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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

February 24, 2004

VIA FACSIMILE: (202) 690-8168  
ORIGINAL BY U.S. MAIL

Mr. Dennis G. Smith  
Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health & Human Services  
200 Independence Avenue, SW Room 339G  
Washington, DC 20201

Dear Mr. Smith:

As a U.S. Senator, my paramount concern has always been to identify and control fraud, waste and abuse in the Federal Government's programs and operations. Recently, my interest has been drawn toward reports of fraud and abuse involving power wheelchairs purchased through the Medicare and Medicaid programs. As Chairman of the Committee on Finance, which has jurisdiction over both Medicare and Medicaid, improper expenditures involving these programs are of special interest to me, particularly since these two programs pay a substantial share of the total expenditures for power wheelchairs.

I appreciate that increased attention is now being given to this problem by the Department of Health & Human Services and Centers for Medicare & Medicaid Services (CMS). I recognize that managing these programs can be challenging, especially since CMS has to be viewed as an honest broker. It must be mindful of the needs of the taxpayers and operate efficient, cost-effective programs. At the same time, CMS has to provide its beneficiaries and program recipients with the equipment and services they need and are eligible to receive.

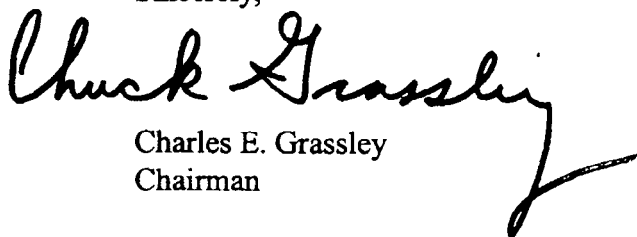
I do not underestimate the difficulties balancing these objectives can impose. Nevertheless, we all recognize that this is precisely what must be done. In that vein, you are undoubtedly aware there has been some recent criticism leveled at CMS and its four durable equipment regional carriers (DMERCs) concerning the clarifications last fall of the Local Medical Review Policy for power wheelchairs.

Some representatives of the power wheelchair manufacturers, durable medical equipment suppliers, and disabled community are raising questions about the definitions of "ambulatory," "nonambulatory," "walking," "upper extremity weaknesses," and "within the home" – for example – as well as the criteria used by the DMERCs to make uniform judgments about beneficiary and recipient eligibility.

While ensuring that we do all that we can to eliminate fraud and waste from government programs, I also want to be certain that we are not inappropriately preventing our eligible citizens from obtaining the medically-needed equipment they are authorized to receive. Therefore, I would like to have a very clear understanding of the process CMS and its DMERCs used last fall to develop the recent clarifications, and the criteria and procedures being used by the DMERCs to make uniform judgments about the eligibility of individuals for power wheelchairs. Please clarify for the Committee the process used by CMS and/or the DMERCs to develop and document the recent clarifications, as well as provide the uniform criteria used to assess the eligibility of beneficiaries and recipients.

Thank you in advance for your assistance and for your response by March 10, 2004. Please do not hesitate to contact me if you have any concerns. Your staff may contact Emilia DiSanto, or Joseph McGowan of the Committee, at (202) 224-4515. *All correspondence should be sent via facsimile to (202) 228-2131 and the original by U.S. mail.*

Sincerely,

A handwritten signature in black ink that reads "Chuck Grassley". The signature is written in a cursive, slightly slanted style. The "C" is large and loops around the "h". The "G" is also large and loops around the "r". The signature ends with a long, sweeping horizontal stroke that extends to the right.

Charles E. Grassley  
Chairman