

President Signs Labor-HHS Appropriations Bill - IFR Delayed Until April 1, 2006

January 1, 2006

Happy New Years to all PMC Members:

On Friday, President George W. Bush signed into law the Labor-HHS Appropriations bill (H.R. 3010), which includes a provision that effectively delays enforcement of the interim final rule (IFR) for power mobility devices (PMD). The delay is effective upon the signing of the bill.

Specifically, the delay provision prohibits the Centers for Medicare and Medicaid Services (CMS) from using funds to implement or enforce the IFR until April 1, 2006. While not imposing a timeline, the provision concurs with the intent of the original Senate amendment which instructed CMS to issue a proposed rule by January 1, 2006, followed by a 45-day comment period, and a final rule issued on February 14, 2006 with a 45-day implementation period. A 1.5% reduction in the PMD fee schedule to pay for the delay was dropped during negotiations over the bill and is not in the law.

The PMC has many questions as to how the PMD claims process will be enforced during the delay, and if CMS will retract the IFR and reintroduce it as a proposed rule. In the coming days, the PMC will work with CMS to address questions and concerns.

In the interim, under the delay PMD suppliers are in the same place as they were prior to October 25th, with a new National Coverage Determination (NCD) based on functional ambulation, but a Certificate of Medical Necessity (CMN) which fails to reflect the new NCD and has been consistently undermined by both CMS and its contractors. The PMC suggests that suppliers continue to require a face-to-face examination and use the delay to develop processes that incorporates the new examination requirement and prescription based reimbursement. Suppliers should also conduct as much outreach as possible to physicians and clinicians to explain to them the rule changes under the IFR and the need to document and chart properly and accurately.

Please remember that nothing in this e-mail or any other communication from the PMC should be construed as legal opinion. The PMC will continue to work with CMS to determine consequences of the delay and will communicate these changes to PMC members.