



May 26, 2009

The Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

**RE: ITEM Coalition Response to Payment Accuracy Recommendations**

Dear Chairman Baucus and Ranking Member Grassley:

The Independence Through Enhancement of Medicare and Medicaid (ITEM) Coalition is pleased to comment on the Senate Finance Committee's proposals in the document, *Financing Comprehensive Health Care Reform: Proposed Health System Savings and Revenue Options*, dated May 20, 2009. The mission of the ITEM Coalition, which is a consumer-led coalition and includes a diverse group of disability organizations, is to raise awareness and build support for policies that will improve access to assistive devices, technologies and related services for people of all ages with disabilities and chronic conditions.

***Accurate Payments for DMEPOS***

The ITEM Coalition supports Congress' efforts to make accurate payments for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS). Inappropriately high payments to providers waste precious Medicare resources while inappropriately low payments to providers potentially compromise patient care. The ITEM Coalition usually does not engage in issues such as payment levels for assistive devices unless these payment levels have the effect of negatively impacting patients' ability to receive high quality DMEPOS care. The ITEM Coalition recommends that Congress give special consideration to specialty assistive devices and technologies when considering payment changes, and that the Department of Health and Human Services monitor the affects of all DMEPOS payment changes on beneficiary access to and quality of care.

The ITEM Coalition is dedicated to eliminating fraud and abuse in the DME field and supports a number of the Committee's proposed policies in this area. As for orthotics and prosthetics (O&P care), the ITEM Coalition recognizes that the key to reducing fraud and abuse and improving quality is by linking payment to the complexity of care and qualifications of the practitioner. The ITEM Coalition recommends Congress codify in statute a link between

orthotic and prosthetic provider qualifications and the complexity and customization of the care being provided.

Congress has previously recognized the specialized skills that are necessary to provide quality orthotic and prosthetic care in passing the BIPA, Section 427, which mandated regulations to limit payment for custom fabricated orthotics and all prosthetics to only those provided by “qualified practitioners” and “qualified suppliers.” To date, the Centers for Medicare and Medicaid Services (CMS) continue to work toward crafting those regulations and identifying the specific orthotic and prosthetic devices and services to which BIPA 427 should apply. Once CMS implements the mandates of BIPA, Section 427, the potential for fraud and abuse in the orthotic and prosthetic field will be significantly reduced.

### ***“In the Home” Restriction on Mobility Devices***

Healthcare reform legislation also provides an opportunity to remove the restrictive “in the home” rule under Medicare policy for mobility devices under the durable medical equipment (DME) benefit. The current policy restricts people on Medicare from obtaining access to mobility devices that are medically necessary outside the four walls of the home. This arbitrary limitation prevents Medicare beneficiaries with disabilities from fully functioning in their communities and living as independently as possible.

The in-the-home restriction is not dictated by statute and runs contrary to recent legal, social, and medical advancements that promote equity of opportunity and community integration of persons with disabilities. Researchers have found that home confinement and activity restrictions are associated with depression, reduced social and leisure activities, lower life satisfaction, greater use of home health care, malnutrition, and higher levels of morbidity and mortality.<sup>1</sup> For these reasons and others, the ITEM coalition recommends that the 111<sup>th</sup> Congress adopt language from the Medicare Independent Living Act of 2007 (S. 2103, H.R. 1809) that would eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs.

Thank you for your consideration of our positions. If you have any questions, please contact Peter W. Thomas, ITEM Counsel, at (202) 466-6550.

Sincerely,

ITEM Coalition Steering Committee Members:

Mark Richert, American Foundation for the Blind, (202) 408-8175  
Rachel Shiffrin, Medicare Rights Center, (202) 637-0961  
Kim Cantor, National Multiple Sclerosis Society, (202) 408-1500  
Lee Page, Paralyzed Veterans of America, (202) 416-7694  
Andrew Morris, United Spinal Association, (301) 495-4460

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<sup>1</sup> Hoenig, H., Landerman, L., Shipp, K., George, L., “Activity Restriction Among Wheelchair users,” Journal of American Geriatrics Society, Vol. 51, No. 9, Sept. 2003; Rowe, J.W., and Kahn, R.L., “Successful Aging,”