

House of Representatives letter to CMS to Protect Access to Accessories used with Complex Rehab Wheelchairs

April 20, 2015

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

Dear Acting Administrator Slavitt:

We are writing concerning a recent frequently asked questions (FAQ) document released by the Centers for Medicare and Medicaid Services (CMS) that could prevent Medicare beneficiaries with disabilities from receiving medically necessary complex rehab technology (CRT) as prescribed by their physician.

As part of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA 2008, Section 154), Congress specifically excluded complex rehabilitative power wheelchairs, as well as the related accessories that beneficiaries used with those wheelchairs (such as seat/back cushions, recline/tilt systems, or specialty controls) from the Medicare durable medical equipment (DME) competitive bidding program. Accordingly, CMS did not include those items in Round 1 or Round 2 of the competitive bidding program. In addition, consistent with the spirit of that law, CMS excluded complex rehabilitative manual wheelchairs from Round 2 and implemented a similar policy for accessories used with these wheelchairs. As a result, complex rehabilitative wheelchairs and related accessories have continued to be paid at the established fee schedule amounts in 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) to finalize changes to the Medicare DME competitive bidding program. Specifically, the final rule details how CMS will use information obtained from the competitive bidding program to adjust the established fee schedule amounts for competitively bid items provided in non-bid areas.

Following the issuance of that rule, CMS posted an FAQ document online in December. The FAQ document indicates that, starting in 2016, CMS intends to apply pricing information obtained from bids for standard wheelchair accessories to complex rehabilitative wheelchair accessories.

Applying competitive bidding pricing to complex rehabilitative wheelchair accessories is inconsistent with the intent of MIPPA 2008, which specifically exempted wheelchair accessories used with complex rehabilitative power wheelchairs from the competitive bidding program. The

application of competitive bidding pricing to complex rehabilitative accessories is also contrary to CMS policies created following the legislation related to payment for complex rehab manual wheelchair accessories. Clear precedent affirms that these items should continue to be paid at the established fee schedule amounts, as they are today and have been for more than six years during the operation of the competitive bidding program.

We are concerned about the potential negative impact on Medicare beneficiary access to complex rehabilitative wheelchairs and the important accessories used with these devices. A preliminary review of the affected codes indicates that a shift from the current fee schedule to bid program pricing could cut reimbursement to suppliers by 20 to 50 percent. Complex rehabilitative power and manual wheelchairs and the related accessories described above are used by people with serious disabilities including amyotrophic lateral sclerosis (ALS), cerebral palsy, multiple sclerosis, muscular dystrophy, spinal cord injury, and traumatic brain injury. This small population of Medicare beneficiaries with significant disabilities depend on these individually configured products to meet their unique medical needs and maximize their function and independence.

For the reasons discussed above, we urge CMS to review its decision to issue its December 2014 FAQ. We also request that CMS issue written clarification that accessories used with complex rehabilitative power and manual wheelchairs will continue to be paid at Medicare established fee schedule amounts and that such amounts will not be adjusted based on Medicare competitive bidding program pricing.

We appreciate your response by May 31.

Sincerely,

Bill Johnson
Member of Congress

Diana DeGette
Member of Congress

Dave Loebsack
Member of Congress

Mike Kelly
Member of Congress

John Larson
Member of Congress

Devin Nunes
Member of Congress

101 Members of Congress signed this letter evidencing strong bipartisan support to fix this problem (52 Democrats and 49 Republicans). See attached list of all signers by State.

