



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

August 18, 2016

The Honorable Orrin Hatch (UT)  
U.S. Senate  
Chair, Finance Committee  
Washington, D.C. 20510

The Honorable Ron Wyden (OR)  
U.S. Senate  
Ranking Member, Finance Committee  
Washington, D.C. 20510

The Honorable Kevin Brady (TX-8)  
U.S. House of Representatives  
Chair, Ways and Means Committee  
Washington, D.C. 20515

The Honorable Sander Levin (MI-9)  
U.S. House of Representatives  
Ranking Member, Ways and Means Committee  
Washington, D.C. 20515

The Honorable Fred Upton (MI-6)  
U.S. House of Representatives  
Chair, Energy & Commerce Committee  
Washington, D.C. 20515

The Honorable Frank Pallone (NJ-6)  
U.S. House of Representatives  
Ranking Member, Energy & Commerce  
Committee  
Washington, D.C. 20515

**Re: Urge passage of S. 2196/H.R. 3229 by year's end to protect Complex  
Rehabilitation Technology Accessories for People with Disabilities**

Dear Senators Hatch and Wyden and Representatives Brady, Upton, Levin and Pallone:

The undersigned member organizations of the Consortium for Citizens with Disabilities write to urge passage of S. 2196/H.R. 3229 by year's end in order to protect Complex Rehabilitation Technology and its essential components (coined "accessories") for people with significant disabilities.

The Consortium for Citizens with Disabilities (CCD) is a coalition of more than 100 national disability organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

Complex Rehabilitation Technology (CRT) are medically necessary, individually configured products such as manual and power wheelchairs, adaptive seating systems and alternative positioning systems that keep people with significant disabilities such as Amyotrophic Lateral Sclerosis (ALS), spinal cord injury, multiple sclerosis (MS) and muscular dystrophy healthy and independent. CRT accounts for less than ten percent of Medicare's wheelchair expenditures. For this small population with such progressed disability, these products cannot

be utilized and are not beneficial unless they have essential components—coined “accessories”—such as head support systems, specialized seat cushions, sip and puff interfaces or tilt-and-recline features. As an example, someone with progressed multiple sclerosis who has lost feeling and function below the neck literally could not operate/move a CRT chair unless s/he has a head control interface. Similarly, that same individual could not safely remain in the chair within a trunk support system and would experience painful and costly pressure sores without a specialized seat cushion and a tilt-and-recline feature.

In 2008, Congress passed the Medicare Improvements for Patients and Providers Act (MIPAA) and in doing so, specifically exempted complex power wheelchairs and accessories from Medicare’s Competitive Bidding Program. Congressional language in 2008 was limited to CRT power wheelchairs and accessories (and did not reference manual wheelchairs) since only power wheelchairs were included in Competitive Bidding at that time. Congress’s rationale for exempting these products was that individually configured CRT is used by a very small percentage of the population—but quite a vulnerable population whose access should not be disrupted. CRT is not suitable for inclusion in Competitive Bidding.

In late 2015, the Centers for Medicare and Medicare Services (CMS) announced that it planned to apply Competitive Bidding pricing to Complex Rehab accessories starting January 1, 2016. Fortunately, hearing consumers’ severe concerns about how Competitive Bidding pricing would negatively impact access to CRT accessories, Congress enacted a one-year delay—prohibiting CMS from applying Competitive Bidding pricing to power wheelchair accessories through December 31, 2016.

**The disability community is grateful for this delay but urges Congress to pass the permanent solution contained in S. 2196/H.R. 3229 by year’s end—this will allow people with significant disabilities to have the access they *need* to CRT power and manual wheelchair accessories. From the consumer perspective, it is essential that both CRT power and manual accessories are exempted from Competitive Bidding. We believe this is in line with the congressional intent of MIPAA and that MIPAA only excluded CRT power accessories because CRT manual products were not being competitively bid at that time. Moreover, consumers with disabilities should not face discrimination or disparate treatment when it comes to access to needed accessories simply because they need either a power or a manual wheelchair.**

Furthermore, the disability community believes that the June 2016 Government Accountability Office (GAO) report “Utilization and Expenditures for Complex Wheelchair Accessories”<sup>1</sup> supports this notion and passage of S. 2196/H.R. 3229. Specifically, the GAO report states that:

- Congress passed legislation in 2008, the Medicare Improvements for Patients and Providers Act, which excluded CRT power wheelchairs and accessories from the CBP;
- CRT refers to both CRT power and CRT manual wheelchairs which vary greatly and differ regarding functional capacity depending on which components are added; and
- CRT wheelchairs and accessories are different from standard wheelchairs.

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<sup>1</sup> GAO-16-640R Medicare

As of late July 2016, S. 2196 has 24 bipartisan cosponsors—including 8 on the Finance Committee—and H.R. 3229 has 135 bipartisan cosponsors—including 19 on the Ways and Means and 16 on the Energy and Commerce Committees. This legislation is strongly supported in the Congress and is the necessary step to ensure that people with significant disabilities have access to the CRT power and manual wheelchair essential components or “accessories” they need to remain healthy and independent.

