

Dear Secretary Leavitt and Administrator McClellan:

I am writing over concerns about recent efforts to reform Medicare reimbursement for power mobility devices (PMDs). It is my understanding that the Centers for Medicare and Medicaid Services (CMS) have released new product codes and is considering pricing for PMDs that fails to take into account Medicare overhead costs. In addition, new local coverage determination (LCD) for PMDs allow CMS contractors to “down code” and second guess best medical judgment by reimbursing suppliers for PMDs that were not prescribed by the treating physician. Since, taken together, these changes raise significant safety concerns for beneficiaries, as well as, basing PMD reimbursement on a fee schedule predicated on erroneous product classification and a flawed “gap filling” methodology, I am asking that you delay the scheduled October 1st implementation date until such time as both the coding, reimbursement, and physician documentation issues are fairly resolved.

As part of this new LCD, contractors have been given authority to “down code” and reimburse suppliers for PMDs not prescribed by the beneficiary’s treating physician. As part of the Medicare Modernization Act (MMA), Congress reinforced the role of the physician as a gatekeeper for PMD eligibility. Yet, under this new LCD, contractors have authority to circumvent the physician’s best medical judgment and place beneficiaries in the lowest PMD product category despite medical need. I have been informed that these low category products are not intended for every day use by beneficiaries who rely on PMDs to conduct their activities of daily living. By and large, these products are made overseas with substandard materials and lack the power to cross even ordinary door thresholds. Many beneficiary groups have expressed safety concerns if those with limited mobility are forced into low-quality PMDs.

In addition, CMS reimbursement of PMDs must reflect the costs associated with the requisite standards, beneficiary education, in-home assessment and soon to be mandatory third party accreditation that is required of suppliers by the Medicare program. Internet suppliers are not subject to Medicare regulations, are under no obligation to ensure that the beneficiary is instructed on how to use the PMDs, and are allowed to “drop ship” product to beneficiaries with no face-to-face examination and no in-home assessment. In addition, while CMS convened a Technical Expert Panel (TEP) of manufacturer representatives and scientists to assist in this coding project, the TEP has publicly stated that its recommendations were not followed and CMS misrepresented their position by stating that development of the codes was a “collaborative effort.”

I am concerned that these changes, most of which are detrimental to PMD beneficiaries, physicians, manufacturer and suppliers, were unilaterally proposed and implemented by CMS without administrative safeguards or meaningful notice and comment from impacted stakeholders. I am, therefore, requesting that you postpone the October 1, 2006 effective date for new codes, pricing and coverage policies to resolve all the identified issues stated above. Furthermore, I urge you to make the necessary changes to the LCD so that it follows sound medical guidance and establishes the documentation criteria

needed to eliminate the risk of Medicare beneficiaries not being able to receive appropriate products and technology.

Sincerely,

Member of Congress