April 20, 2015 House of Representatives Letter To CMS Re Complex Rehab Wheelchair Accessories

#	ST	P	Last Name	First	#	ST	P	Last Name	First
1	AR	R	Westerman	Bruce	52	MO	R	Smith	Jason
2	CA	D	Lofgren	Zoe	53	MS	R	Harper	Gregg
3	CA	D	Lowenthal	Alan	54	NC	R	Ellmers	Rene
4	CA	R	Nunes	Devin	55	NH	D	Kuster	Ann
5	CA	R	Rohrabacher	Dana	56	NJ	R	Lance	Leonard
6	CA	D	Sanchez	Linda	57	NJ	D	Payne, Jr.	Donald
7	CA	D	Thompson	Mike	58	NM	D	Lujan-Grisham	Michelle
8	CO	D	DeGette	Diana	59	NY	R	Collins	Chris
9	CO	R	Lamborn	Doug	60	NY	D	Crowley	Joe
10	CO	D	Polis	Jared	61	NY	R	Hanna	Richard
11	CT	D	Courtney	Joe	62	NY	D	Higgins	Brian
12	CT	D	DeLauro	Rose	63	NY	R	King	Peter
13	CT	D	Esty	Elizabeth	64	NY	D	Lowey	Nita
14	CT	D	Larson	John	65	NY	D	Maloney	Carolyn
15	FL	D	Castor	Kathy	66	NY	R	Reed	Tom
16	FL	D	Grayson	Alan	67	NY	D	Slaughter	Louise
17	FL	D	Hastings	Alcee	68	NY	D	Tonko	Paul
18	FL	R	Mica	John	69	OH	D	Beatty	Joyce
19	FL	R	Ros-Lehtinen	Ileana	70	OH	R	Johnson	Bill
20	GA	R	Collins	Doug	71	OH	R	Joyce	David
21	GA	D	Johnson	Hank	72	OH	R	Renacci	Jim
22	GA	R	Price	Tom	73	OH	R	Stivers	Steve
23	GA	R	Westmoreland	Lynn	74	OH	R	Tiberi	Pat
24	IA	D	Loeb	Dave	75	OR	D	DeFazio	Peter
25	IA	R	Young	David	76	PA	R	Barletta	Lou
26	IL	R	Bost	Mike	77	PA	D	Cartwright	Matt
27	IL	D	Davis	Danny	78	PA	R	Kelly	Mike
28	IL	R	Davis	Rodney	79	PA	R	Murphy	Tim
29	IL	D	Duckworth	Tammy	80	PA	R	Rothfus	Keith
30	IL	D	Foster	Bill	81	PA	R	Thompson	GT
31	IL	D	Rush	Bobby	82	RI	D	Cicilline	David
32	IL	D	Schakowsky	Jan	83	RI	D	Langevin	Jim
33	IN	R	Busch	Larry	84	TN	R	Black	Diane
34	KS	R	Jenkins	Lynn	85	TN	R	Blackburn	Marsha
35	KS	R	Yoder	Kevin	86	TN	D	Cooper	Jim
36	KY	R	Guthrie	Brett	87	TN	R	DesJarlais	Scott
38	MA	D	Clark	Katherine	88	TN	R	Duncan	John
37	MA	D	Keating	Bill	89	TN	R	Fleischman	Chuck
39	MA	D	Kennedy	Joe	90	TX	D	Castro	Joaquin
40	MA	D	Lynch	Stephen	91	TX	D	Cuellar	Henry
41	MA	D	McGovern	Jim	92	TX	D	Doggett	Lloyd
42	MA	D	Neal	Richie	93	TX	R	Flores	Bill
43	MA	D	Tsongas	Niki	94	TX	D	Veasey	Marc
44	MD	D	Ruppersberger	Dutch	95	WA	D	DelBene	Suzan
45	ME	D	Pingree	Chellie	96	WA	R	Newhouse	Dan
46	MI	D	Kildee	Dan	97	WA	R	Reichert	Dave
47	MN	D	Nolan	Rick	98	WI	R	Kind	Ron
48	MN	R	Paulsen	Erik	99	WI	D	Pocan	Mark
49	MO	R	Graves	Sam	100	WI	R	Sensenbrenner	Jim
50	MO	R	Long	Billy	101	WY	R	Lummis	Cynthia
51	MO	R	Luetkemeyer	Blaine					