

(2) Before CMS awards additional contracts under paragraph (i)(1) of this section, a supplier must submit updated information demonstrating that the supplier meets the requirements under paragraphs (b) through (d) of this section.

[72 FR 18085, Apr. 10, 2007, as amended at 74 FR 2880, Jan. 16, 2009; 76 FR 70315, Nov. 10, 2011; 79 FR 66264, Nov. 6, 2014; 81 FR 77967, Nov. 4, 2016; 83 FR 21925, May 11, 2018; 83 FR 57072, Nov. 14, 2018]

§ 414.416 Determination of competitive bidding payment amounts.

(a) *General rule.* CMS establishes a single payment amount for each item furnished under a competitive bidding program.

(b) *Methodology for setting payment amount.* (1) The single payment amount for a lead item furnished under a competitive bidding program is equal to the maximum bid submitted for that item by suppliers whose composite bids for the product category that includes the item are equal to or below the pivotal bid for that product category.

(2) The single payment amount for a lead item must be less than or equal to the amount that would otherwise be paid for the same item under subpart C or subpart D of this part.

(3) The single payment amount for an item in a product category furnished under a competitive bidding program that is not a lead item for that product category is equal to the single payment amount for the lead item in the same product category multiplied by the ratio of the average of the 2015 fee schedule amounts for all areas (that is, all states, the District of Columbia, Puerto Rico, the United States Virgin Islands), for the item to the average of the 2015 fee schedule amounts for all areas for the lead item.

[72 FR 18085, Apr. 10, 2007, as amended at 81 FR 77967, Nov. 4, 2016; 83 FR 57072, Nov. 14, 2018]

§ 414.418 Opportunity for networks.

(a) A network may be comprised of at least 2 but not more than 20 small suppliers.

(b) The following rules apply to networks that seek contracts under this subpart:

(1) Each network must form a single legal entity that acts as the bidder and submits the bid. Any agreement entered into for purposes of forming a network must be submitted to CMS. The network must identify itself as a network and identify all of its members.

(2) Each member of the network must satisfy the requirements in § 414.414(b) through (d).

(3) A small supplier may join one or more networks but cannot submit an individual bid to furnish the same product category in the same CBA as any network in which it is a member. A small supplier may not be a member of more than one network if those networks submit bids to furnish the same product category in the same CBA.

(4) The network cannot be anti-competitive, and this section does not supersede any Federal law or regulation that regulates anticompetitive behavior.

(5) A bid submitted by a network must include a statement from each network member certifying that the network member joined the network because it is unable independently to furnish all of the items in the product category for which the network is submitting a bid to beneficiaries throughout the entire geographic area of the CBA.

(6) At the time that a network submits a bid, the network's total market share for each product category that is the subject of the network's bid cannot exceed 20 percent of the Medicare demand for that product category in the CBA.

(c) If the network is awarded a contract, each supplier must submit its own claims and will receive payment directly from Medicare for the items that it furnishes under the competitive bidding program.

[72 FR 18085, Apr. 10, 2007]

§ 414.420 Physician or treating practitioner authorization and consideration of clinical efficiency and value of items.

(a) *Prescription for a particular brand item or mode of delivery.* (1) A physician or treating practitioner may prescribe, in writing, a particular brand of an item for which payment is made under