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**VIA ELECTRONIC SUBMISSION**

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**RE: Thank You and Follow Up from Meeting on Complex Rehabilitation Technology**

The Independence Through Enhancement of Medicare and Medicaid Coalition (ITEM) appreciates our recent (March 3) meeting to discuss complex rehabilitation technology (CRT) and the U.S. Government Accountability Office (GAO) report due in June related to S. 2425. Ensuring continued access to the most appropriate CRT is a priority for ITEM and we wish to continue dialoging with respect to CRT and accessories from the consumer and clinician perspectives.

ITEM Coalition is a national consumer and clinician-led coalition advocating for access to and coverage of assistive devices and technologies for persons with injuries, illnesses, disabilities and chronic conditions of all ages. Our members represent individuals with a wide range of disabling conditions, as well as the providers who serve them, including such conditions as multiple sclerosis, cerebral palsy, spinal cord injury, brain injury, stroke, limb loss, ALS, and other conditions. ITEM is committed to ensuring that Medicare beneficiaries and all individuals have access to and coverage of the full spectrum of services and devices that are medically necessary and most appropriate for treatment, rehabilitation, and meeting the functional needs of daily living and independence, which includes CRT and CRT accessories.

As a follow up to our recent meeting, we wish to further express our thoughts by summarizing key points expressed at our meeting:

- The inappropriate and arguably illegal application of competitive bidding pricing to CRT accessories in both complex power and manual wheelchairs must be viewed in a broader context. The past decade has intensified comprehensive restrictions in access caused by fundamental changes to mobility device coding, coverage, and payments initially

prompted by fraud and abuse concerns. These types of changes have reached the point where they are seriously limiting access to the mobility device benefit, particularly for people with high level disabilities who require CRT.

- Congress recognized the difference between DME and CRT when it exempted complex rehabilitation wheelchairs from DME competitive bidding in the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA 2008, Section 154). CRT was exempted from this program to preserve access to these specialized technologies for a population that is vulnerable and at-risk. The legislative intent applies to both complex power and complex manual wheelchairs.
- CMS plans to subject accessories used with complex rehabilitative wheelchairs to competitive bidding pricing, instead of a fixed fee schedule – which is very likely to result in decreased consumer access of CRT accessories, contrary to Congressional intent.
- CRT entails a broader baseline of services than those that are currently referred to under the Medicare program as “durable medical equipment” or “DME.” CRT is prescribed and customized to meet the specific medical and functional needs of individuals with disabilities and medical conditions. However, because CRT is currently coupled with the more general DME benefit, these patients face a series of challenges trying to access the appropriate and necessary technologies and services. These challenges include:
  - Hindrance of the pairing of an individual’s needs to the appropriate products and technology due to coverage policies that are based on diagnosis instead of a person’s functional needs;
  - Severe limitations on devices to be used outside of the home and in the community, due to Medicare’s restrictive interpretation of the “in the home” requirement for DME;
  - Threats to access by the inclusion of CRT products in Medicare’s DME Competitive Bidding program, a program that could threaten patient access to specialized technology.
    - While Group 3 complex rehabilitation wheelchairs were exempted from competitive bidding, other items such as configurable manual wheelchairs, tilt-in-space wheelchairs and custom seating and positioning items are still at risk. Beneficiary access has been restricted to CRT accessories (such as seat/back cushions, recline/tilt systems, specialty controls, etc.), through a November 2014 CMS final rule 1614-F (Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics and Supplies).
- Lack of access to local CRT suppliers and long delays for repairs and maintenance for CRT due to insufficient reimbursement for these specialized devices and services; and,

## Follow Up from ITEM Coalition Steering Committee Meeting with GAO

- CMS' plan to apply competitive bid pricing to complex rehab wheelchair accessories is in violation of MIPPA 2008 which specifically exempted from the competitive bid program wheelchair accessories used with complex rehab power wheelchairs. It also is contrary to CMS policies created following the legislation related to payment for complex rehab manual wheelchair accessories. The intent and law was clear that these items should continue to be paid at the established fee schedule amounts, as they are today and have been for over six years during the operation of the competitive bid program.

We are concerned about the creation of any negative impact to Medicare beneficiary access to complex rehab wheelchairs and the important accessories used with these mobility devices. Complex rehab power and manual wheelchairs and the related accessories described above are used by people with high level disabilities such as ALS, cerebral palsy, multiple sclerosis, muscular dystrophy, spinal cord injury, and traumatic brain injury. This small population of Medicare beneficiaries with significant disabilities (i.e.: approximately 10 percent) depend on these individually configured products to meet their unique medical needs and maximize their function and independence.

It is also important to note that these negative impacts go beyond Medicare beneficiaries with disabilities. Medicaid programs and other insurers follow Medicare guidelines so these negative consequences will expand to all people with disabilities who rely on CRT.

We greatly appreciate your attention to our comments, both during our meeting and through this follow up letter, and look forward to reviewing your final report. We implore the GAO to seriously consider the access implications of applying complete bidding pricing to CRT accessories on Medicare-covered seniors and people with disabilities. If you have further questions, please contact Peter Thomas or Sara Rosta by emailing [Peter.Thomas@ppsv.com](mailto:Peter.Thomas@ppsv.com) or [Sara.Rosta@ppsv.com](mailto:Sara.Rosta@ppsv.com), or by calling 202-466-6550.

Sincerely,

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