

**National Disability Organizations Stress to Congress  
Need for Passage of Legislation to  
Protect Access to Complex Rehab Wheelchair Accessories**

*Congress Must Pass HR-3229/S-2196 This Year*

**Background**

The Centers for Medicare and Medicaid Services (CMS) plans to apply competitive bid pricing to Complex Rehab wheelchair accessories effective January 1, 2016. This violates the intent of past Congressional legislation (MIPPA 2008) and will inappropriately reduce payment rates for 171 wheelchair accessory codes by 20% to over 40% creating major access problems.

If not rescinded, this will hurt Medicare beneficiaries with significant disabilities due to major decreases in availability (or outright elimination) of the individually configured Complex Rehab wheelchair systems these individuals rely on. These access problems will also extend to the children and adults with disabilities covered under Medicaid and other health insurance programs.

Unfortunately, in spite of bipartisan Congressional letters to CMS from the House of Representatives (101 member signatures) and the Senate (25 member signatures) requesting that it rescind this changed policy, CMS still plans on moving forward with implementation on January 1, 2016.

Thankfully HR-3229 and S-2196 have been introduced in Congress to provide a legislative “technical correction” to clarify that CMS cannot apply Medicare competitive bidding pricing to the accessories used with Complex Rehab wheelchairs and thereby protect access for people with disabilities.

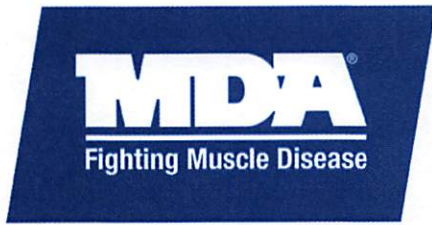
Given the consequences and urgency, this legislation must be enacted by December 31, 2015.

**Support from National Disability Advocacy Organizations**

The following National Disability Advocacy Organizations have sent formal written letters to Congress urging them to pass this needed legislative technical correction to protect access for people with disabilities. Copies of their letters are attached.

- 1.) ALS Association**
- 2.) Christopher and Dana Reeve Foundation**
- 3.) ITEM Coalition**
- 4.) Muscular Dystrophy Association**
- 5.) National Multiple Sclerosis Society**
- 6.) Paralyzed Veterans of America**
- 7.) United Spinal Association**
- 8.) Vets First**

For additional information about this issue and the Complex Rehab Technology (CRT) products and services that people with disabilities depend on visit [www.access2crt.org](http://www.access2crt.org).



August 21, 2015

The Honorable Paul Ryan  
Chair, House Ways & Means Committee  
1102 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Sander Levin  
Ranking Member, House Ways & Means  
Committee  
1106 Longworth House Office Building  
Washington, D.C. 20515

***Re: Support for H.R. 3229 – clarification for the non-application of Medicare competitive bidding rates to complex rehabilitative technology***

Dear Chairman Ryan and Ranking Member Levin:

The Muscular Dystrophy Association (MDA) and The ALS Association submit this joint letter in support of H.R. 3229—legislation that would help preserve patient access to complex rehabilitative technology (CRT) by clarifying that Medicare's competitive bid pricing program does not apply to these technologies.

CRT plays a critical role in the lives of people living with muscular dystrophy, ALS, and other neuromuscular diseases. This category of devices and accessories consists of a wide range of specialized and customizable medically necessary technology, such as power wheelchairs and accessories that enable patients with these complex conditions to function in their everyday lives.

As you are aware, in 2008, Congress recognized the unique nature of CRT and specifically excluded these technologies from the Medicare DME competitive bidding program with approval of the Medicare Improvements for Patients and Providers Act (see MIPPA 2008, Sec. 154). Both MDA and The ALS Association strongly support this policy.

Many people with neuromuscular disease who have lost the ability to stand, walk, use their arms and hands, and even breathe on their own require the use of more advanced, complex and customizable technologies than those typically needed by most Medicare beneficiaries. Because the competitive bidding program does not

recognize the nature of CRT or the unique medical needs of patients who rely upon it, Congress rightfully excluded these technologies from the competitive bidding program. However, in December 2014, the Centers for Medicare and Medicaid Services (CMS) issued a Frequently Asked Questions (FAQ) document indicating their intent to apply pricing information obtained from bids for standard wheelchair accessories to complex wheelchair accessories. This practice would be contrary to MIPPA and to the way payments have been made for this equipment for the past six years—by standard fee schedule.

