September 11, 2012

Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515

Testimony for the Record
by Esta E. Willman, President
Medi-Source Equipment & Supply, Inc.

In 1995, Medi-Source Equipment & Supply, Inc. (Medi-Source) purchased the assets and took over the operations of a small durable medical equipment business that had been providing service to residents of the Morongo Basin, a rural area in San Bernardino County, California, since 1987. Now, in 2012, twenty-five years later, this operation will be permanently closing its doors, leaving the rural communities it has served without a single, locally available supplier of oxygen and durable medical equipment and supplies.

Chairman and Members of the Committee,

As you consider the impact on small businesses of the Centers for Medicare and Medicaid Services (CMS) program for Competitive Acquisition of Durable Medical Equipment and Other Items (National Competitive Bidding Program or CBP), please accept these comments as my testimony for the record regarding this subject.

My husband and I are the shareholders of the small, closely- held corporation, Medi-Source Equipment & Supply, Inc. Medi-Source sells, rents and services most kinds of durable medical equipment (DME),

57725 Twentynine Palms Highway, Suite 402, Yucca Valley, CA 92284
P.O. Box 712, Yucca Valley, CA 92286-0712
760/365-6389

oxygen and other respiratory equipment, standard and complex power wheelchairs and supplies. Our family-owned business is considered a small supplier as defined by the CMS CBP and a small business as defined by the Small Business Administration. We serve patients in areas designated as rural by the Office of Rural Health Policy based upon 2000 Census tracts, and yet, approximately fifty percent of our service area and patient population have been included in the Riverside/San Bernardino Competitive Bid Area (CBA) in Round 1 and Round 1 Rebid of the CBP. Medi-Source is licensed, bonded and accredited and participated in the Round 1 and Round 1 Rebid of the CBP.

When our company bid in Round 1 of the CBP, the ill-fated Round that was halted by Congress only two weeks after implementation, we were not awarded contracts in any of the five product categories in which we bid. At that time, we knew that to lose the capability to provide items and services to Medicare beneficiaries through competitive bidding would likely result in an unsustainable financial situation for our business.

Motivated by concerns about the future viability of our business under the CPB, as well as what I believed to be fundamental flaws with program, flaws recognized by Congress, I applied to be and was nominated by my congressional member, Congressman Jerry Lewis, to serve on CMS' Program Advisory and Oversight Committee (PAOC) for the Competitive Bidding Program. I was ultimately selected and served on the PAOC from January 2009 until the PAOC was terminated in accordance with the law on December 31, 2011.

During my term on the PAOC, I voiced concerns about fundamental program design flaws that I felt would likely result in a compromised outcome for all constituents – CMS, suppliers and, most importantly, beneficiaries. I raised concerns related to:

- Supplier capacity determination and allocation as related to fulfilling market demand and setting the Single Price Amounts;
- The awarding of contracts to and resulting reliance for demand fulfillment by inexperienced and out-of-area suppliers with no historical product provision within the product category and/or Competitive Bid Area (CBA);
- The impact on rural areas within the CBA that would result from a reduction of service availability in these areas;
- CBA geographic size and characteristics in that some CBA's were geographically very large with significant distribution barriers (such as mountainous terrain, multi-State zones within the CBA boundaries);

- The likelihood of "suicide bidding" by suppliers in an ill-fated attempt to obtain a contract at all costs to try to survive;
- The likelihood of "low ball" bidding by suppliers made possible by the program feature of non-binding bids;
- Concern with the median bid price-setting methodology that would likely result in unsustainable pricing;
- The lack of transparency in the evaluation of bids, calculation of capacity, and single payment amounts, selection of contract winners, and in program administration generally.

Despite these and other concerns being voiced by me and other PAOC members, as well as organizations and individuals outside the PAOC, such as health care industry associations, patient advocacy groups, economics and health systems experts, CMS failed to make any meaningful changes to the program before implementing the Round 1 Rebid.

Medi-Source participated in the Round 1 Rebid. We bid in five categories and were awarded a contract in two: Oxygen Supplies and Equipment and Standard Power Wheelchairs, Scooters and Related Accessories. With few exceptions, the Single Price Amounts set by CMS through the Rebid were lower than what Medi-Source had bid. However, because Medicare Oxygen represented a majority of our business revenue and product mix, we felt compelled to accept the contract and attempt to "survive" under the impact of its terms and pricing.

Beginning in 2010 with the mandated 9.5% reimbursement cut to delay the CBP and continuing after CBP implementation on January 1, 2011, Medi-Source made several proactive changes to business and operations. These changes were made in attempt to maintain profitability in the face of the over 40% cumulative reduction in Medicare reimbursement for oxygen, our greatest revenue source, since 2009. These changes included:

- Improvements and upgrades were made to technology to increase efficiencies;
- Expenses, such as employee benefits and wages were reduced, later employees were laid off;
- "Economy" level product models were introduced into our product offerings to reduce cost of goods sold;
- New product lines were added to diversify revenue streams;
- Distribution channels were adjusted for increased efficiency;

- Subcontracting relationships, both as a contractor and subcontractor, were established to both increase market share and decrease the impact of not being awarded contracts in three product categories in which we bid.
- With the limited resources of a small business, we increased marketing efforts in an attempt to gain increased market share related to the CBP.

Despite all of our efforts, 2011 ended with what would ultimately be devastating losses for our company.

2012 has seen increased losses by Medi-Source related not only to CBP, but also to referral pattern disruptions caused by increased CMS directed audits and reviews on referral providers for both DME and non-DME services. The cumulative losses resulting from a poor economy, the effects of the Competitive Bidding Program and the disruption in referral patterns all have served to undermine the future of Medi-Source.

Despite twenty-five years of service to our rural communities, nearly eighteen of which has been under the ownership and direction of my husband and I, Medi-Source is closing. We have begun the process of winding down operations. We have laid-off all but three employees.

The reaction of our referral sources and our patients has been overwhelming. Since January of 2011, they have been coping with the reduction in supplier availability for the products included in the CPB. Now, with our imminent closure, they are rightly concerned for the wellbeing of those with medical necessity for the items we have historically provided. There is no other supplier with a physical presence in the communities we have served. Elderly and ill patients will have to look to mail-order or distant suppliers to service their oxygen and medical equipment and supply needs.

Not only does the devastating impact of the CBP affect our business, our shareholders, former employees and those directly related patients and products but now, it will also affect the availability of all products and services the business has offered for twenty-five years to the population of our rural communities.

Respectfully,

Esta E. Willman