



December 5, 2014

**SUBMITTED ELECTRONICALLY via CAGinquiries@cms.hhs.gov**

Laurence Wilson  
Director of the Chronic Care Policy Group  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Attention: NCD 50.1: Speech-Generating Devices  
P.O. Box 8016  
Baltimore, MD 21244

**RE: Joint DME MAC Coverage Reminder for Speech Generating Devices**

Dear Mr. Wilson:

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition thank CMS for considering comments from stakeholders in the speech-generating device (SGD) community and requesting comments regarding revisions to the National Coverage Determination (NCD) 50.1: Speech-Generating Devices.

The ITEM Coalition is a national consumer and clinician-led coalition advocating for access to and coverage of assistive devices and technologies 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 such conditions as multiple sclerosis, paralysis, hearing and speech impairments, cerebral palsy, visual impairments, spinal cord injuries, brain injury, stroke, spina bifida, myositis, limb loss, Osteogenesis Imperfecta (“OI”), and other life-altering conditions.

Representatives from the ITEM coalition have participated in a workgroup focused on the SGD NCD with the American Speech-Language-Hearing Association, the Amyotrophic Lateral Sclerosis Association (ALSA), and the manufacturers of SGDs and agree on the revisions in Attachment 1. The following summarizes our key points:

- The original language defining SGDs does not require significant change;
- The language with disqualifying characteristics needs to be removed;
- Device access technology must be recognized as essential, medically necessary accessories for patients with limited or no mobility;

- Other methods of communication, such as email, can be encompassed in the patient’s right to “upgrade” their devices without sacrificing the integrity of the SGD benefit; and,
- Capped rental continues to be the primary barrier to comprehensive access to SGDs and communication.

With respect to the capped rental issue, this payment decision appears to be an overarching issue that prevents device upgrades and exacerbates problems with access to communication devices. The inclusion of SGDs as capped rental devices is perplexing and inconsistent with recent references and decisions made by CMS. In proposed rules, CMS cites key statutes that verify the Secretary’s discretion in implementing the capped rental rule on certain devices. Specifically, § 1834(4) of the Social Security Act states:

Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient, and for that reason cannot be grouped with similar items for purposes of payment under this title, shall be made in a lump-sum amount.

In addition, § 1834(2)(a)(ii) of the Social Security Act specifies that DME acquired by purchase at least 75% of the time can be exempt from capped rental. As indicated in 2012 PDAC data, SGDs were purchased 99.7% of the time. A recent announcement by CMS retroactively added an accessory code to the purchase list, demonstrating that CMS can provide a purchase option under their authority.

In other proposed rule text, CMS discloses that capped rental leads to “complicated administrative procedures” that requires increased tracking for payment, replacements, and repairs, and additional claims processing system edits for counting rental months and non-continuous use. ASHA, one of the ITEM Coalition’s Steering Committee members, has extensive, clinical experience with SGDs and has outlined in several comments the substantial programming and modifications made to SGDs to meet the needs of an individual patient. This includes language programming and personal information, and the impracticality of renting SGDs. Additionally, we continue to have significant concerns regarding the availability of SGDs to Medicare beneficiaries when the patient is admitted into a Part A facility. When Part A benefits are extended, payment for the SGD rental ceases to the supplier for the duration of the stay. The ITEM Coalition reiterates the request to exempt SGDs from the capped rental rule.

The ITEM Coalition urges CMS to adopt the revisions proposed by the workgroup, and ensure continued access of SGDs to Medicare beneficiaries with speech impairments in the future. Thank you for your consideration of our comments.

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If you have any questions, please contact the ITEM Steering Committee (listed below) or the ITEM Coalition staff via email at [Peter.Thomas@ppsv.com](mailto:Peter.Thomas@ppsv.com) or 202-466-6550. We welcome the opportunity to work with you to further discuss and implement changes to the SGD NCD that will preserve Medicare beneficiary access to this critical assistive technology.

Sincerely,

**ITEM Coalition Steering Committee Members**

Mark Richert, American Foundation for the Blind ([MRichert@afb.net](mailto:MRichert@afb.net))

Lisa Satterfield, American Speech-Language-Hearing Association ([LSatterfield@asha.org](mailto:LSatterfield@asha.org))

Laura Weidner, National Multiple Sclerosis Society ([Laura.Weidner@nmss.org](mailto:Laura.Weidner@nmss.org))

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**Endorsing Organizations**

ACCSES

American Academy of Neurology

American Academy of Physical Medicine & Rehabilitation

American Association on Health and Disability

American Cochlear Implant Alliance

American Foundation for the Blind

American Occupational Therapy Association

American Speech-Language-Hearing Association

American Therapeutic Recreation Association

Assistive Technology Industry Association

Association for Education and Rehabilitation of the Blind and Visually Impaired

Association of Assistive Technology Act Programs

Association of University Centers on Disabilities

Brain Injury Association of America

Caregiver Action Network

Child Neurology Society

Christopher & Dana Reeve Foundation

Easter Seals

National Council on Independent Living

National Disability Rights Network

National Multiple Sclerosis Society

Paralyzed Veterans of America

Perkins

The Arc

United Spinal Association