



March 4, 2015

SUBMITTED ELECTRONICALLY

Andy Slavitt, Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Preserve Medicare Beneficiary Access to Complex Rehab Technology (CRT)

Dear Acting Administrator Slavitt,

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition write to you concerning a recent policy announcement that CMS made that may prevent Medicare beneficiaries with disabilities and chronic conditions from receiving medically necessary complex rehab technology (CRT) as prescribed by their physician. We urge you to rectify this situation at your earliest opportunity in order to preserve access to CRT for Medicare beneficiaries in need of these devices and technologies.

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, and other conditions.

As part of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA 2008, Section 154), Congress specifically excluded from the Medicare DME competitive bid program “certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs).” MIPPA, Section 154(a)(1)(B). These accessories include items that beneficiaries use with those wheelchairs such as seat/back cushions, recline/tilt systems, specialty controls, etc.).

Accordingly, CMS did not include those items in Round 1 or Round 2 of the bid program. In addition, consistent with the spirit of that law, CMS excluded complex rehab *manual* wheelchairs from Round 2 and implemented a similar policy for accessories used with these wheelchairs. As a result, complex rehab wheelchairs and related accessories (both power and manual) have continued to be exempt from competitive acquisition and have been covered using the existing Medicare DME fee schedule in both bid and non-bid areas.

In November 2014, CMS issued final rule CMS 1614-F (Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics and Supplies) finalizing certain next steps and changes to the Medicare DME competitive bid program. Specifically, the final rule details how CMS will use information obtained from the bid program to adjust the established fee schedule amounts for competitively bid items provided in non-bid areas.

The final rule did not clarify that CRT power wheelchairs would be protected as the statute establishes and as CMS implemented on their own accord for manual CRT. However, in a follow up to the rule, in December 2014, CMS posted online a “Frequently Asked Questions” document indicating that starting in 2016 CMS intends to use information obtained from the competitive bidding program to reduce the reimbursement amounts for complex rehab wheelchair accessories for both power and manual CRT wheelchairs.

We believe that CMS’ plan to apply competitively bid reimbursement amounts to complex rehab wheelchair accessories is in direct violation of MIPPA, Section 154, which specifically exempted from the competitive bid program wheelchair accessories used with complex rehab power wheelchairs. It also flies in the face of CMS precedent by exposing manual CRT wheelchair accessories to competitive bidding reimbursement levels. The letter and intent of the law was clear that these items should continue to be covered using the established fee schedule amounts, as they are today and have been for over six years during the operation of the DME competitive bidding program.

Our key concern is that these reimbursement levels will seriously compromise access to CRT wheelchair accessories that provide critical functional improvements to Medicare beneficiaries such as pressure relief, chin control, postural support, protection from skin breakdown, etc. Lack of access to these accessories could have very negative impacts on Medicare beneficiaries who require complex rehab wheelchairs to be as functional and independent as possible. 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 depends on these individually configured products to meet their unique needs.

We strongly urge CMS to rescind its December 2014 “Frequently Asked Questions” document and issue written clarification that accessories used with complex rehabilitative power and manual wheelchairs will continue to be covered using Medicare’s established fee schedule amounts and such amounts will not be adjusted based on competitive bidding information.

We greatly appreciate your attention to this important issue. Should you have further questions regarding the information contained in our letter, please contact any of the ITEM Coalition Steering Committee members listed below.

Sincerely,

ITEM Coalition Steering Committee Members

Mark Richert, American Foundation for the Blind (MRichert@afb.net)

Lisa Satterfield, American Speech-Language-Hearing Association (LSatterfield@asha.org)

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