



## Client Alert

Contact Attorneys Regarding  
This Matter:

Jennifer D. Bugar  
404.873.8194 - direct  
404.873.8195 - fax  
[jennifer.bugar@agg.com](mailto:jennifer.bugar@agg.com)

### **Medicare DMEPOS Competitive Bidding Program Delayed**

The Medicare Improvements for Patients and Providers Act of 2008 (HR 6331), which survived a Presidential veto last week, invalidated all contracts awarded during Round One of the competitive bidding process and requires CMS to re-bid the contracts in 2009 under a process that will provide greater protections for suppliers. Round Two of the program has been delayed until 2011.

In the ten areas where Round One competitive bidding was initiated, Medicare will now pay for DMEPOS items provided by any supplier, retroactive to June 30, 2008, using the standard DMEPOS fee schedule amounts. CMS has promised, "to the extent possible," to automatically reprocess claims that were paid at a lower rate under the competitive bidding program and those claims denied solely because of DMEPOS competitive bidding program rules, but cautions suppliers that they may need to alert the contractor that claims should be adjusted. Suppliers are urged to review carefully their claims traffic in the upcoming weeks to make sure proper adjustments are made.

The Round Two supplier accreditation deadline has also been impacted. Specifically, prior to enactment of this new law, suppliers must have been accredited or have applied for accreditation by July 21, 2008 to be eligible to submit a bid for Round Two of competitive bidding. This deadline has been cancelled. However, the deadline of September 30, 2009 by which all DMEPOS suppliers must be accredited in order to participate in Medicare in any fashion is still in effect.

Arnall Golden Gregory LLP  
Attorneys at Law  
171 17th Street NW  
Suite 2100  
Atlanta, GA 30363-1031  
404.873.8500  
[www.agg.com](http://www.agg.com)

*Arnall Golden Gregory LLP serves the business needs of growing public and private companies, helping clients turn legal challenges into business opportunities. We don't just tell you if something is possible, we show you how to make it happen. Please visit our website for more information, [www.agg.com](http://www.agg.com).*

*This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.*