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SUBMITTED ELECTRONICALLY (URORECON@NORIDIAN.COM)

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RE: ITEM Coalition's Public Comment for Proposed LCD – Power Mobility Devices (DL33789)

Dear Drs. Ballyamanda, Lalla, Hoover and Jenny:

On behalf of the Muscular Dystrophy Association, we write in strong opposition to the proposed revisions to the Local Coverage Determination (“LCD”) DL33789, which would restrict Medicare coverage for certain power mobility devices, specifically, Group 2 standard power wheelchairs with seat elevation systems but without complex rehabilitative technology (“CRT”) capability. If finalized, this restriction in access to these critical devices would negatively impact Medicare beneficiaries who rely on such features to reach, transfer, and perform or participate in Mobility Related Activities of Daily Living (“MRADLs”) in their homes, which is the standard for coverage under the power wheelchair and seat elevation National Coverage Determinations.¹

For over 75 years, MDA has led the way in accelerating research, advancing care, and advocating for families in the neuromuscular disease (NMD) community. Our mission is to empower people affected by muscular dystrophy, ALS, and hundreds of other neuromuscular conditions to live longer, more independent lives. Many in the NMD community rely on seat elevation systems in their power chairs (regardless of group or classification) to navigate their homes safely and conduct MRALDs as independently as possible.

¹ Centers for Medicare & Medicaid Services, *National Coverage Analysis for Mobility Assistive Equipment (MAE)*, Decision Memo (NCA ID 000143) (May 5, 2005), available at <https://www.cms.gov/medicare-coverage-database/view/ncacal-decision-memo.aspx?NCAId=143>; Centers for Medicare & Medicaid Services, *National Coverage Determination for Seat Elevation Equipment (Power Operated) on Power Wheelchairs (280.16)*, Pub. 100-03, May 16, 2023), available at <https://www.cms.gov/medicare-coverage-database/view/ncd.aspx?ncdid=376>.

We also encourage the DME MACs to reinstate case-by-case review of seat elevation claims while reevaluation is taking place.

In general we echo the comments of our colleagues at the ITEM coalition's comments, and they will provide more specific commentary as to the problematic nature of this process. We will focus, briefly, on the impacts to the NMD community.

We are deeply concerned that the proposed LCD would categorically determine that seat elevation systems in Group 2 standard power wheelchairs are not "reasonable and necessary" under the Medicare statute and related coverage policies.² This impacts individuals with conditions such as inclusion body myositis and myasthenia gravis, among others, and other disabling conditions who require wheeled mobility in the home. If finalized, this policy would represent a significant step backward in Medicare's recognition of the functional and medical necessity of modern mobility technology. In fact under the original NCD we *specifically* advocated to this effect for the coverage of these systems in Group 2:

In addition to covering seat elevations for the purposes of reach and line of sight, MDA is grateful for CMS' consideration of expanding coverage for seat elevation systems to Group 2 wheelchairs and would encourage CMS to do so. Many in the NMD community, those living with inclusion body myositis and myasthenia gravis, for example, are candidates for Group 2 wheelchairs, and would benefit greatly from standing just as those who use Group 3 wheelchairs, such as those living with amyotrophic lateral sclerosis (ALS) and muscular dystrophy would. The benefits of seat elevation systems for those that use Group 2 wheelchairs are similar to the benefits for those that use Group 3 wheelchairs. Seat elevation systems would provide all of the medical benefits listed above, as well as assist with MARDLs and reduce strain during "sit to stand transfers".³ Many in the NMD community are deemed a high fall risk and experience falls when standing, or attempting to stand, while performing MARDLs.⁴ Given the medical benefit of seat elevation and the risk of harm while performing transfers and/or MARDLs, it is clear that the benefit to those that use Group 2 wheelchairs rises to the reasonable and necessary standard required.⁵

The facts on the ground have not changed. Seat elevation systems in Group 2 wheelchairs remain reasonable and necessary, to reverse CMS' position on this point would pose a massive coverage loss for those who (again) have a demonstrated need for this technology especially for those whose condition does not qualify them for a Group 3 chair but that otherwise benefit. What's more, a reversal would also place more strain on caregivers who would need to assist with more transfers and MARDLs, or cause community members to move into more restrictive facilities due to a lack of ability to navigate life independently or without significant risk.

² 42 U.S.C. § 1395y(a)(1)(A)

³ Palmerud et al. Intramuscular pressure of the infra- and supraspinatus muscles in relation to hand load and arm posture, *European Journal of Applied Physiology Rev.* 83, 223-30

⁴ See, Berends et. al. High incidence of falls in patients with myotonic dystrophy type 1 and 2: A prospective study, *Neuromuscular Disorders*, Vol. 29, Issue 10, 758,758-65, Oct. 2019.

⁵ Previous MDA comments: <https://votervoice.s3.amazonaws.com/groups/mda/attachments/03.17.2023%20-MDA%20Comments%20to%20CMS%20on%20Seat%20Elevation%20Systems.pdf>

For the forgoing reasons would ask you to reject the proposed revisions to the proposed LCD. At a minimum, and as a temporary measure we ask you to reinstate the case by case review while a more permanent solution is crafted.

MDA is committed to ensuring that individuals with neuromuscular diseases have access to devices to promote safe and healthy lives. We encourage CMS to provide coverage for seat elevation systems regardless of Group. We appreciate this opportunity to provide comment on this LCD. For questions regarding MDA or the above comments, please contact Joel Cartner at jcartner@mdausa.org.

Sincerely,

A handwritten signature in cursive script that reads "Joel Cartner".

Joel Cartner, Esq.
Director, Access Policy
Muscular Dystrophy Association