If CMS implements this change, MDA and The ALS Association believe the result will be significantly reduced access to complex rehabilitative wheelchairs and accessories for those living with ALS, muscular dystrophy, and other neuromuscular diseases. We applaud CMS for working to reduce costs and combat fraud and abuse, but these efforts must not be accomplished in a manner that is detrimental to the most vulnerable of Medicare beneficiaries. This is why we are pleased to support H.R. 3229, as it will help to ensure that people with complex conditions will have access to the complex rehabilitative technologies they need, when and where they need them.

Thank you in advance for your time and consideration and for your efforts to support Medicare beneficiaries. Please feel free to contact Kristin Stephenson [kstephenson@mdausa.org](mailto:kstephenson@mdausa.org) or Patrick Wildman [pwildman@alsa-national.org](mailto:pwildman@alsa-national.org) at any time should you have any questions or concerns.

Sincerely,



Kristin Stephenson  
Vice President, Policy & Advocacy  
Muscular Dystrophy Association  
1750 New York Ave NW Suite 200  
Washington, DC 20006



Patrick Wildman  
Vice President, Public Policy  
The ALS Association  
1275 K Street, NW Suite 250  
Washington, DC 20005

cc: The Honorable Fred Upton, Chair, House Energy and Commerce Committee  
The Honorable Frank Pallone, Jr., Ranking Member, House Energy and Commerce Committee



Peter T. Wilderotter *President & CEO*

October 21, 2015

The Honorable Paul Ryan  
Chair, House Ways & Means Committee  
1106 Longworth House Office Building  
Washington, DC 20515

The Honorable Sander Levin  
Ranking Member, House Ways  
& Means Committee  
1106 Longworth House Office  
Building  
Washington, DC 20515

On behalf of the Christopher & Dana Reeve Foundation and the over 5 million people living with paralysis in the United States, I write in support of H.R. 3229 – a bill to prevent the application of pricing information derived from the Medicare competitive bidding program to complex rehabilitative wheelchairs and accessories. This will protect access to complex rehab wheelchairs and accessories which are vital for people with spinal cord injury, stroke, multiple sclerosis, ALS, cerebral palsy and other forms of paralysis to lead healthy and independent lives.

People with paralysis who have lost the ability to stand, walk, use their arms and hands, and even breathe on their own require the use of more advanced, complex and customizable technologies than those typically needed by most Medicare beneficiaries. That's why, in 2008, Congress required the Centers for Medicare and Medicaid Services (CMS) to exempt complex rehabilitative power wheelchairs and accessories from Medicare's competitive bidding program in the Medicare Improvements for Patients and Providers Act (MIPPA). In late 2014, CMS issued a "Frequently Asked Questions" document stating that it intends to use competitive bidding pricing information obtained from bids for standard wheelchair accessories to reduce the payment amounts for critical complex rehab wheelchair accessories. This planned institution of competitive bidding pricing to complex rehab accessories violates congressional intent and fails to account for the difference between standard chairs and complex rehab technology. This change will reduce payment for 171 wheelchair codes for head rests, tilt features to help control blood pressure, and cushions that prevent pressure sores. Limiting access to these components will not only harm patients, but could lead to increased health care costs from preventable secondary conditions caused by an ill-fitting chair.

One hundred and one bipartisan U.S. Representatives and 23 bipartisan U.S. Senators have already sent a letter to CMS asking them to revisit this change in policy. H.R. 3229 is a simple clarification that will go a long way in protecting consumer access so that people living with spinal cord injury and other significant disabilities can remain healthy, independent, and active. If you have any questions, please contact Rachel Patterson, Director of Public Policy at [rpatterson@christopherreeve.org](mailto:rpatterson@christopherreeve.org) or 202-715-1496.

Sincerely,



Peter T. Wilderotter





March 4, 2015

**SUBMITTED ELECTRONICALLY**

Andy Slavitt, Acting Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

**Re: Preserve Medicare Beneficiary Access to Complex Rehab Technology (CRT)**

Dear Acting Administrator Slavitt,

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (“ITEM”) Coalition write to you concerning a recent policy announcement that CMS made that may prevent Medicare beneficiaries with disabilities and chronic conditions from receiving medically necessary complex rehab technology (CRT) as prescribed by their physician. We urge you to rectify this situation at your earliest opportunity in order to preserve access to CRT for Medicare beneficiaries in need of these devices and technologies.

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, cerebral palsy, spinal cord injury, brain injury, stroke, limb loss, and other conditions.

As part of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA 2008, Section 154), Congress specifically excluded from the Medicare DME competitive bid program “certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs).” MIPPA, Section 154(a)(1)(B). These accessories include items that beneficiaries use with those wheelchairs such as seat/back cushions, recline/tilt systems, specialty controls, etc.

