses below estimating FTEs that would be required for claims and claims appeals processing are developed only for illustrative purposes to provide a complete overview of the resources required to carry out all of the mandates in Section 511.

1. Office of Claims Processing

Total Number of Potential Claims. The estimated number of claims that would be processed under the proposed new system is based on a CMS DME 5% sample file for 2000. This sample included just over 2 million claims. The average amount paid by CMS per claim was \$165 and covered 46 services. Based on the CMS 5% sample file, it is estimated that there were 41.3 million DME claims in 2000 (2.07 million * 20). However, this estimate of national claims needs to be adjusted for claims that would remain under the current system rather than be shifted to the proposed competitive bidding system.

Adjustment for Rural Population. According to the US Census Bureau, about 218 million of the 270 million people in the US live in MSAs². Thus, about 19% of the population lives in rural areas that likely would not be subject to the competitive bidding program. Therefore, it is estimated that there would have been about 33.4 million claims in 2000 potentially subject to a competitive bidding system. $41.3 \text{ million claims} * 0.19 = 7.9 \text{ million rural claims}$. $41.3 - 7.9 = 33.4 \text{ million claims}$. The estimate is conservative since persons in need of durable medical equipment may be more likely than the general public to live near population centers rather than in rural areas.

Adjustment for Non-Competitive Items. Not every DMEPOS item within a given CAA will be subject to competitive bidding since there may not be a sufficient number of potential suppliers for certain items. It is difficult to estimate the overall share of durable medical equipment in CAAs which would not be subject to competitive bidding since the decisions on which items to be covered by the bidding program will be determined at the CAA level following an extensive collection and analysis of data. As a conservative ballpark estimate, this analysis assumes that 85% of all DMEPOS within CAAs would be subject to competitive bidding. Thus, based on 2000 data, it is estimated that there would be about 28 million claims processed annually under the competitive bidding system.

Potential Increase in Number of Claims from Competitive Bidding. It is very possible that the total number of claims would increase under the competitive bidding system since some recipients would need to obtain equipment from both competitive and non-competitive suppliers. For example, a person who

² US Census Bureau, Census 2000 Supplementary Survey Summary Tables, Table P042.

needed a customized wheelchair and wheelchair cushions would currently likely obtain both of these items from the same supplier. However, under the proposed system, the customized wheelchair might still be obtained from the same supplier since it is not likely to be a competitively bid item, while the cushions might have to come from a competitive bid supplier.

There is no basis at the present time for estimating the increase in total DME claims that could result from initiation of the competitive bidding system. Therefore, to be conservative, this analysis will not account for the potential increase in the total number of DME claims that could result from the proposed competitive bidding system.

Staffing Requirements to Process Claims. We estimate that it would take 186 FTEs to process all DMEPOS claims. As noted above, we assume that these would be current, not new, staff. CMS estimated that it would cost \$0.67 to process each Part B Medicare claim in FY 2002.³ For the purposes of this analysis, it will be assumed that all claims would be processed by CMS staff. Although, based on current CMS practice, the claims would likely be processed by contractors, the contractors would require staff and management to handle the workload. Furthermore, since federal compensation is similar to private sector compensation, the federal and private staffing rates would likely be similar. Since this analysis is not estimating the private sector staffing impact, all staff requirements are attributed to CMS.

The claims processing costs for the DME items would be about \$19 million. $28 \text{ million} * \$0.67 = \$19 \text{ million (after rounding)}$.

CMS estimated that administrative costs related to personnel would be \$471.5 million for 4,610 FTEs in FY 2002.⁴ This estimate includes not only compensation and benefits but also office space, administrative services, supplies and some IT equipment. Thus, the loaded cost per employee is about \$102,000, not counting training, travel and other variable expenses. Thus, we estimate that it would take 186 FTEs to process the DMEPOS claims. $\$19 \text{ million} / \$102,000 = 186 \text{ (after rounding)}$. Therefore, this report estimates that Office of Claims Processing would require 186 FTEs for competitively-bid

³ HCFA, "Fiscal Year 2002, Justification of Estimates for Appropriations Committees", p. II-18.

⁴ Ibid., pp. II-29 - II-30.

DMEPOS claims. This report assumes that all claims processing would be handled by existing staff and contractors.

2. Appellate Division

The Appellate Division would handle two different types of appeals:

- Appeals of contract awards to suppliers; and
- Appeals of payment determinations for claims.

Contract Appeals. Award, and denial, of supply contracts can be expected to be a contentious issue due to their economic significance. Losing bidders would likely lose a significant share of their revenues, particularly since many of the bidding entities are small businesses. Thus, many of the losing bidders can be expected to appeal the contract decision within CMS and, possibly, in court. Since the Justice Department would have primary responsibility for litigation, no estimate is made in this analysis for the associated resource requirements. It should be noted that the appeals process is “seasonal” in that most appeals could be expected to follow the three-year bidding cycle. However, because the appeals process is likely to be complex and lengthy and because there would be a need for CMS to incorporate the lessons learned from the appeals into subsequent RFPs, we assume that the contract appeals staff would be needed on a permanent basis. Furthermore, the staff needed to handle contract appeals would be the type of specialized personnel that are hired on a permanent rather than ad hoc basis.

