



*Independence Through
Enhancement of
Medicare and Medicaid*
COALITION

December 2, 2024

SUBMITTED ELECTRONICALLY

Majority Leader Chuck Schumer
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Minority Leader Mitch McConnell
United States Senate
317 Hart Senate Office Building
Washington, DC 20510

Speaker Mike Johnson
U.S. House of Representatives
568 Cannon House Office Building
Washington, DC 20515

Minority Leader Hakeem Jefferies
U.S. House of Representatives
2433 Rayburn House Office Building
Washington, DC 20515

Chairwoman Cathy McMorris Rodgers
House Energy & Commerce Committee
2322A Rayburn House Office Building
Washington, DC 20515

Ranking Member Frank Pallone
House Energy & Commerce Committee
2322A Rayburn House Office Building
Washington, DC 20515

Chairman Ron Wyden
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Mike Crapo
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

RE: ITEM Coalition Support for Legislation to Address Significant and Dangerous Medicare Cuts to Durable Medical Equipment Reimbursement

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, Minority Leader Jefferies, Chairs McMorris Rodgers and Wyden, and Ranking Members Pallone and Crapo:

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition write to express our concerns regarding the impact to patient access that significant cuts under the Medicare program to Durable Medical Equipment Prosthetics, Orthotics and Supplies (“DMEPOS”) reimbursement levels are causing for patients nationwide. These cuts are derived from the DMEPOS competitive Bidding Program (“CBP”), which, according to ITEM Coalition member, AAHomecare, fails to reflect the current market costs of providing care. Without action from Congress or the Centers for Medicare and Medicaid Services (“CMS”) to provide relief from the unsustainable nature of these reductions in reimbursement, many DMEPOS—also known as “home medical equipment”—suppliers and providers will not be able to remain viable and millions of Americans with disabilities will be at high risk of diminished access to care.

The ITEM Coalition is a national consumer- and clinician-led coalition advocating for access to and coverage of assistive devices, technologies, and related services for persons with injuries, illnesses, disabilities, and chronic conditions of all ages. Our members represent individuals with a wide range of disabling conditions, as well as the providers who serve them, including spinal cord injury, brain injury, stroke, paralysis, cerebral palsy, spina bifida, multiple sclerosis, limb loss and limb difference, hearing, speech, and visual impairments, myositis, and other life-altering conditions.

ITEM Coalition members have had long-standing concerns that the DMEPOS competitive bidding program limits access, choice, and quality of care. In 2018, CMS paused the CBP because of design flaws that caused unsustainable payment rates resulting in access issues for Medicare beneficiaries who need DMEPOS services. CMS used the 2-year pause to redesign the program. Unfortunately, CMS maintained the previously flawed payment rates that were established in 2016 during the pause, which were 50-60% lower than the unadjusted Medicare fee schedule rates. Congress and CMS have intervened numerous times through the years to provide additional relief, most recently providing a 75/25 blended rate for non-bid, non-rural areas through 2023 (75% Competitive Bid rate/25% unadjusted Medicare fee schedule rates). While not ideal, this 75/25 blended rate was a much-needed lifeline for DMEPOS suppliers and providers and afforded beneficiaries continued access to the level of care and services that they needed.

The 75/25 blended rate expired on January 1, 2024, and this has led to a 20% fee reduction across the top 25 DME HCPCS codes, dealing a crushing blow to DMEPOS suppliers and providers, threatening to decimate the infrastructure that enables Medicare beneficiaries with disabilities and chronic conditions to manage their medical and functional needs at home. Legislation has been introduced in both the House and Senate that would provide relief from the devastating impact that these reimbursement reductions are creating across the country.

Representatives Mariannette Miller-Meeks (R-IA), Paul Tonko (D-NY), and Ashley Hinson (R-IA) have introduced H.R. 5555, the *DMEPOS Relief Act*, which would provide a 90/10 blended Medicare reimbursement rate (90% adjusted payment rate/10% unadjusted fee schedule rate) for most home medical equipment products in Competitive Bidding Areas (“CBAs”). This bill would also extend the 75/25 blended rate that expired in January for non-rural/non-CBA suppliers and providers for a specified length of time. Senators John Thune (R-SD) and Debbie Stabenow (D-MI) have also introduced S. 1294, the *Competitive Bidding Relief Act*, which would extend the 75/25 blended Medicare reimbursement rate for suppliers in non-rural, non-CBAs through a specified length of time. While these are not companion bills, provisions from each bill would help ameliorate the negative impacts of this situation going forward.

Provisions from these bills, taken together, would ensure continued beneficiary access to DMEPOS services and devices, provide a much-needed measure of relief and stability for non-rural, non-CBA suppliers, and also have positive impacts on reimbursement levels from other payers who pattern their reimbursement levels off the Medicare fee schedule.

The ITEM Coalition typically does not address reimbursement issues and tends to focus on coverage and coding of assistive devices and technologies. However, when reimbursement policies materially impact patient access to care, we feel we must weigh-in with our members' concerns. The reason the competitively bid rates are not presently adequate to support access and quality of DMEPOS care to Medicare beneficiaries is because the competitive bidding program is no longer in effect. This means that any supplier or provider who participates in Medicare can provide the DMEPOS benefit. Contracts with a limited number of suppliers in a particular competitive bidding area are no longer necessary, resulting in far less volume of patients being directed to certain suppliers, who, when the competitive bidding program was in effect, were able to discount their prices in exchange for greater volume. Without the increased volume, many suppliers are not able to remain viable at the decreased competitively bid rates. The legislation cited above would help ameliorate this situation and increase access to patient care.

Therefore, the ITEM Coalition respectfully urges both House and Senate leadership to include provisions from these bills in any legislative package that moves prior to the end of the 118th Congress in order to preserve and protect access to affordable, timely, and quality home medical equipment for Medicare beneficiaries.

Thank you for your consideration of our request. We look forward to working with you and your House and Senate colleagues to ensure provisions from these two pieces of legislation are included in any end-of-year package moving before the end of the 118th Congress. If you have any questions regarding this matter, please contact the ITEM Coalition Co-Coordinator, Peter.Thomas@PowersLaw.com and Michael.Barnett@PowersLaw.com, by email or by calling 202-466-6550.

Sincerely,

The Undersigned Members of the ITEM Coalition

3DA
Access Ready, Inc.
ACCSES
AG Bell
All Wheels Up
ALS Association*
American Association for Homecare
American Cochlear Implant Alliance
American Macular Degeneration Foundation
American Music Therapy Association
American Therapeutic Recreation Association
Amputee Coalition*
Association of Assistive Technology Act Programs
Association of Rehabilitation Nurses

Autistic Women & Nonbinary Network
Buoniconti Fund to Cure Paralysis
Brain Injury Association of America
Christopher & Dana Reeve Foundation*
Clinician Task Force
Institute for Matching Person and Technology
International Registry of Rehabilitation Technology Suppliers
Long Island Center for Independent Living, Inc.
Miami Project to Cure Paralysis
Muscular Dystrophy Association
National Association for the Advancement of Orthotics & Prosthetics
National Association of Councils on Developmental Disabilities
National Association of Rehabilitation Research and Training Centers
National Coalition for Assistive & Rehab Technology
National Disability Rights Network
RESNA
Rifton Equipment
Simon Foundation for Continence
Spina Bifida Association*
Unite 2 Fight Paralysis
United Spinal Association*
Viscardi Center
VisionServe Alliance

****ITEM Coalition Steering Committee Member***

CC:

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
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