

# U.S. should free prisoners of disability

Saul Friedman - *Newsday*

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I'm lucky. I don't need a wheelchair or a cane to get around the house. I've recovered enough from my stroke to get a license to operate a car modified with a left-foot accelerator. And I can walk well enough, with a cane, to get from the car to a movie, a restaurant or a doctor. But once again, I've learned from my disability that thousands of people who aren't so lucky are missing out on such simple pleasures. And why?

I had to cancel an important appointment on Capitol Hill the other day because I couldn't negotiate the distance and the long lines of the security gauntlet. An ordinary wheelchair wouldn't have helped, for I had no one to push me and my right arm is still too weak for me to push myself.

I could have used a power wheelchair or supermarket-type scooter, but it seemed like an extravagance I could do without.

But what of the disabled and elderly who cannot walk very far, but for whom mobility means life? If they couldn't afford to buy their mobility and looked to Medicare to help pay for that measure of freedom, they'd be disappointed. And that's partly because of past Medicaid fraud committed by some greedy doctors and equipment suppliers.

A disclaimer: Nothing angers me as much as people capable of walking well, displaying handicapped tags on their cars or tooling around malls in power wheelchairs.

Last year the Centers for Medicare and Medicaid Services (CMS) found Medicare was being ripped off by fraudulent claims for power wheelchairs.

Older people with a limp were accosted in malls and offered power wheelchairs paid for by Medicare. Some doctors wrote phony prescriptions and connived with "durable medical equipment" suppliers to obtain power wheelchairs for beneficiaries who didn't need them or were only marginally qualified. In some cases the wheelchairs were not delivered. But Medicare paid 80 percent of the cost. From 1999 to 2003, CMS reported, Medicare spending on power wheelchairs increased from \$289 million to \$1.2 billion.

Medicare announced a crackdown called "Operation Wheeler Dealer," but the honest suffered along with the thieves. According to a study by the Medicare Rights Center, CMS hardened its policy to cover the cost of a power wheelchair or scooter only if it was "medically necessary" and would be used only "in the home." If you could walk "one step," no wheelchair. And there was no coverage for use outside the home.

Patients who qualify for and use wheelchairs in their homes (as well as outside) are the most severely disabled. But according to the rights center, among the 1 million people on

Medicare classified as permanent wheelchair users, about 140,000 more would qualify for an electric wheelchair or scooter, except for Medicare's "in-home" restriction.

In the 40 years since Medicare instituted coverage standards for wheelchairs and other mobility devices, there have been great advances in design to permit the disabled to function outside their homes. And virtually every city and public place has sought to accommodate wheelchairs and scooters.

"By contemporary medical and legal standards the [CMS] interpretation is unreasonable and quite likely unlawful," the rights center said. "The Medicare statute neither specifies that durable medical equipment is exclusively for use in the patient's home nor bars consideration of an equipment's use outside the home."

Although power wheelchairs are expensive (\$3,000 to \$13,400) and difficult to operate, scooters have become cheaper alternatives (\$1,000 to \$3,000), and are smaller and easier to use. But restricting Medicare coverage to home use makes little sense to apartment dwellers or residents of homes that are too small for the scooters. More cruel, it denies them the ability to get out of the house.

As a result of protests from the Medicare Rights Center and advocates for the disabled, CMS has been reassessing its policies on covering power mobility devices. Dr. Mark McClellan, the CMS administrator, has promised to assemble a group of experts to figure out new guidelines for approving coverage while controlling the costs.

Said McClellan: "We are going to do even more to make sure that Medicare funds are spent on patients who need them...." No one knows how much it would cost Medicare to cover power wheelchairs and scooters, but it would be a bundle. And Medicare's Part B is strapped.

Although McClellan is supposed to be an advocate for Medicare, his pledge to "make sure that Medicare funds are spent on patients who need them" rings hollow. The Bush administration plans to pay HMOs and PPOs \$4.7 billion next year - and more than \$80 billion during the next decade - to insure younger and healthier seniors who leave Medicare.

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