Authority to Deny Plan Bids

**Summary:** Authorizes the HHS Secretary to deny bids submitted by Medicare Advantage and prescription plans, beginning in 2011, that propose to significantly increase beneficiary cost sharing or decrease benefits offered under the plan.

**Status Update:** On April 5, 2011, the Centers for Medicare and Medicaid Services (CMS) issued final 2012 policies for Medicare Advantage and Medicare Prescription Drug Plans, with publication in the Federal Register on April 15, 2011.

**Next steps:**
- January 1, 2011 – Provision goes into effect
- April 5, 2011 – CMS issued final rule regarding Medicare Advantage and Medicare Prescription Drug Plans, including information regarding the authority to deny plan bids.
- April 15, 2011 – CMS published final rule in the Federal Register.

**Additional information:**
- CMS April 5 fact sheet – [http://www.cms.gov/apps/media/press/factsheet.asp?Counter=3921&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=false&cboOrder=date](http://www.cms.gov/apps/media/press/factsheet.asp?Counter=3921&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=6&intPage=&showAll=&pYear=&year=&desc=false&cboOrder=date)
- CRS report on Medicare changes, including an explanation of the legislative history and CBO analysis of the authority to deny plan bids -- [https://www.aamc.org/download/161170/data/crs_time_line_nov_three.pdf](https://www.aamc.org/download/161170/data/crs_time_line_nov_three.pdf)
- Center for Medicare Advocacy summary of Medicare Advantage changes -- [http://www.medicareadvocacy.org/InfoByTopic/Reform/10_04.08.MAandPDChanges.htm](http://www.medicareadvocacy.org/InfoByTopic/Reform/10_04.08.MAandPDChanges.htm)
Long summary:
Sec. 3209. Authority to deny plan bids.
Provides that nothing relating to the review of Medicare Advantage (MA) plan bids should be construed as requiring the Secretary to accept any or every bid by an MA organization. The Secretary may deny bids that propose significant increases in cost-sharing or decreases in benefits offered under the plan, applied to bids for contract years beginning on or after January 1, 2011. The Secretary may also reject bids submitted by a Prescription Drug Plan sponsor in the same manner as bids may be rejected under Medicare Advantage for contract years beginning on or after January 1, 2011.

Legislative text:
SEC. 3209. AUTHORITY TO DENY PLAN BIDS.
(a) IN GENERAL.—Section 1854(a)(5) of the Social Security Act (42 U.S.C. 1395w–24(a)(5)) is amended by adding at the end the following new subparagraph:
“(C) REJECTION OF BIDS.—
“(i) IN GENERAL.—Nothing in this section shall be construed as requiring the Secretary to accept any or every bid submitted by an MA organization under this subsection.
“(ii) AUTHORITY TO DENY BIDS THAT PROPOSE SIGNIFICANT INCREASES IN COST SHARING OR DECREASES IN BENEFITS.—The Secretary may deny a bid submitted by an MA organization for an MA plan if it proposes significant increases in cost sharing or decreases in benefits offered under the plan.”.
(b) APPLICATION UNDER PART D.—Section 1860D–11(d) of such Act (42 U.S.C. 1395w–111(d)) is amended by adding at the end the following new paragraph:
“(3) REJECTION OF BIDS.—Paragraph (5)(C) of section 1854(a) shall apply with respect to bids submitted by a PDP sponsor under subsection (b) in the same manner as such paragraph applies to bids submitted by an MA organization under such section 1854(a).”.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bids submitted for contract years beginning on or after January 1, 2011.