



July 29, 2009

The Honorable Max Baucus
Chairman
Finance Committee
U.S. Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Finance Committee
U.S. Senate
Washington, DC 20510

RE: Healthcare Reform Legislation Must Protect First Month Purchase Option for Medicare Beneficiaries with Mobility Impairments

Dear Chairman Baucus and Ranking Member Grassley:

The following members of the Independence Through Enhancement of Medicare and Medicaid (ITEM) Coalition writes to thank you for your extensive efforts on healthcare reform legislation and to request your assistance in ensuring that individuals with disabilities and mobility impairments are protected from restrictions in access to appropriate mobility devices under Medicare. The ITEM Coalition is a consumer-lead coalition of disability-related organizations with the goal of improving access to assistive devices, technologies and related services for individuals with disabilities.

The ITEM Coalition appreciates and strongly supports your tireless efforts to bring about comprehensive healthcare reform. However, we are concerned that the pressure to lower the cost of the reform bill could lead lawmakers to include in the legislation changes to Medicare's "First Month Purchase Option" policy that would negatively impact individuals with disabilities, injuries, and chronic illnesses.

The **first month purchase option for power wheelchairs** under Medicare allows an individual to choose whether to purchase or rent their mobility device in the first month of use. Nearly all Medicare beneficiaries in need of power wheelchairs purchase their devices in the first month of delivery because they have long-term needs and often require a specific "fit" of each device to meet their medical and functional requirements. The policy change under consideration would eliminate patient choice by forcing beneficiaries to rent their mobility device for thirteen months before they can own it. This proposal would essentially require wheelchair suppliers to purchase power wheelchairs from the manufacturers and finance these devices to beneficiaries over a thirteen-month period. We fear this policy change would cause suppliers to supply patients with power wheelchairs based more on their diagnosis and prognosis than on their current mobility needs, if suppliers were able to survive at all under this proposed policy.

Proposed Alternative: A proposal that has been circulated among stakeholders, enclosed in this letter, would protect Medicare beneficiaries who need complex rehab wheelchairs by allowing them to keep the option to purchase them in the first month rather than making them rent the mobility device for 13 months. In addition, under the proposed alternative, if a person is deemed by a physician to be likely to require the wheelchair for at least 13 months, then the patient can purchase the wheelchair up front, in the first month. However, if the patient dies within the first 13 months of owning the power wheelchair, the supplier must repay Medicare the difference between the 13-month rental period and the purchase amount.

This provision both protects the government from undertaking expenses that might be unnecessary and also protects beneficiaries with long term needs, including those who need access to individualized, customized power mobility devices. In sum, beneficiaries in need of power wheelchairs should have access to appropriate devices that help them remain as functional and independent as possible. Therefore, the ITEM Coalition recommends that Congress protect beneficiaries' first month purchase option by adopting the attached provision as an alternative to eliminating a patient's right to purchase their wheelchair in the first month in any healthcare reform legislation.

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

Sincerely,

ACCSES

American Academy of Physical Medicine and Rehabilitation
American Network of Community Options and Resources
Association of Assistive Technology Act Programs
Brain Injury Association of America
Christopher & Dana Reeve Foundation
Council of State Administrators of Vocational Rehabilitation
Medicare Rights Center
National Disability Rights Network
National Multiple Sclerosis Society
National Spinal Cord Injury Association
Paralyzed Veterans of America
Rehabilitation Engineering and Assistive Technology Society of North America
United Spinal Association

Enclosure: First Month Purchase Option Proposal

CC: John D. Rockefeller IV, WV
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Ron Wyden, OR
Charles E. Schumer, NY
Debbie Stabenow, MI
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Jon Kyl, AZ
Jim Bunning, KY
Mike Crapo, ID
Pat Roberts, KS
John Ensign, NV
Mike Enzi, WY
John Cornyn, TX

**RECOMMENDED PROVISION REGARDING PURCHASE
OPTION FOR POWER WHEELCHAIRS
(Section Numbers Coincide to House Bill)**

Sec. 1141(a) is amended to read:

(a) IN GENERAL.—Section 1834(a)(7)(A)(iii) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)(iii)) is amended---

(1) in the heading by inserting “options” for “option”; and

(2) by striking out all after the heading and inserting the following:

“I. In the case of complex rehabilitative power-driven wheelchairs recognized by the Secretary as classified within group 3 or higher, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

II. In the case of other power-driven wheelchairs, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item and payment for such item shall be made on a lump-sum basis if the individual exercises such option, provided-

(a) the length of need is at least 13 months as certified by a physician;

(b) in the event that the beneficiary discontinues use of the item prior to 13 months, the supplier agrees to be subject to recovery by the Secretary of an amount equal to any difference between payment for purchase for the item and monthly payments that would have been made on a rental basis for continuous use of less than 13 months; and

(c) in cases where the Secretary recovers any payments under clause II(b), the title for the power-driven wheelchair reverts to the supplier at the option of the supplier.”

EXPLANATION

Under current Medicare policies, beneficiaries are not eligible for coverage of power wheelchairs (PWCs) unless a physician prescribes them for at least three months. Patients have the option to purchase a PWC in the first month or to rent one. If a patient rents a chair for thirteen months, title is transferred automatically to him. Medicare reimbursement for thirteen months rental is 105% of the reimbursement for purchase. Thus, if a beneficiary would rent a chair for thirteen months, Medicare incurs lower costs if the chair is purchased in the first month. On the other hand, if a patient who would only rent a chair for 12 months or less exercises the purchase option, Medicare costs are increased.

Proposals have been made to eliminate the purchase option and retain only the rental option. Opponents of this proposal argue that: 1) the vast majority of beneficiaries who use this benefit need the chair for longer than 13 months. Industry data show that physicians who prescribe PWCs determined that most beneficiaries will require them for the rest of their lives; 2) a rental only market creates serious disincentives to suppliers to remain in operation because PWCs are often costly or impossible to reuse and preventing suppliers from recouping costs through sale at the time of delivery will often make the business unprofitable.

The suggested language is intended to address concerns about controlling Medicare costs when beneficiaries exercise the purchase option by making the following changes to current Medicare policy:

(1) It retains current policy for complex wheelchairs, which are classified as group 3 or higher. This is the approach of the House bill.

(2) For other power wheelchairs, it permits purchase only if a physician certifies that a PWC is likely to be needed for thirteen months or longer. The current requirement of a minimum period of use of three months for coverage of PWC rental would be maintained. This certification would be made after considering the patient's disability and overall condition. Experience has shown that physicians are able to make this determination. Medicare now requires an extensive review of the particular chair that is needed as well as a physician's prescription before any coverage is provided for this benefit. The physician's certification of need for extended use would become part of this review.

(3) In the event that a beneficiary who purchases a chair under the revised policy does not use the chair for the 13 months, e.g., he or she dies before the end of this period, Medicare may recover from the supplier the difference between the reimbursement for the purchase and the amounts that would have been paid for rental. For example, if a beneficiary purchases a chair and dies during the sixth month, Medicare may recover the difference between reimbursement for the device and six months rental, which is currently 52.5% of the purchase reimbursement. CMS would provide guidance regarding monitoring the use of the item by the beneficiary and any obligations of the supplier to report the transfer of title back to the supplier.