

Congress of the United States
Washington, DC 20515

July 16, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Becerra:

We write to request that you encourage the Centers for Medicare and Medicaid Services (CMS) to move forward with the pending Request for Reconsideration of the National Coverage Determination (NCD) for Mobility Assistive Equipment. Advancing this request in a timely fashion will help ensure that Medicare beneficiaries with significant mobility disabilities can access power seat elevation and power standing systems in their Complex Rehabilitation Technology (CRT) wheelchairs.

These systems improve the health and independent function of mobility-impaired individuals and allow them to more fully participate in mobility-related activities of daily living (MRADLs). For many individuals, they offer numerous medical benefits, including improved transfers and reaching, improved joint mobility and muscle tone, increased strength and bone density, enhanced cardiovascular and respiratory functions, and reductions in falls, neck and spine injuries, skin breakdowns, and muscle contractures.

As co-chairs of the Bipartisan Disabilities Caucus, we are well aware of – and have personal experience with – the essential benefits that these systems provide to individuals with mobility impairments who spend long periods of time in wheelchairs. However, Medicare considers these important systems as “not primarily medical in nature,” and they are, therefore, not covered durable medical equipment (DME) under the Medicare program.

In September 2020, a coalition of patients, providers, researchers, and other experts in the field submitted to CMS a formal request to advance a coverage policy for power seat elevation and standing systems under the Medicare DME benefit.¹ This request, which CMS certified as complete in November 2020 (see, letter from CMS to Peter W. Thomas, J.D., enclosed), would deem these systems as primarily medical in nature.

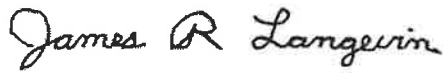
Current regulations detailing the NCD reconsideration process note that a decision to accept a complete request and open an initial public comment period is typically made within 60 days. However, eight months have passed since CMS indicated the NCD was complete, and the agency has not yet opened the request for public comment or even updated its public tracking sheet to reflect the current status. The full NCD reconsideration process typically takes 9 to 12 months. It is now approaching one year since the formal request was submitted, and the reconsideration process has not yet begun.

¹ <https://itemcoalition.files.wordpress.com/2020/09/item.-request-for-reconsideration-of-ncd-for-mae.pdf>

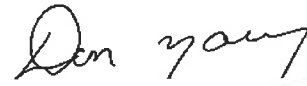
Opening this request would allow the public to formally weigh in and for agency staff to commence a thorough review of the significant clinical evidence that supports the use of these systems for medical purposes by individuals with mobility disabilities. As the Administration continues to prioritize disability issues in its overall policy agenda – and pursues major legislative reforms that positively impact the disability community – this administrative action could have a significant real-world impact in a relatively short period of time.

We urge CMS to promptly open the power seat elevation and standing systems NCD Reconsideration Request for public comment, and we thank you for your ongoing commitment to improving the lives of people with disabilities.

Sincerely,



James R. Langevin
Member of Congress



Don Young
Member of Congress

CC:

Chiquita Brooks-LaSure
Administrator, Centers for Medicare and Medicaid Services

Meena Seshamani, M.D., Ph.D.
Deputy Administrator and Director, Center for Medicare



Center for Clinical Standards and Quality

Peter W. Thomas, J.D.
Powers Pyles Sutter & Verville PC
501 M Street, NW
Seventh Floor
Washington, DC 20005

Dear Mr. Thomas,

We would like to acknowledge that we received your complete and formal request on behalf of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition and other supporting organizations, for a reconsideration of National Coverage Determination (NCD) for Mobility Assistive Equipment (MAE) (280.3). We appreciate your concern about this topic and share your interest in making sure that Medicare beneficiaries receive appropriate care that improves health outcomes.

Currently we are reviewing the literature on the topic, both that which you have provided to us and that based on our own ongoing literature appraisal. We anticipate that this review will take several months. During this period, we would also be available to speak with appropriate groups interested in this topic, if you so desire.

We will contact you with any updates to our timeline and process. Feel free to contact Susan Miller, M.D. at Susan.Miller@cms.hhs.gov with any questions.

Sincerely,

Jason E. Bennett -S
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Jason E. Bennett -S
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Jason Bennett
Acting Dir., Technology, Coding and Pricing Group

Tamara S. Jensen -S
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Tamara Syrek Jensen, JD
Director, Coverage and Analysis Group