Accordingly, CMS did not include those items in Round 1 or Round 2 of the bid program. In addition, consistent with the spirit of that law, CMS excluded complex rehab *manual* wheelchairs from Round 2 and implemented a similar policy for accessories used with these wheelchairs. As a result, complex rehab wheelchairs and related accessories (both power and manual) have continued to be exempt from competitive acquisition and have been covered using the existing Medicare DME fee schedule in both bid and non-bid areas.

In November 2014, CMS issued final rule CMS 1614-F (Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics and Supplies) finalizing certain next steps and changes to the Medicare DME competitive bid program. Specifically, the final rule details how CMS will use information obtained from the bid program to adjust the established fee schedule amounts for competitively bid items provided in non-bid areas.

The final rule did not clarify that CRT power wheelchairs would be protected as the statute establishes and as CMS implemented on their own accord for manual CRT. However, in a follow up to the rule, in December 2014, CMS posted online a “Frequently Asked Questions” document indicating that starting in 2016 CMS intends to use information obtained from the competitive bidding program to reduce the reimbursement amounts for complex rehab wheelchair accessories for both power and manual CRT wheelchairs.

*We believe that CMS’ plan to apply competitively bid reimbursement amounts to complex rehab wheelchair accessories is in direct violation of MIPPA, Section 154, which specifically exempted from the competitive bid program wheelchair accessories used with complex rehab power wheelchairs. It also flies in the face of CMS precedent by exposing manual CRT wheelchair accessories to competitive bidding reimbursement levels. The letter and intent of the law was clear that these items should continue to be covered using the established fee schedule amounts, as they are today and have been for over six years during the operation of the DME competitive bidding program.*

Our key concern is that these reimbursement levels will seriously compromise access to CRT wheelchair accessories that provide critical functional improvements to Medicare beneficiaries such as pressure relief, chin control, postural support, protection from skin breakdown, etc. Lack of access to these accessories could have very negative impacts on Medicare beneficiaries who require complex rehab wheelchairs to be as functional and independent as possible. Complex rehab power and manual wheelchairs and the related accessories described above are used by people with high level disabilities such as ALS, cerebral palsy, multiple sclerosis, muscular dystrophy, spinal cord injury, and traumatic brain injury. This small population of Medicare beneficiaries depends on these individually configured products to meet their unique needs.

We strongly urge CMS to rescind its December 2014 “Frequently Asked Questions” document and issue written clarification that accessories used with complex rehabilitative power and manual wheelchairs will continue to be covered using Medicare’s established fee schedule amounts and such amounts will not be adjusted based on competitive bidding information.

We greatly appreciate your attention to this important issue. Should you have further questions regarding the information contained in our letter, please contact any of the ITEM Coalition Steering Committee members listed below.

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))

Lee Page, Paralyzed Veterans of America ([LeeP@pva.org](mailto:LeeP@pva.org))

Alexandra Bennewith, United Spinal Association ([ABennewith@unitedspinal.org](mailto:ABennewith@unitedspinal.org))



August 5, 2015

The Honorable Lee Zeldin (NY-1)  
U.S. House of Representatives  
1517 Longworth House Office Building  
Washington, DC 20515

Representative Zeldin,

On behalf of the National Multiple Sclerosis Society and all people affected by multiple sclerosis (MS), I write in strong support of H.R. 3229, which would prevent the application of pricing information derived from the Medicare competitive bidding program to complex rehabilitative wheelchairs and accessories. This will protect access to complex rehab wheelchairs and accessories which are vital to keeping people with progressed multiple sclerosis (MS) healthy and independent. We know that you have a personal connection to MS—making your leadership on this issue even more important.

Multiple sclerosis (MS), an unpredictable, often disabling disease of the central nervous system, interrupts the flow of information within the brain, and between the brain and body. Symptoms range from numbness and tingling to blindness and paralysis. The progress, severity and specific symptoms of MS in any one person cannot yet be predicted and currently, there is no cure. While the U.S. Food and Drug Administration has approved 13 medications to treat relapsing forms of MS, there are no drugs approved for Primary Progressive MS, the most severe form of the disease. For this subpopulation and others whose disability has progressed significantly, access to individually configured manual and power wheelchairs, seating and positioning systems and other specialized equipment known as “complex rehabilitation technology” is vital to keeping them healthy, independent and active.

