



September 8, 2016

SUBMITTED ELECTRONICALLY

Re: Please Cosponsor the *Local Coverage and Determination Clarification Act (H.R. 5721) This Year*

Dear Representative,

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (ITEM) Coalition respectfully request that you cosponsor H.R. 5721, the *Local Coverage Determination Clarification Act*. This important legislation would help ensure basic procedural fairness in Local Coverage Determinations (LCDs), and thereby provide an important Medicare beneficiary protection that is often lacking in local coverage decisions.

The 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, paralysis, hearing and speech impairments, cerebral palsy, visual impairments, spinal cord injuries, brain injuries, stroke, spina bifida, myositis, limb loss, Osteogenesis Imperfecta (“OI”), and other life-altering conditions.

Given the ITEM Coalition’s membership and mission, legislation that seeks to improve access to care and Medicare beneficiary protections is a high priority. H.R. 5721 directly addresses long-standing problems to access to care and adds beneficiary coverage protections by fixing the opaque LCD process.

As you may know, Medicare coverage policy decisions are made nationally and locally. National coverage decisions (NCDs) are made by CMS to describe the circumstances under which Medicare will cover an item or service on a nationwide basis. LCDs are developed by Medicare Administrative Contractors (MACs) on whether, and under what circumstances, to cover a particular item or service on a contractor-wide basis. MACs may make coverage decisions where the Centers for Medicare and Medicaid Services (CMS) has not made a national coverage determination or where the rules are too vague regarding a specific procedure or device. LCD policy may not, however, conflict with an NCD. Moreover, contractors are allowed to adopt other MAC’s draft LCDs. This ability to copy decisions effectively transforms a local coverage determination into a national one without having followed the more rigorous national coverage determination requirements.

As a result of contractor reforms that have taken place over the past several years, local MACs are now responsible for much larger jurisdictions, and there are fewer opportunities for stakeholders to interact with the contractor medical directors who make local medical policies. As the current program stands, coverage decisions by one MAC could impact beneficiaries in multiple states, with little room for input or involvement from the many stakeholders affected by those decisions. Ultimately, although CMS' Program Integrity Manual instructs MACs on how to develop LCDs, the current process lacks transparency and sufficient stakeholder involvement to ensure decisions are in the best interests of patients.

In light of these challenges, it is imperative that improvements are made to the LCD process to enhance openness and transparency and enhance accountability. H.R. 5721 would address those challenges.

H.R. 5721 would require Medicare contractors to establish a timely and open process for developing LCDs that includes, open public meetings, meetings with stakeholders, an open comment period in the development of draft policies, and posting of responses to comments received, as well as a description of all evidence relied upon and considered when drafting a coverage determination. Furthermore, H.R. 5721 would require MACs seeking to adopt another MAC's LCD proposal to independently evaluate and consider the evidence needed to make a coverage determination. Finally, H.R. 5721 would provide physicians and suppliers with a meaningful reconsideration process, and a designated Medicare Reviews and Appeals Ombudsman to provide administrative and technical assistance in filing requests and appeals.

Medicare beneficiaries, providers, and suppliers deserve the right to participate in the coverage determination process. The current lack of transparency and stakeholder involvement means that millions of Medicare beneficiaries ultimately are left without a voice in the determination of what innovative health care services are offered in their region. H.R. 5721 improves the local coverage determination process, and will serve to ensure decisions about Medicare beneficiaries' care are made with greater transparency and accountability. For that reason, **we ask for your support of H.R. 5721, and urge you to cosponsor and pass this important legislation.**

We are happy to meet to discuss this issue further and are available for any questions that you might have. To contact the ITEM Coalition, please contact any of the Steering Committee Members listed below or contact the ITEM Coalition coordinators, Peter Thomas, at peter.thomas@ppsv.com or Leif Brierley at Leif.Brierley@ppsv.com, or by calling 202-466-6550.

Sincerely,

ITEM Coalition Steering Committee

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ITEM Coalition Signatories

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Advanced Medical Technology Association (AdvaMed)
American Association on Health and Disability
American Cochlear Implant Alliance
American Congress of Rehabilitation Medicine
American Foundation for the Blind
American Occupational Therapy Association
American Physical Therapy Association
American Therapeutic Recreation Association
Amputee Coalition
The Arc of the United States
Association for Education and Rehabilitation of the Blind and Visually Impaired
Association of University Centers on Disabilities
Caregiver Action Network
Center for Medicare Advocacy
Christopher and Dana Reeve Foundation
Clinician Task Force
Easterseals
Institute for Matching Person & Technology
Lakeshore Foundation
Memorial Rehabilitation Institute at Memorial Regional Hospital South
Myositis Association
National Association of State Head Injury Administrators
National Council on Independent Living
National Multiple Sclerosis Society
Paralyzed Veterans of America
Rehabilitation Engineering and Assistive Technology Society of America
Spina Bifida Association
The Simon Foundation for Continence
Unite 2 Fight Paralysis
United Spinal Association