

April 1, 2004 - CMS Retracts Controversial Power Wheelchair Clarification, HomeCare

Baltimore Last month, the Centers for Medicare and Medicaid Services told legislators that it is retracting the **power wheelchair** coverage clarification issued by the four DMERCs in Dec. see HomeCare, January 2004 .

"CMS has decided to retract the Dec. 9, 2003, Durable Medical Equipment Regional Carrier DMERC article which was intended to reiterate our coverage policy on **power wheelchairs**," wrote Carleen Talley, director of CMS' Congressional Affairs Group, in a notification that was circulated to Capitol Hill offices. "The coverage policy remains unchanged from when it was originally put into place in 1985. CMS will continue to pay claims as it has prior to and following the issuance of the December 9, 2003, DMERC article."

The notice said the agency is taking the action "in response to concerns voiced by the power wheelchair community" and added that additional CMS actions would "soon follow." Specifically, the notice said CMS would review eight primary themes accumulated from recent listening sessions and Open Door Forums on the clarification and would respond to the issues raised.

The DMERCs posted the controversial clarification to their Web sites following CMS' Operation Wheeler Dealer initiative, which, aimed at curbing fraud and abuse of Medicare's power wheelchair benefit, required the DMERCs to adopt a consistent approach to medical review. But since the clarification was issued, the HME industry has consistently voiced concerns regarding beneficiary access to medically necessary power equipment and provider payments.

Some industry stakeholders - including members of RAMP Restore Access to Mobility Partnership , a power mobility coalition formed to rescind the clarification - argued that the definition of "nonambulatory" contained in the clarification was a change in policy, while CMS and DMERC representatives said that the K0011 coverage criteria had, in fact, not changed.

At a March 3 session on power wheelchair coverage, about 30 industry stakeholders traveled to Baltimore, CMS headquarters, to participate, while an additional 250 people participated by phone - many from small, independent HME operations across the country.

At press time, CMS had scheduled a March 31 Special Open Door Forum to allow suppliers and beneficiaries to speak directly with CMS senior staff about the retraction and the agency's power wheelchair policy. The medical directors from all four DMERCs also would be involved, CMS said.

"We are very pleased that CMS responded to concerns raised by consumers and the industry," said Cara Bachenheimer, vice president of government relations for Invacare, Elyria, Ohio. "We hope that CMS will work with clinicians, consumers and the industry to appropriately clarify the Medicare coverage policy for motorized wheelchairs and to explain, based on realistic bases, what documentation will substantiate coverage for these items."

In late March, Bachenheimer and Invacare President and CEO Mal Mixon met with Leslie Norwalk, deputy administrator for CMS. The meeting included discussion about assembling a group of industry experts to work with the agency on properly defining the medical conditions required for power wheelchair coverage, while at the same time ensuring "documents are precise and understood so [there is no] confusion on what is reimbursed and what is not," Mixon explained.

Industry stakeholders are now hoping for a "give and take" between CMS and the HME industry on the issue, Bachenheimer said, "because there hasn't been a dialog up to this point."

Eric Sokol, president of the Washington, D.C.-based Power Mobility Coalition, said he believes CMS took action on the clarification because of beneficiary involvement - and because HME manufacturers and suppliers were "all on the same page. We have to work together to get things accomplished," he said.

Looking ahead, according to Kevin Quaglia, general manager of industry relations for Exeter, Pa.-based Pride Mobility Products, "We as an industry need to develop a better system in conjunction with CMS to effectively police our industry to eliminate fraud and abuse - to ensure something of this nature never happens again."

Yet some beneficiary advocates remained uneasy.

"We are very concerned that nothing has actually changed," said Will Thomas, a spokesperson for the Gray Panthers, a Washington, D.C.-based advocacy group working on issues affecting older adults. "We are pleased that CMS has seen fit to retract its December policy clarification. But it must be replaced with a policy that will allow power wheelchairs to reach the patients who need them."