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December 29, 2011

Marilyn Tavenner
Acting Administrator and Chief Operating Officer
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G
Hubert H. Humphrey Building
200 Independence Ave. S.W.
Washington, DC 20201

RE: Prepayment Review and Prior Authorization of Power Mobility Devices (PMD) Demonstration

Dear Ms. Tavenner:

On behalf of the over 82,000 member physical therapists, physical therapists assistants, and students of physical therapy of the American Physical Therapy Association (APTA), I am writing to request the elimination of prepayment review from the Prepayment Review and Prior Authorization of Power Mobility Devices (PMD) Demonstration announced on November 15, 2011 and request a delay in the scheduled implementation of January 1, 2012. Physical therapists support the need to eliminate improper payments and fraud in the health care system. However, we believe that 100% prepayment review of PMD claims may create an access issue for Medicare beneficiaries whose PMD claims are medically necessary.

Physical therapists, by virtue of their training and education in movement and function, are an essential member of the health care team who evaluate and deliver power mobility services. Physical therapists practice in a wide variety of inpatient and outpatient settings, including hospitals, skilled nursing facilities, home health agencies, rehabilitation agencies, physical therapist private practice offices, physician offices, and schools. Within these settings, many physical therapists specialize in assessing patients for the proper mobility assistive equipment (MAE). Physical therapists are also experts in the seating and accessorizing necessary to assure the correct fit between a beneficiary and the appropriate MAE. As a result, physical therapists are an integral part of the process of matching a beneficiary with the proper PMD. Therefore, APTA is deeply concerned about the impact that this demonstration will have on patients that need PMDs.

The Centers for Medicare and Medicaid Services (CMS) plans to implement the Prepayment Review and Prior Authorization of PMDs Demonstration in two phases.

First, during Phase I, the Durable Medical Equipment (DME) Medicare Administrative Contractors (MACs) will institute 100% prepayment review of PMD claims in California, Illinois, Michigan, New York, Florida, North Carolina and Texas. DME MACs will send additional documentation requests (ADRs) on all PMD claims to the billing suppliers. Then, within 3 to 9 months, the DME MACs will institute Phase II, prior authorization for all PMD claims. Due to the lack of protections inherent in prepayment review, APTA requests that CMS refrain from implementing prepayment review and delay implementation of this demonstration until the prior authorization phase is available for PMD claims.

Prepayment Review (Phase I)

The prepayment review phase of this demonstration requires the review of all PMD claims after the power mobility device has been provided to and used by the beneficiary. This could create a significant deficiency in access to PMDs for those Medicare beneficiaries who need them. For example, a considerable percentage of the high PMD claim error rates are attributable to paperwork inaccuracies or omissions. If a review results in a denial of payment due to paperwork inaccuracies or omissions, the device could be taken away from the beneficiary after use has begun, even if a review denial is in error. As a result, prepayment review may force suppliers to purchase PMDs, provide those devices to beneficiaries, then remove denied mobility devices from beneficiaries' homes when the medical necessity for the PMD is in fact genuine.

Furthermore, according to Chapter 3 of the Medicare Program Integrity Manual on prepayment review, the DME MACs will have 60 calendar days to make and document the review determination.[1] Therefore, even though CMS states that all appeal rights will apply in prepayment review, the supplier may not receive an appealable decision until 60 days after the supplier has provided the PMD to the beneficiary. We are concerned that the device may be removed from the home of a beneficiary with a genuine need after 60 days of use, and the device may not be returned until a lengthy appeal process is undertaken. Even more egregious is the potential for a beneficiary to be charged the significant cost of a PMD when the beneficiary fully expected Medicare coverage. Aside from the administrative burden created for providers and suppliers by prepayment review, more importantly, the beneficiary may suffer during a lengthy timeframe without a medically necessary mobility device or left with an extreme financial burden.

Prior Authorization (Phase II)

Prior authorization is a better, less disruptive alternative to ensure a lower error rate on PMD claims. The prior authorization phase of this demonstration will require that a prior authorization request is submitted to the DME MAC, including progress notes documenting the face-to-face exam, 7-element order and other medical documentation. The DME MAC will then review the request and postmark notification of a written decision within 10 days to the ordering provider, the beneficiary and the supplier. If the

[1] CMS Manual System, Pub. 100-08, *Medicare Program Integrity Manual,* Chapter 3, §3.3.1.1(F).

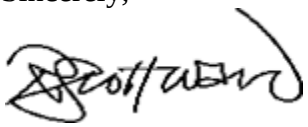
DME MAC does not approve the request, the ordering provider may resubmit an unlimited amount of requests, which the DME MAC must review within 30 days.

Because of these inherent protections within the prior authorization phase, we recommend that CMS eliminate Phase I and delay the implementation of this demonstration until prior authorization is available for review of PMD claims.

Conclusion

In closing, APTA commends CMS for its efforts to curb fraudulent and abusive practices in the health care system. We are committed to working with CMS and other government agencies to create safeguards in the system that do not hinder patient care. If you need additional information or have questions regarding our comments, please contact Gillian Russell at (703) 706-3189 or gillianrussell@apta.org.

Sincerely,



R. Scott Ward, PT, PhD
President

RSW:glr