



July 2, 2004

Dr. Mark McClellan
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore MD 21244-1850

Dear Dr. McClellan,

We would first like to express our appreciation for meeting with members of the ITEM Coalition's Steering Committee last month. We were encouraged by your interest in improving coverage for assistive technologies, devices and related services for people with disabilities of all ages and by your commitment to examining ways the agency can improve access through the Medicare program. As a follow up to that meeting, we discussed with your staff the possibility of meeting with Herb Kuhn and the group directors responsible for various areas of wheelchair policy. We hope to schedule this meeting with Mr. Kuhn as soon as possible.

The ITEM Coalition would also like to thank CMS for organizing the Open Door Forum on June 14, 2004, to address Medicare's manual wheelchair, power wheelchair, and power operated vehicle (POV) benefit. We are pleased to see that CMS is invested in the development of clear guidance on the conditions a beneficiary must meet to gain access to an appropriate mobility device. Furthermore, we commend CMS for incorporating public input, especially from clinicians outside the agency, while developing this guidance. We feel that a combined effort by all parties has the potential to produce improved guidance for Medicare contractors and better access to these devices for Medicare beneficiaries.

Additionally, we are pleased that CMS appears to be willing to discuss and consider a functional categorization as part of the medical necessity determination. ITEM Coalition members consider functional maintenance and improvement to be essential aspects of any mobility device benefit, as the beneficiary's health, both physical and mental, is

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wholly intertwined with the ability to be as functionally independent as possible.

This is a critical time for the aging, disability, and rehabilitation communities as we have rarely encountered such interest by the public or the agency in the Medicare wheelchair benefit. As CMS invests time in soliciting input from the public on the development of clearer guidelines in the wheelchair and POV benefit, we feel it is especially important to express our concerns about the agency's current interpretation of the "used in the patient's home" language. We believe that CMS should reconsider how this phrase is applied to policies affecting mobility devices. There is no support for this artificial limitation of the benefit in the Congressional record or legislative history during passage of the original Medicare legislation or subsequent amendments. A process to address this overly restrictive interpretation, which confines many people in need of wheelchairs to the four walls of their home, should be initiated *while* the agency is developing new guidance for coverage of wheelchairs.

During the most recent Open Door Forum, we heard from physicians, occupational therapists, and physical therapists, all of whom stated that the "in the patient's home" requirement restricts them from prescribing the most clinically-appropriate devices and severely inhibits access to mobility devices for patients they believe are in need of such devices.

The ITEM Coalition is concerned that CMS' current efforts may fall short of expectations if the agency does not address the overarching and glaring discrimination imposed by the "in the patient's home" requirement. Attempting to address this benefit without addressing the "in the patient's home" restriction will represent a huge missed opportunity, one that the Department of Health and Human Services (HHS) promised to address as part of the Bush Administration's New Freedom Initiative.

In conclusion, the ITEM Coalition commends CMS for dedicating resources to this process and dialogue. We hope you will consider this moment, as we do, an historic opportunity to address the entire mobility device benefit and strive for a policy that resolves many longstanding problems. We hope to work with you to channel the energy and momentum at CMS and within the aging, disability and rehabilitation communities to create a comprehensive Medicare mobility device benefit that reflects the value and independent potential the government and society envisions in all people with disabilities.

Thank you for your consideration and we look forward to speaking with you again soon. As always, please contact us at (202) 349-4260 with any questions or if we can be of assistance.

Sincerely,

Dr. Mark McClellan

The ITEM Coalition Steering Committee

Henry Claypool
Advancing Independence
ITEM Coalition Steering Committee Member

Peter W. Thomas
Consortium for Citizens with
Disabilities Health Task Force
ITEM Coalition Steering Committee
Member

Paul W. Schroeder
American Foundation for the Blind
ITEM Coalition Steering Committee Member

Lee Page
Paralyzed Veterans of America
ITEM Coalition Steering Committee
Member

Kim Glaun
Medicare Rights Center
ITEM Coalition Steering Committee Member

CC: Sean Tunis, M.D., Chief Clinical Officer and Director, Office of Clinical Standards
and Quality

Herb Kuhn, Director, Center for Medicare Management