



**VIA ELECTRONIC MAIL**

February 7, 2018

The Honorable Mitch McConnell (KY)  
U.S. Senate  
Majority Leader  
Washington, D.C. 20510

The Honorable Chuck Schumer (NY)  
U.S. Senate  
Minority Leader  
Washington, D.C. 20510

The Honorable Paul Ryan (WI-1)  
U.S. House of Representatives  
Speaker of the House  
Washington, D.C. 20515

The Honorable Nancy Pelosi (CA-12)  
U.S. House of Representatives  
Minority Leader  
Washington, D.C. 20515

The Honorable Orrin Hatch (UT)  
U.S. Senate  
Chair, Finance Committee  
Washington, D.C. 20510

The Honorable Ron Wyden (OR)  
U.S. Senate  
Ranking Member, Finance Committee  
Washington, D.C. 20510

The Honorable Kevin Brady (TX-8)  
U.S. House of Representatives  
Chair, Ways and Means Committee  
Washington, D.C. 20515

The Honorable Richard Neal (MA-1)  
U.S. House of Representatives  
Ranking Member, Ways and Means Committee  
Washington, D.C. 20515

The Honorable Greg Walden (OR-2)  
U.S. House of Representatives  
Chair, Energy & Commerce Committee  
Washington, D.C. 20515

The Honorable Frank Pallone (NJ-6)  
U.S. House of Representatives  
Ranking Member, Energy & Commerce Committee  
Washington, D.C. 20515

**Re: Support for Select Medicare Provisions in the Latest Continuing Resolution and Requests for Inclusion of Additional Key Provisions**

Dear Senators McConnell, Schumer, Hatch, and Wyden and Representatives Ryan, Pelosi, Brady, Neal, Walden, and Pallone:

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (ITEM) Coalition Steering Committee write to express our strong support for the inclusion of several important Medicare provisions in the Strengthening and Underpinning the Safety-net to Aid Individuals Needing Care Act of 2018 (the “SUSTAIN Care Act of 2018”) as part of the Fiscal 2018 Further Extension of Appropriations Continuing Resolution.

We are grateful that the bipartisan package of Medicare legislation includes the following sections, which address a number of ITEM Coalition priorities.

- **Section 2411: Making permanent the removal of the rental cap for durable medical equipment under Medicare with respect to speech generating devices.** ITEM Coalition has long supported this provision, which would enact the Steve Gleason Enduring Voices Act of 2017, which effectively removes the sunset date of Public Law 114-40. By revising the Steve Gleason Act of 2015 to permanently remove the sunset date, speech generating devices and related accessories will continue to be available for Medicare beneficiaries with ALS, MS, Parkinson’s disease, paralysis, cerebral palsy and other debilitating conditions.
- **Section 2402: Orthotists’ and prosthetists’ clinical notes as part of the patient’s medical record.** This provision would recognize the prosthetist’s or orthotist’s clinical notes as part of the patient’s medical record for purposes of determining medical necessity of O&P care, addressing a problem that has resulted in a raft of unnecessary Medicare denials of Medicare O&P claims. This provision would simply recognize that these clinical records are relevant and should be considered in the O&P coverage decision. This provision mirrors another similar provision from a bill the ITEM Coalition has long supported, the Medicare Orthotics and Prosthetics Improvement Act (S. 1191 and H.R. 2599), bipartisan legislation introduced by Senators Grassley and Warner and Reps. Glenn Thompson and Mike Thompson.
- **Section 2401: Home infusion therapy services temporary transitional payment.** This home infusion provision accelerates the coverage of a new Medicare benefit established under the 21st Century Cures Act. It allows home infusion therapy to be delivered in the home, which is often beneficial to those with significant medical issues and mobility impairments, as opposed to being provided in outpatient settings. The ITEM Coalition supports these provisions which would give beneficiaries more access to vital therapies delivered in their homes.
- **Section 2403: Independent accreditation for dialysis facilities and assurance of high quality surveys.** This provision would allow new ESRD clinics to be able to obtain private accreditation instead of waiting months in many states for “survey and certification,” which is currently required before ESRD clinics can begin serving Medicare beneficiaries. These provisions would accelerate access to quality ESRD care, particularly in rural areas. The ITEM Coalition supports these provisions, which would enhance access to care for ESRD Medicare beneficiaries.

We believe that these policies will significantly and positively impact Medicare beneficiaries, and are grateful for their inclusion in this bill. We believe there are additional Medicare priorities that we strongly urge you to include in this bill as well. Those additional Medicare priorities include:

- **Pass H.R. 3730**, bipartisan legislation from Representatives Lee Zeldin (R-NY) and John Larson (D-CT) to permanently exempt *manual* Complex Rehab Technology (CRT) wheelchair accessories and components for people with disabilities and chronic conditions from Medicare’s Competitive Bid Program (CBP). This important legislation will protect Medicare beneficiary access to manual complex rehab technology, as well as essential components known as wheelchair “accessories.” ITEM Coalition has long supported access to this critical mobility technology for Medicare beneficiaries.
- **Pass H.R. 4229, the “Protecting Home Oxygen & Medical Equipment Access Act” (Protecting HOME Access Act).** Representatives Cathy McMorris Rodgers (R-WA) and Dave Loebsack (D-IA) introduced this bipartisan legislation in 2017 to provide more time for Congress to evaluate the effects of competitive bidding (CB) pricing for rural and non-CB areas on patient access by extending the transition period from January 1, 2017 to December 31, 2018 with reimbursement rates equal to rates in effect on January 1, 2016. The bill would also seek to preserve access to home oxygen therapy in rural areas, which is critical to significant numbers of Medicare beneficiaries with disabilities and chronic conditions.
- **Pass S. 794, 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. ITEM Coalition has long supported the important Medicare beneficiary protections that are encapsulated in this bill.
- **Pass Two Additional Provisions of S. 1191 and H.R. 2599, the Medicare O&P Improvement Act.** In addition to the inclusion of Section 2402 cited above (the O&P clinical notes provision), we urge Congress to include two other provisions in this bill.
  - **Section 7 of the Medicare O&P Improvement Act:** This provision clarifies Congressional intent regarding the definition of “minimal self-adjustment,” which defines off-the-shelf orthotics for purposes of competitive bidding. This provision would help ensure that Medicare beneficiaries have access to the clinical services necessary to properly fit certain orthoses that have been inappropriately defined by CMS as off-the-shelf.
  - **Section 8 of the Medicare O&P Improvement Act:** This provision would direct CMS to finally implement long-overdue regulations for Section 427 of the Benefits Improvement and Protection Act of 2000, which links the right to bill the Medicare program for custom fabricated orthotics and prosthetics with the qualifications of the practitioner or supplier, with exceptions for certain health professionals.

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”), vision loss, and other life-altering conditions.

To contact the ITEM Coalition, please contact the ITEM Coalition coordinators, Peter Thomas, at [Peter.Thomas@powerslaw.com](mailto:Peter.Thomas@powerslaw.com) or Leif Brierley at [Leif.Brierley@powerslaw.com](mailto:Leif.Brierley@powerslaw.com), or call 202-466-6550.

Sincerely,

**ITEM Coalition Steering Committee Members**

American Foundation for the Blind  
Amputee Coalition  
Christopher and Dana Reeve Foundation  
National Multiple Sclerosis Society  
Paralyzed Veterans of America  
United Spinal Association