The Power Mobility Coalition

WORKING TOGETHER FOR FREEDOM AND INDEPENDENCE

June 25, 2007

The Centers for Medicare and Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development—B
Attention: William N. Parham, III
Room C4–26–05
7500 Security Boulevard
Baltimore, MD 21244-1850

JUN 25 2007

Dear Mr. Parham:

On behalf of the Power Mobility Coalition (PMC), a nationwide association of manufacturers and suppliers of motorized wheelchairs and power operated vehicles (POVs), we are submitting comments concerning the data collection and paper work burdens associated with the rule entitled, *Conditions of Payment of Power Mobility Devices, Including Power Wheelchairs and Power-Operated Vehicles* (CMS-3017-IFC).

Per the April 27, 2007 Federal Register notice (72 Fed. Reg. 21024), the Centers for Medicare and Medicaid Services (CMS) "is seeking reapproval of the collection of information requirements associated with the final rule, CMS-3017-F (71 Fed. Reg. 17021), which was published on April 5, 2006, and became effective on June 5, 2006. The agency also set forth the following:

> Specifically, we are seeking OMB approval for the following terms of clearance identified in the Notice of Action dated October 16, 2006, of which OMB has requested CMS to monitor the paperwork burden required of providers and suppliers to determine if the paperwork requirements impose any unnecessary burden on the industry and/or need to be revised in order to improve the utility of the information.

71 Fed. Reg. 21024.

Contrary to the terms of clearance and contrary to sound public policy, the Federal Register notice issued by CMS provides no data demonstrating that the agency did in fact "monitor" the paperwork burden required of providers and suppliers. The agency does not identify any study conducted, any data collected, nor does the agency address possible alternative collections of information that could reduce unnecessary burden and/or improve the utility of the information. Instead, CMS states in the Federal Register notice that it "does not believe" that the documentation requirement imposes any additional unnecessary burden on the durable medical equipment industry. 71 Fed. Reg. 21024. The failure of the agency to engage in a meaningful analysis of the collection of information burden and utility is a disservice to all Medicare stakeholders, including the beneficiaries throughout the country who support the Medicare program.

The PMC is also concerned that the final rule provides a flawed estimate of the overall administrative and significantly increased paperwork burdens on physicians and fails to provide a specified record keeping requirement for both physician and PMD supplier. The overall burdens and subjectivity associated with the final rule has resulted in a restriction in access to Medicare PMDs. In the August 2005 *Federal Register*, CMS set appropriate access levels at 187,000 Medicare beneficiaries qualifying for a PMD. For 2007, if one extrapolates CMS' projected utilization levels; Medicare would pay for approximately 214,000 PMDs. Yet, current projections estimate that only 156,000 Medicare beneficiaries will receive a PMD in 2007, leaving over 64,000 medically qualified beneficiaries without access.

In an effort to more accurately measure the paperwork burden on PMD suppliers under the final rule, the PMC surveyed its supplier members as to the actual time it takes to obtain, review and retain the documentation required to file a PMD claim. In addition, suppliers surveyed included the time required for completion of the detailed product description which, while not even included in the original clearance of the final rule, is yet another component of the supplier's administrative burden. The survey results demonstrate that suppliers take considerably longer in obtaining, reviewing and submitting PMD documentation than the ten minutes estimated by CMS in the final rule.

One Western-based regional PMC supplier breaks down their paperwork burden as follows:

I. Initial Interview – **75 minutes to 2 hours**
   a. Call to beneficiary to collect necessary information – 30 minutes to 1 hour

b. Scheduling Face-to-Face examination - 5 minutes
c. Calling IVR ensure beneficiary eligibility – 5 to 10 minutes
d. Calling Medicare to check "same or similar" – 10 to 15 minutes
e. Calling secondary insurance to verify coverage – 10 to 20 minutes
f. Compiling client folder – 5 minutes
g. Scheduling with beneficiary for in-home assessment – 10 minutes

II. Initial Doctor's Package – **10 minutes**
a. Compiling documentation and faxing to Physician's office – 5 to 10 minutes

III. Follow-Up after Face-to-Face Examination – **5 minutes**
a. Most physician's offices require multiple follow-ups – 5 minutes (per follow-up)

IV. Review Doctor's Package – **18 to 23 minutes**
a. Review the prescription including checking the ICD-9 code, cross-checking the date of the FTF on the prescription with the date on the chart notes; ensuring the ICD-9 code will support a PMD claim – 3 minutes
b. Review chart notes to ensure medical necessity for PMDs has been established – 5 to 15 minutes
c. Ensuring the detailed product description has been dated and signed by the physician – 5 minutes (assuming no follow-up is needed)

V. Requests for Missing Information or Corrections – **30 to 40 minutes depending on number of follow-ups required**
a. Most beneficiaries require a minimum of three to four follow-up faxes or requests for information – 5 to 10 minutes/follow-up
b. As a result of the 45-day rule some beneficiaries must have another face-to-face examination since all documentation could not be compiled in the 45 day timeframe

VI. Delivery of PMD – **1.5 to 2 hours (not including travel time)**
a. Re-verify insurance – 10 to 20 minutes
b. Compile delivery package – 10 to 20 minutes

c. Scheduling delivery – 10 minutes
d. Delivery, including in-home assessment, measurements, equipment demonstration – 30 minutes to an hour

The PMC hopes CMS will re-evaluate the data collection contained in the final rule and seriously consider adopting a clear documentation requirement and objective standard that includes the eligibility criteria and algorithmic process established in the National Coverage Determination (NCD) for power mobility devices (PMDs) issued May 5, 2005. At a minimum, the PMC would recommend that CMS adopt documentation and objective standards that fulfill the following criteria:

- provide a degree of objectivity regarding the information necessary to supports the health care practitioner's prescription for the most appropriate PMD;
- incorporate the algorithmic process established in the local coverage determination (LCD) to demonstrate PMD coverage criteria;
- ensure that the health care practitioner conducts a face-to-face examination;
- ensure that the health care practitioner chooses the most appropriate mobility device for the beneficiary;
- certify, under penalty of perjury, that the health care practitioner conducted the examination and that the beneficiary meets the medical necessity for PMD as stated in the rule.

It is the PMC's belief that a form that encompasses the above-referenced criteria would provide the documentation needed to satisfy to CMS that a health care practitioner examined the patient, evaluated the need consistent with the local coverage determination and national coverage criteria, while providing PMD beneficiaries and suppliers a reasonable assurance that their claim will not be denied. Such a form, moreover, will decrease the administrative burdens on both suppliers and physicians and ensure that beneficiaries have access to Medicare PMDs in a timely manner.

The PMC has learned that state physician groups are developing solutions to help guide health care practitioners in evaluating Medicare beneficiaries for PMD coverage. By helping guide physicians through the elements of Medicare PMD eligibility, these forms detail Medicare criteria and aid in assessing need for the most appropriate PMD devices (if any). Some States, including Colorado and Texas, are advocating use of these tools and others are quickly considering their adoption.

As always, the PMC thanks you for the opportunity to submit comments and looks forward to working with OMB, CMS and all interested stakeholders on these important issues.

Sincerely,

Stephen M. Azia
PMC Counsel

Eric W. Sokol
PMC Director