In addition to adjudicating appeals, this division would be responsible for setting the appeals rules and processes in light of whatever FAR waivers are granted. To be conservative, this analysis estimates that contract appeals could be handled by only one FTE per CAA plus one FTE in each region. Thus, it is estimated that contract appeals would be handled by 271 new FTEs.

Claims Appeals. In addition to addressing pre-litigation contract appeals, the Appellate Division would also be responsible for resolving appeals relating to CMS decisions on claims. This report assumes that personnel handling claims appeals, as distinct from contract appeals, will be existing staff and contractors. Estimates of FTE requirements for appeals claims process are for illustrative purposes in order to describe the total scope of the competitive bidding program. Estimates of the number of claims appeals will be based on CMS’s estimates of current contractor Part B appeals workload as a proxy for

estimating the claims appeals which would occur under the new program. Thus, to be conservative, no allowance is being made for an increase in claims rates due to the learning curve inherent in any new program. CMS estimated that for FY 2002, contractors would process almost 7 million Part B appeals⁵. In that contractors were expected to process 800 million Part B claims in FY 2002⁶, the appeals rate is 0.9%. Based on the estimated 28 million claims under the competitive bidding program, about 256,000 appeals could be expected annually.

Cost per Appeal. HCFA estimated that each Part B appeal would cost \$12.20 in FY 2002⁷. Thus, the cost of processing DMEPOS appeals, based on FY 2002 data, is estimated at about \$3.1 million. $256,000 * \$12.20 = \3.1 million (after rounding). Using the same costs per employee as above, it would take 30 FTEs to process appeals.

Resource Requirements. It is estimated that 301 FTEs (271 of them new) would be needed to staff the Appellate Division.

C. Staffing Requirements for Other Offices

1. Office of Demonstration Projects

The proposed legislation calls on CMS to develop and conduct a competitive bidding demonstration project for clinical laboratory services. The Office of Demonstration Projects would need to perform a wide range of data acquisition and analysis and contracting tasks in order to launch the mandated demonstration project. For example, criteria for selecting a demonstration location as well as for determining which services should to be covered by the project would need to be established. Once the criteria are set, data would need to be collected and analyzed so that the actual location and as well as the services included in the project could be determined. Following these preliminary tasks, extensive discussions would be needed with suppliers, the medical community and representative of beneficiaries. These tasks would

⁵ Ibid., p. II-19.

⁶ Ibid., II-18.

⁷ Ibid, II-19.

need to be undertaken before actually initiating the competitive bidding demonstration project.

The evaluation report⁸ for the DMEPOS competitive bidding demonstration project prepared jointly by the University of Wisconsin - Madison's Center for Health Systems Research and Analysis, The Research Triangle Institute's Center for Economics Research, and Northwestern University's Institute for Health Services Research and Policy Studies provides an idea of the magnitude of work necessary to undertake a competitive bidding demonstration project. This analysis, conservatively, assumes that the demonstration project work would be handled by 10 FTEs.

2. Office of External Contracting

This Office would be responsible for developing contracting procedure and entering into and managing contracts for issues such as beneficiary education, outreach and complaint services. This analysis assumes all such external contracting functions would be fulfilled by three FTEs.

3. Office of Congressional Affairs

This report conservatively assumes that congressional-related duties, such as preparing reports to Congress and responding to congressional inquiries, would be handled by existing staff.

4. Advisory Panel

Section 511 calls for an Advisory Panel to be convened to develop and provide quality standards for bidders. Since members of such external advisory panels are usually uncompensated, the only federal staffing requirements under the Federal Advisory Committee Act would be for one designated federal official. To be conservative, we have assumed that the work of this designated official could be performed by existing CMS staff.

⁸ "Evaluation of Medicare's Competitive Bidding Demonstration for DMEPOS; First Year Annual Evaluation Report", HCFA Contract No. 500-95-0061/T.O. #3.

5. General Accounting Office

Proposed Section 511 places mandates on GAO as well as on CMS. GAO has two specific tasks, to analyze clinical diagnostic services reimbursement differences for public and private payers and to draft and submit reports to Congress. This analysis assumes that each task would take half an FTE or one FTE for all of GAO.

IV. Summary of the Analysis

New Bureaucratic Resource Requirements Required for Section 511	
	<u>FTEs</u>
Office of Bid Management	273
Office of Bid Review	273
Office of Contract & Provider Data Management	261
Office of Program & Market Oversight	273
Office of Public Affairs	261
Office of Claims Processing	0
Appellate Division	271
Office of Demonstration Projects	10
Office of External Contracting	3
Office of Congressional Affairs	0
Advisory Panel	0
General Accounting Office	1
TOTAL	1,626

V. Conclusions

- ▶ Proposed Section 511 would require an increase in the size of CMS's bureaucracy of 1,626 FTEs, based on MSA-wide Competitive Acquisition Areas.
- ▶ Based on CMS's current size of about 4,630 FTEs, CMS would need to expand by 35% to carry out Section 511 mandates.
- ▶ Most of the Section 511 FTEs would result from the duplication of functions inherent in having a multitude of Competitive Acquisition Areas. Duplication of functions cannot be avoided, since any competitive bidding process aimed at delivering services and items to Medicare patients would be extremely labor-intensive.