



*Independence Through
Enhancement of
Medicare and Medicaid*
COALITION

October 12, 2004

VIA FACSIMILE AND ELECTRONIC MAIL

Herb Kuhn
Director
Center for Medicare Management
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore MD 21244-1850

**Re: Follow Up From Meeting to Discuss Medicare "In the Home"
Restriction on Wheelchair Coverage**

Dear Mr. Kuhn:

On behalf of the ITEM Coalition, we would like to thank you and your colleagues for meeting with us on Monday, October 4, 2004, to discuss Medicare's "in the home" restriction on coverage of wheelchairs and other mobility devices.

We were very disappointed to learn that CMS continues to interpret the "in the home" requirement so strictly. This was contrary to recent indications from senior CMS staff that Medicare wheelchair coverage guidance, scheduled to be released in draft form in the coming weeks, would be drafted in a way as to minimize the impact on beneficiaries of the "in the home" requirement. A strict interpretation of the "in the home" requirement will do nothing to solve the real abuse of the wheelchair benefit. Instead, in our view, it actually perpetuates and exacerbates the problem by placing clinicians and providers in the ethically untenable position of having to conform to unrealistic criteria that are out-of-step with the reasonable and necessary mobility needs of Medicare beneficiaries. The current requirement is part of the problem, not the solution.

We are most concerned that CMS has ignored over the past three years its pledge under the New Freedom Initiative to examine the "in the home" restriction and make recommendations to break down this barrier to community living. There is perhaps no better example of a barrier to community participation for people with disabilities than

restricting to the four walls of the person's home the type of mobility device that may be provided. As this Administration continues to tout the accomplishments of the New Freedom Initiative for the benefit of people with disabilities, the lack of progress on the "in the home" issue stands in stark contrast to the ideals upon which the NFI was developed. We strongly urge you to focus your attention on this difficult issue and ask for your help in identifying alternative ways of ensuring that Medicare beneficiaries gain access to appropriate mobility devices when it is reasonable and necessary.

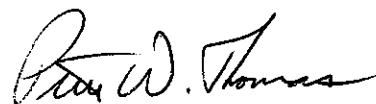
To that end, as we discussed at our meeting, we respectfully request CMS's written response to the legal analysis offered by the Assistive Technology Law Center and the Medicare Rights Center (attached only to electronic mail) that CMS has the administrative authority to modify the "in the home" requirement to more appropriately address the mobility needs of Medicare beneficiaries. We request that CMS provide the ITEM Coalition with a written statement of the agency's position and a detailed legal explanation of why the agency cannot use its administrative authority to remedy this outdated interpretation. We respectfully request this written analysis within two weeks from this date, on or before October 26, 2004.

Again, we thank you very much for taking the time to discuss this very important issue and we look forward to working with you as the agency continues to develop new coverage guidance for power wheelchairs. We can be contacted at (202) 349-4260.

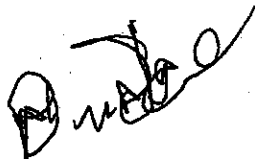
Sincerely,

ITEM Coalition Steering Committee


Henry Claypool
Advancing Independence



Peter W. Thomas
Consortium for Citizens with
Disabilities Health Task Force



Paul W. Schroeder
American Foundation for the Blind

 (EAV)

Lee Page
Paralyzed Veterans of America

 (EAV)
Kim Glau
Medicare Rights Center

CC: Dr. Mark McClellan, Administrator, Centers for Medicare and Medicaid Services

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

Laurence Wilson, Director, Chronic Care Policy Group

Robert P. Jaye, Acting General Counsel