In 2008 through the Medicare Improvements for Patients and Providers Act (MIPPA), Congress required the Centers for Medicare and Medicaid Services (CMS) to exempt complex rehab power wheelchairs and accessories from Medicare’s competitive bidding program. In late 2014, CMS issued a “Frequently Asked Questions” document stating that it intends to use competitive bidding pricing information obtained from bids for standard wheelchair accessories to reduce the payment amounts for critical complex rehab wheelchair accessories. This planned institution of competitive bidding pricing to complex rehab accessories violates congressional intent. Also, because it will impact 171 wheelchair codes reduce payment for accessories annually by \$20 million, this policy change will likely restrict consumer access greatly. “Accessories” in this case are not superfluous and rather are necessary and unique components such as special head rests, tilt features or joysticks that make the complex product usable and beneficial to the person with a significant disability.

One hundred and one bipartisan U.S. Representatives have already sent a letter to CMS asking them to revisit this change in policy and the U.S. Senate is sending a similar letter soon. We appreciate your leadership on this issue through introduction of H.R. 3229. Your bill is a simple clarification that will go a long way in protecting consumer access so that people living with progressed MS and other significant disabilities can remain healthy, independent and active. We look forward to continuing to work you on this bill. If you have any questions, please contact Laura Weidner, Senior Director of Federal Government Relations, at [laura.weidner@nmss.org](mailto:laura.weidner@nmss.org) or 202-408-1500.

Best,

A handwritten signature in black ink, appearing to read "Bari Talente".

Bari Talente, Executive Vice President, Advocacy

**JOIN THE MOVEMENT<sup>®</sup>**  
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**Paralyzed Veterans  
of America**

801 18th Street NW  
Washington DC 20006-3517  
(O) 202.872.1300  
(TTY) 202.416.7622  
(F) 202.785.4452  
[www.pva.org](http://www.pva.org)

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Chartered by the Congress of the United States

October 6, 2015

The Honorable Lee Zeldin  
U.S. House of Representatives  
1517 Longworth House Office Building  
Washington, DC 20515

Dear Representative Zeldin:

On behalf of the Paralyzed Veterans of America (PVA), I write in strong support of H.R. 3229, which would prevent the application of pricing information derived from the Medicare competitive bidding program to complex rehabilitative wheelchairs and accessories. This will protect access to complex rehabilitative wheelchairs and accessories which are vital to keeping paralyzed veterans and other people with catastrophic spinal cord injuries healthy and independent.

PVA is a congressionally chartered non-profit national veteran's service organization. PVA is dedicated to meeting the needs of its members - veterans with catastrophic spinal cord injury and or disease all of who use complex rehabilitative wheelchairs for recovery, rehabilitation, and independence.

In 2008 through the Medicare Improvements for Patients and Providers Act (MIPPA), Congress required the Centers for Medicare and Medicaid Services (CMS) to exempt complex rehabilitative power wheelchairs and accessories from Medicare's competitive bidding program. In late 2014, CMS issued a "Frequently Asked Questions" document stating that it intends to use competitive bidding pricing information obtained from bids for standard wheelchair accessories to reduce the payment amounts for critical complex rehab wheelchair accessories. This planned institution of competitive bidding pricing to complex rehab accessories violates congressional intent.

This deliberate violation of the law by CMS will impact 171 wheelchair codes for accessories. This policy change will likely restrict consumer access greatly. "Accessories" in this case are not superfluous and rather are necessary and unique components such as: special head rests, mechanized tilt features administered by a joystick or sip and puff head sets, customized seating systems, and adjustable leg rests all of which make the complex product usable and beneficial to the person with complex spinal cord injury or other significant disability.

We appreciate your leadership on this issue through introduction of H.R. 3229. Your bill is a simple clarification that will go a long way in protecting consumer access so that paralyzed veterans and all people with spinal cord injuries or other significant disabilities can remain healthy, independent and active through access to complex rehabilitative wheelchairs and accessories.

Please, do not hesitate to call upon PVA for assistance as we work together to ensure support and passage of this important piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Page". The signature is fluid and cursive, with a large initial "L" and a stylized "P".

Lee Page  
Senior Associate Advocacy Director

August 3, 2015

The Honorable Paul Ryan  
Chair, House Ways and Means Committee  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Sander Levin  
Ranking Member, House Ways and Means Committee  
1106 Longworth House Office Building  
Washington, DC 20515

**Re: Support HR 3229 - protects access to complex rehab wheelchair accessories by exempting them from the competitive bidding program**

Dear House Ways and Means Chair Ryan and House Ways and Means Ranking Member Levin:

We are writing to express our strong support for Congress to legislatively fix a serious problem regarding a Centers for Medicare and Medicaid Services (CMS) policy that will likely prevent Medicare beneficiaries with significant disabilities and chronic conditions such as spinal cord injury, traumatic brain injury, multiple sclerosis, amyotrophic lateral sclerosis, spina bifida from receiving medically necessary complex rehab technology (CRT) as prescribed by their physician starting January 1, 2016.

