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SUBMITTED ELECTRONICALLY (WCOARECON@NORIDIAN.COM)

Smitha M. Ballyamanda, MD, CAQSM
Medical Director
DME MAC, Jurisdiction A
Noridian, LLC
PO Box 6742
Fargo, ND | 58108

Sunil V. Lalla, MD, FACS, CPC
Chief Medical Officer
DME MAC, Jurisdiction B
CGS Administrators
26 Century Blvd., Ste. ST610
Nashville, TN | 37214

Robert D. Hoover, MD, MPH, FACP
Chief Medical Officer
DME MAC, Jurisdiction C
CGS Administrators
26 Century Blvd., Ste. ST610
Nashville, TN | 37214

Angela S. Jenny, DO, DABFM
Medical Director
DME MAC, Jurisdiction D
Noridian, LLC
PO Box 6742
Fargo, ND | 58108

RE: ITEM Coalition's Public Comment for Proposed LCD – Wheelchair Options/Accessories (DL33792)

Dear Drs. Ballyamanda, Lalla, Hoover and Jenny:

On behalf of the undersigned members of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition, we appreciate the opportunity to comment on the proposed Local Coverage Determination (“LCD”) for Wheelchair Options/Accessories (DL33792). **The ITEM Coalition strongly opposes the proposed determination that power seat elevation systems used with standard, non-complex rehabilitation technology (“CRT”) power wheelchairs are not reasonable and necessary and we urge the Durable Medical Equipment Medicare Administrative Contractors (“DME MACs”) to reconsider and withdraw this proposed LCD as soon as possible.** For the reasons outlined below, if finalized, this change in policy would significantly restrict access to a critical functional mobility technology for Medicare beneficiaries who rely on power wheelchairs to perform mobility-related activities of daily living (“MRADLs”) within the home, which is the standard for coverage under the power wheelchair and seat elevation National Coverage Determinations.¹

The ITEM Coalition is a national consumer- and clinician-led coalition advocating for access to and coverage of assistive devices, technologies, and related services for persons with injuries,

¹ Centers for Medicare & Medicaid Services, *National Coverage Analysis for Mobility Assistive Equipment (MAE)*, Decision Memo (NCA ID 000143) (May 5, 2005), available at <https://www.cms.gov/medicare-coverage-database/view/ncacal-decision-memo.aspx?NCAid=143>; Centers for Medicare & Medicaid Services, *National Coverage Determination for Seat Elevation Equipment (Power Operated) on Power Wheelchairs (280.16)*, Pub. 100-03, May 16, 2023), available at <https://www.cms.gov/medicare-coverage-database/view/ncd.aspx?ncdid=376>.

illnesses, disabilities, and chronic conditions of all ages. Our members represent individuals with a wide range of disabling conditions, as well as the providers who serve them, including mobility impairment, limb loss and limb difference, multiple sclerosis, spinal cord injury, brain injury, stroke, paralysis, cerebral palsy, spina bifida, hearing, speech, and visual impairments, myositis, and other life-altering conditions.

Inconsistent with CMS's 2023 Seat Elevation Coverage Decision

In May 2023, the Centers for Medicare and Medicaid Services (“CMS”) finalized a National Coverage Determination (“NCD”) and related National Coverage Analysis (“NCA”) expanding Medicare coverage of power seat elevation systems following a lengthy and comprehensive National Coverage Analysis. CMS concluded that seat elevation systems provide meaningful functional benefits for power wheelchair users, including enabling safer transfers and improving the ability to perform MRADLs that require reaching objects and surfaces at varying heights.

In its final decision memorandum, CMS recognized that seat elevation systems can help wheelchair users transfer more safely and independently and allow them the reach surfaces necessary for activities such as grooming, dressing, and meal preparation. CMS further acknowledged that the technology improves independence and participation in daily life for individuals with significant mobility impairments. The proposed LCD would effectively reverse this national policy decision for a substantial subset of Medicare beneficiaries by declaring seat elevation systems used with non-complex power wheelchairs to be not reasonable and necessary. Limiting access to this technology based solely on the classification of the wheelchair base undermines the spirit and the letter of the 2023 CMS final decision.

ITEM Coalition's Efforts to Expand Coverage of Seat Elevation Systems

The ITEM Coalition initiated the National Coverage Determination Reconsideration Request that ultimately led to CMS's 2023 decision to expand Medicare coverage of seat elevation systems in Groups 2, 3, and 5 power wheelchairs. This effort represented years of collaboration among consumer organizations, clinicians, rehabilitation professionals, manufacturers, and suppliers to develop the evidence-based clinical value and functional importance of seat elevation technology.

