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For Immediate Release

Court Ruling Helps Patients in Need to Gain Access to Power Wheelchairs
Physicians to be the deciding factor in assessing patient needs

The Power Mobility Coalition (PMC), a nationwide association of large and small manufacturers and suppliers of motorized wheelchairs and scooters, applauds the recent decision of the Federal District Court of Eastern California which recently ruled that the Certificate of Medical Necessity (CMN) is the Medicare document of record and the Centers for Medicare and Medicaid Services (CMS) cannot require durable medical equipment (DME) suppliers to obtain medical records and make judgments as to whether the medical equipment is reasonable and necessary.

“This ruling ultimately benefits the thousands of elderly and disabled Americans who rely on motorized wheelchairs to accomplish the daily tasks that allow them to help them live independent lives,” said Eric Sokol, Director of PMC. “The PMC has always maintained that physicians are the ones who should be making the determination as to whether or not an individual needs the use of a motorized wheelchair. This ruling helps cut through the bureaucratic red tape and allows those in need to receive their chairs as quickly as possible.”

The ruling came in the case of *Maximum Comfort, Inc. v. Tommy Thompson*, No. Civ. S-03-1584 (Fed. Ct. E.D. of CA) where the plaintiff, a supplier of power mobility products and services, sued the Department of Health and Human Services for denial of Medicare claims for motorized wheelchairs. In siding with the supplier, the Court held that Congress, not CMS, sets the criteria and documentation necessary to demonstrate Medicare eligibility for DME items. Further, CMS cannot require suppliers to provide medical records or second-guess the decision of the treating physician. As the Court wrote:

Given that Congress designated the vehicle by which suppliers are to provide information requested by the Secretary to determine medical necessity, and that it took precautionary measures to prevent supplier misconduct, it seems implausible that Congress would allow suppliers to obtain and keep private medical records, second guess physicians’ professional conclusions by making medical judgments themselves, and then inform beneficiaries prior to furnishing an item of the likelihood of Medicare denial of payment.

“PMC members are thrilled that the Court read the same law as power mobility suppliers and that the plain language of the statute is clear – that Congress intended that the certificate of medical necessity is the prescription for DME claims,” said Stephen M. Azia, Counsel to the Power Mobility Coalition. The PMC has long advocated that the certificate of medical necessity is the prescribing document and that CMS has been devaluing the role of both the certificate of medical necessity and the treating physician in the Medicare power mobility claims process.

The PMC vehemently hopes that CMS will immediately take notice of the Court's ruling and reassert the existing certificate of medical necessity and the role of the physician in the Medicare power wheelchair claims process. Moreover, the PMC looks forward to working with CMS as they revise the certificate of medical necessity. The PMC cautions, however, that any revised certificate of medical necessity be predicated on the notion of functional ambulation and that Medicare eligibility for power mobility products and services is not explicitly linked to certain clinical diagnosis and conditions.

The Court's ruling can be found in its entirety at:

<http://207.41.18.73/caed/DOCUMENTS/Opinions/Karltan/03-1584.pdf>

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The Power Mobility Coalition (PMC) is an association of large and small suppliers and manufacturers who provide services and mobility equipment such as motorized wheelchairs and scooters, to beneficiaries nationwide.