United Spinal Association is the largest disability-led national non-profit organization founded by paralyzed veterans in 1946 and has since provided service programs and advocacy to improve the quality of life of those across the life span living with spinal cord injuries and disorders (SCI/D) such as multiple sclerosis, amyotrophic lateral sclerosis (ALS), post-polio syndrome and spina bifida. United Spinal represents over one million individuals with spinal cord injuries and disorders, 46 chapters, 105 rehabilitation hospital members and close to 200 support groups nationwide. Throughout its history, United Spinal Association has devoted its energies, talents and programs to improving the quality of life for these Americans and for advancing their independence. United Spinal Association is also a VA-recognized veterans service organization (VSO) serving veterans with disabilities of all kinds.

In Section 154 of the Medicare Improvements for Patients and Providers Act of 2008, Congress specifically excluded from the Medicare Durable Medical Equipment (DME) competitive bid program "certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs)," *Social Security Act §1847(a)(2)*. These accessories include items that beneficiaries use with complex wheelchairs such as seat and back cushions, tilt and recline systems, specialty controls, etc.

Unfortunately in 2009, Congress provided CMS the authority to use information from the bid program to reduce payment for bid items in non-bid areas, *Social Security Act §1834(a)(1)(F)(ii)*. In November 2014, CMS issued final rule CMS 1614-F (Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics and Supplies), implementing this authority, however did not address the complex rehab issue directly. Instead, in an online FAQ CMS issued in December 2014, CMS stated that starting in 2016 the agency intends to use information obtained from the competitive bid program to reduce the payment amounts for complex rehab wheelchair accessories for both power and manual CRT wheelchairs.

Complex rehab power and manual wheelchairs and related accessories are used by people with significant disabilities such as ALS, cerebral palsy, multiple sclerosis, muscular dystrophy, spinal cord injury, and traumatic brain injury. This small population depends on these individually configured products to meet their unique needs. Our key concern is that reduced payment levels will seriously compromise our members' access to CRT wheelchair accessories that provide critical medical and functional needs such as positioning changes to provide pressure relief, postural supports to accommodate orthopedic concerns, adjustable cushions to protect against skin breakdown, and specialty drive controls for those with limited movement as well as affect the availability and development of future advanced technologies. Many suppliers of this equipment provide products and services for Medicare beneficiaries as well as to the Department of Veterans Affairs. Lack of access to these complex rehab accessories will negatively impact our members' ability to participate in everyday activities such as going to work, school, grocery shopping, making medical appointments, visiting places of worship, being responsible for family members and otherwise participating in their communities.

We believe that applying competitively bid payment amounts to complex rehab wheelchair accessories is in direct violation of Section 154 of the Medicare Improvements to Patients and Providers Act. It is also contrary to CMS precedent by exposing manual CRT wheelchair accessories to competitive bidding payment levels. We strongly urge Congress to legislate a technical correction to clarify that accessories used with complex rehab power and manual wheelchairs continue to be covered using Medicare's established fee schedule amounts and not to be adjusted based on competitive bidding information for standard items, **please support HR 3229, introduced by Rep Lee Zeldin, which "exclude[s] from such competitive acquisition program, ... all complex rehabilitative manual and power wheelchairs ... and ... any wheelchair accessory, cushion, or back when furnished in connection with a complex rehabilitative manual or power wheelchair."** To co-sponsor HR 3229, please contact Matthew Scott at [matthew.scott@mail.house.gov](mailto:matthew.scott@mail.house.gov) or (202) 225-3826.

Thank you for your consideration, if you have any questions, please do not hesitate to contact me at [abennewith@unitedspinal.org](mailto:abennewith@unitedspinal.org) or (202) 556-2076, x7102 or Ross Meglathery at [rmeglathery@vetsfirst.org](mailto:rmeglathery@vetsfirst.org) or (202) 556-2076, x7103.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alexandra Bennewith', with a stylized flourish at the end.

Alexandra Bennewith, MPA  
Vice President, Government Relations

Cc: Chair, House Energy and Commerce Committee, The Honorable Fred Upton  
Ranking Member, House Energy and Commerce Committee, The Honorable Frank Pallone, Jr.