The ITEM Coalition and its partners celebrated the 2023 CMS final decision as a major step forward in modernizing Medicare mobility coverage and improving independence for people with disabilities. The proposed LCD now threatens to undermine that progress by removing access to seat elevation for beneficiaries who rely on non-CRT Group 2 power wheelchairs despite having similar functional limitations and clinical needs as those who qualify for Group 3 or higher power wheelchairs.

Critical Functional and Safety Benefits of Seat Elevation Systems

Seat elevation systems in non-CRT power wheelchairs are not convenience or “luxury” features. They are, instead, clinically appropriate components of a mobility system that allow wheelchair users to safely perform activities and transfers that would otherwise be difficult or impossible.

For instance, elevating the seating surface allows individuals to align their wheelchair height with transfer surfaces such as beds, toilets, and chairs. This alignment significantly reduces the physical demands of transfers and can lower the risk of falls, shoulder injuries, and other transfer-related complications.

Seat elevation also improves functional reach. Similar to their non-disabled peers, wheelchair users frequently must access sinks, kitchen counters, shelves, washing machines, and other surfaces that are not accessible from a fixed seated height. By raising the user's seating position, seat elevation systems enable individuals to complete MRADLs independently rather than relying on caregiver assistance.

CMS acknowledged the clinical appropriateness of seat elevation systems in its 2023 NCD and related NCA on seat elevation systems by granting discretion to the DME MACs to assess coverage of seat elevation in Group 2 standard power wheelchairs on a case-by-case basis. The NCA stated the following:

There are also Medicare-covered power wheelchairs that are not designated complex rehabilitative power-driven wheelchairs....DME MACs will have discretion to determine reasonable and necessary coverage of power seat elevation equipment for individuals who use Medicare-covered PWCs other than complex rehabilitative power-driven wheelchairs. **This allows for individualized decision making based on the unique characteristics of each individual who requests power seat elevation equipment on a claim-by-claim basis.**²

The proposed LCD eliminates this directive and replaces case-by-case review based on individualized decision making with a categorical bar of coverage for certain Medicare beneficiaries who do not qualify for a Group 3 power wheelchair but still have a need for power seat elevation in their homes. We, therefore, view the proposed LCD as contradictory to the NCA and related NCD.

Real-World Beneficiary Scenarios Illustrate the Importance of Seat Elevation

Consider the example of a Medicare beneficiary with multiple sclerosis who uses a Group 2 power wheelchair due to progressive lower extremity weakness and fatigue. While this individual may not require the advanced seating or drive controls associated with complex rehabilitation wheelchairs, they may still rely on a seat elevation system to safely transfer between the wheelchair and bed or toilet. Without seat elevation, these transfers may require caregiver assistance or pose a significant fall risk.

Similarly, a beneficiary with a spinal cord injury who retains some upper extremity function may use seat elevation to reach countertops or perform grooming tasks at a bathroom sink. Without the ability to elevate their seat height, many routine daily activities would become inaccessible.

² Centers for Medicare & Medicaid Services, *National Coverage Determination for Seat Elevation Equipment (Power Operated) on Power Wheelchairs (280.16)*, Pub. 100-03, May 16, 2023), available at <https://www.cms.gov/medicare-coverage-database/view/ncd.aspx?ncdid=376>.

These scenarios demonstrate that the functional benefits of seat elevation are not limited to individuals who qualify for complex rehabilitation wheelchairs. Beneficiaries who use Group 2 power wheelchairs may experience the same limitations in transfer ability and functional reach as users of higher-level wheelchair systems.

Creation of an Arbitrary Distinction Based on Wheelchair Classification

The functional value of seat elevation systems—improving transfer safety and enabling functional reach—is not dependent on whether the wheelchair base is classified as Group 2 or Group 3. Many beneficiaries who qualify for Group 2 power wheelchairs have substantial functional impairments but do not meet the clinical criteria for complex rehabilitation equipment.

The ITEM Coalition believes that restricting coverage of seat elevation systems to complex rehabilitation wheelchairs creates an artificial policy distinction that is not grounded in the clinical needs of Medicare beneficiaries. In addition, it may also lead to unintended consequences, including situations where beneficiaries attempt to qualify for more complex and costly wheelchair bases simply to obtain access to the seat elevation technology they need and that has been covered by Medicare since May 2023.

