



CMA Weekly Alert – May 12, 2005

## **ACCESS TO POWER WHEEL CHAIRS STILL LIMITED BY “FOR USE IN THE HOME” REQUIREMENT**

On May 5, 2005, the Centers for Medicare & Medicaid Services (CMS) issued its National Coverage Determination (NCD) defining access to Medicare covered mobility assistive equipment (MAEs) such as power wheel chairs and scooters. NCDs state Medicare coverage criteria and policy and thus shape access to Medicare-covered services and equipment. In its NCD, CMS continues the controversial requirement that coverage is only available for MAE that assists beneficiaries in mobility-related activities of daily living such as toileting, feeding, bathing in customary locations in the home. See, *Decision Memo for Mobility Assistive Equipment*, (CAG-00274N), which can be found on the CMS website at: <http://www.cms.hhs.gov/mcd/viewdecisionmemo.asp?id=143>.

Advocates are concerned that the NCD is too narrow, that it should embrace mobility criteria that recognize and support those who need such devices primarily outside the home. In many instances, beneficiaries may use walkers, canes, and other durable medical equipment (DME) in the home, but require an MAE to get about in the community. Under the new NCD, Medicare coverage for the MAE would only be available if it is used primarily for a medical purpose in the home. Advocates have long maintained that the “for use in the home” language perpetuates limitations on mobility outside the home in contravention of the Americans with Disabilities Act (ADA) and the Supreme Court’s decision in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 600 (1999). See the *CMA Weekly Alert* of February 14, 2005, and the May 6, 2005, press release of the Item Coalition, which can be found on their webpage at [www.itemcoalition.org](http://www.itemcoalition.org). In addition, advocates argue that CMS should take the lead in pressing for broader legislative change that would bring the MAE benefit more specifically in line with the needs of the community of persons who rely on MAE beyond the home.

In its national coverage determination, CMS has moved explicitly away from a chair or bed confined standard. This is an improvement. However, they now base decisions on limitations that prevent a beneficiary from accomplishing mobility-related activities of daily living (MADLs) in the home, and even if such limitations exist, the home environment itself must be such that MAE can be used safely in the home, and the beneficiary must be willing to use the MAE. This focus on use in the home is still far too restrictive. Advocates should carefully monitor the impact of this NCD on beneficiaries’ ability to get Mobility Assistive equipment.

*For further discussion of access to mobility assistive equipment and the NCD process, and advocacy concerns, contact Alfred Chiplin ([achiplin@medicareadvocacy.org](mailto:achiplin@medicareadvocacy.org)) or Vicki Gottlich ([vgottlich@medicareadvocacy.org](mailto:vgottlich@medicareadvocacy.org)) in the Center for Medicare Advocacy’s Washington, DC office at (202) 216-0028, or Sally Hart ([shart@acd.com](mailto:shart@acd.com)) at (520) 327-9547.*