Clarification Regarding Power Tilt and Recline Criteria

Power tilt and recline systems serve critical medical and functional purposes for many wheelchair users. These technologies allow beneficiaries to redistribute pressure, manage spasticity, maintain appropriate postural alignment, and reduce the risk of secondary medical complications such as pressure injuries. For individuals who cannot independently perform an effective weight shift, tilt and recline systems may be the only reliable method of pressure relief and postural repositioning throughout the day.

The ITEM Coalition appreciates the DME MAC's effort to clarify the clinical circumstances in which power tilt and recline seating systems are considered reasonable and necessary in this proposed LCD, particularly through the inclusion of examples describing conditions that limit a beneficiary's ability to perform a functional weight shift.

However, we are concerned that the use of enumerated examples within the LCD could inadvertently be interpreted as an exhaustive list of qualifying conditions. In clinical practice, the inability to perform an effective weight shift can arise from a wide range of neuromuscular, musculoskeletal, and neurological conditions that may not be explicitly listed in the local coverage policy. Beneficiaries frequently present with complex overlapping conditions—such as progressive neuromuscular diseases, severe arthritis, advanced cardiopulmonary limitations, or generalized weakness—that significantly impair their ability to independently reposition themselves.

For these reasons, the ITEM Coalition urges the DME MACs to clearly state in the final LCD that the listed examples are illustrative rather than exhaustive and that coverage determinations should continue to rely on individualized clinical assessments conducted by qualified practitioners with expertise in seating and mobility. Maintaining this flexibility is

essential to ensuring that beneficiaries with legitimate medical needs are not denied access to tilt and recline systems simply because their specific diagnosis is not explicitly referenced in the policy.

Access to appropriate wheelchair options and accessories is essential for Medicare beneficiaries who rely on wheeled mobility systems to live safely and independently. Seat elevation systems, power tilt, and recline are not ancillary features—they are medically necessary components that enable beneficiaries to perform basic daily activities, reduce the risk of injury, and maintain independence in their homes and communities. By limiting access to this technology based solely on the classification of the wheelchair base, the proposed LCD would deny many beneficiaries these basic freedoms.

For these reasons, the ITEM Coalition strongly urges the DME MACs to withdraw the proposed local coverage determination and maintain coverage of seat elevation systems based on individualized clinical need. We also encourage the DME MACs to reinstate case-by-case review of seat elevation claims while they work in collaboration with disability stakeholders, including beneficiaries, clinicians, and rehabilitation technology experts, to develop an affirmative coverage policy for power seat elevation, power tilt, and recline features in Group 2 power wheelchairs without CRT that is consistent with the expansive interpretation and intent of the May 2023 National Coverage Decision (“NCD”) and National Coverage Analysis (“NCA”) on seat elevation.

At a minimum, the final LCD should ensure that coverage policies for wheelchair accessories reflect the functional realities faced by Medicare beneficiaries with significant mobility impairments and preserve the ability of qualified clinicians to determine the most appropriate mobility configuration for each individual.

Thank you for your consideration of our comments. Should you have any further questions, please contact Peter Thomas or Michael Barnett—ITEM Coalition coordinators—at Peter.Thomas@PowersLaw.com or Michael.Barnett@PowersLaw.com.

Sincerely,

The Undersigned Members of the ITEM Coalition

Access Ready, Inc.
ACCSES
All Wheels Up
American Academy of Physical Medicine & Rehabilitation
American Association of People with Disabilities
American Association on Health and Disability
American Congress of Rehabilitation Medicine
American Macular Degeneration Foundation (AMDF)
American Medical Rehabilitation Providers Association

American Music Therapy Association
American Occupational Therapy Association
American Physical Therapy Association
Autistic Women & Nonbinary Network
Center on Aging and DIS-Ability Policy
CureLGMD2i
Cure SMA
3DA
Institute for Matching Person and Technology
International Registry of Rehabilitation Technology Suppliers (iNRRTS)
Lakeshore Foundation
Long Island Center for Independent Living
Muscular Dystrophy Association
National Clinician Task Force
National Disability Rights Network (NDRN)
National Multiple Sclerosis Society
Paralyzed Veterans of America
RESNA
*Spina Bifida Association**
*Team Gleason**
*United Spinal Association**
The Viscardi Center

**Member of the ITEM Coalition Steering Committee*