Sincerely,

ACCSES

American Academy of Physical Medicine and Rehabilitation (AAPM&R)

American Association on Health and Disability

American Congress of Rehabilitation Medicine (ACRM)

American Medical Rehabilitation Providers Association (AMRPA)

American Occupational Therapy Association

American Therapeutic Recreation Association (ATRA)

Association of University Centers on Disabilities

Association of Assistive Technology Act Programs (ATAP)

Brain Injury Association of America (BIA)

Christopher & Dana Reeve Foundation

Disability Rights Education & Defense Fund

Easter Seals

Family Voices

Lutheran Services in America Disability Network

National Association for the Advancement of Orthotics & Prosthetics (NAAOP)

National Association of State Directors of Special Education

National Association of State Head Injury Administrators

National Council on Independent Living (NCIL)

National Disability Rights Network

National Multiple Sclerosis Society

National Respite Coalition

Paralyzed Veterans of America (PVA)

RESNA

The Arc of the United States

United Spinal Association



August 25, 2016

The Honorable Mitch McConnell (KY)  
U.S. Senate  
Majority Leader  
Washington, D.C. 20510

The Honorable Harry Reid (NV)  
U.S. Senate  
Minority Leader  
Washington, D.C. 20510

The Honorable Paul Ryan (WI-1)  
U.S. House of Representatives  
Speaker of the House  
Washington, D.C. 20515

The Honorable Nancy Pelosi (CA-12)  
U.S. House of Representatives  
Minority Leader  
Washington, D.C. 20515

The Honorable Orrin Hatch (UT)  
U.S. Senate  
Chair, Finance Committee  
Washington, D.C. 20510

The Honorable Ron Wyden (OR)  
U.S. Senate  
Ranking Member, Finance Committee  
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U.S. House of Representatives  
Chair, Energy & Commerce Committee  
Washington, D.C. 20515

The Honorable Frank Pallone (NJ-6)  
U.S. House of Representatives  
Ranking Member, Energy & Commerce Committee  
Washington, D.C. 20515

**Re: Please Pass H.R. 3229/S. 2196 This Year—*Ensuring Access to Complex Rehab Technology (CRT) Wheelchairs and Components for Medicare beneficiaries with Disabilities and Chronic Conditions***

Dear Senators McConnell, Reid, Hatch, and Wyden and Representatives Ryan, Pelosi, Brady, Levin, Upton, and Pallone:

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid (ITEM) Coalition strongly urge Congress to pass this year H.R. 3229 and S. 2196, which would *permanently exempt Complex Rehab Technology (CRT) wheelchairs and components for people with disabilities and chronic conditions from Medicare's Competitive Bidding pricing*. This important legislation will protect Medicare beneficiary access to both power and manual complex rehab technology, as well as essential components known as wheelchair "accessories."

Power and manual CRT wheelchairs and CRT components are essential for a small segment of wheelchair users, (about 10 percent of the Medicare population), with significant disabilities such as ALS, cerebral palsy, multiple sclerosis, muscular dystrophy, spinal cord injury and traumatic brain injury. For these wheelchair users, a wheelchair is not complete, usable or even safe without the appropriate complex rehab technology components included.

The 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, paralysis, hearing and speech impairments, cerebral palsy, visual impairments, spinal cord injuries, brain injuries, stroke, spina bifida, myositis, limb loss, Osteogenesis Imperfecta (“OI”), and other life-altering conditions.

First, we thank you for helping to pass in December 2015 a one-year temporary delay of harmful CRT provisions in the form of S. 2425, the *Patient Access and Medicare Protection Act of 2015*. This legislation exempted complex rehab power accessories (critical wheelchair components such as supporting headrests or trunk supports) from the application of Medicare’s Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) pricing, thereby making such accessories far more accessible to Medicare beneficiaries throughout 2016. But this temporary legislation did not protect complex rehab manual accessories and it also expires on December 31, 2016, thereby threatening access to CRT accessories once again, unless Congress acts.

S. 2425 included provisions for the Government Accountability Office (GAO) to study and report on this issue. The GAO report was released to Congress in June and we now look forward to the passage of H.R. 3229/S. 2196 to provide permanent protection. The GAO Report, “Utilization and Expenditures for Complex Wheelchair Accessories,”<sup>1</sup> states clearly that:

- *Congress passed legislation in 2008, the Medicare Improvements for Patients and Providers Act (MIPPA), which excluded CRT power wheelchairs and accessories from the CBP;*
- *CRT refers to both CRT power and CRT manual wheelchairs which vary greatly and differ regarding functional capacity depending on which components are added; and*
- *CRT wheelchairs and accessories are different from standard wheelchairs.*

The report supports the conclusion that H.R. 3229/S. 2196, which permanently exempts both CRT manual and CRT power wheelchairs and accessories from the CBP, must be passed into law. We are writing to express our strong support for this legislation and to emphasize the importance of protecting patient access not just to accessories used with complex rehab *power* wheelchairs, but also to those used on complex rehab *manual* wheelchairs for all of our members across all the populations we serve.

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<sup>1</sup> GAO-16-640R Medicare

We are aware of Congressional staff discussions that since the 2008 Competitive Bidding exemption for complex rehab technology—enacted in MIPPA in 2008—only specifically names complex rehab *power* wheelchairs and accessories, protections from Competitively bid pricing should not apply to complex rehab *manual* wheelchairs and accessories. We strongly disagree with this view.

Our organizations were active in advocating for the CRT exemption in 2008 because CRT wheelchairs and accessories (both power and manual) were (and are) not suitable for Competitive Bid pricing. **The statutory language in 2008 was limited to only CRT power wheelchairs and accessories since those were the only CRT items being included in the Competitive Bidding program at that time. The basis for the complex *power* wheelchair exemption is the same for complex *manual* wheelchairs. To not apply the same protection to both power and manual wheelchair accessories unfairly harms people that use complex rehab manual wheelchairs, a vulnerable subgroup of Medicare beneficiaries.**

We also know that preventing competitively bid payment reductions from going into effect for CRT wheelchairs and accessories will keep beneficiary copayments where they are, rather than decreasing them accordingly. But from a consumer perspective, if these cuts are implemented, there will be a substantial reduction in access for people with significant disabilities. There are now just a small number of manufacturers and suppliers providing these highly customized wheelchairs and accessories. While we are supportive of reducing cost-sharing where possible, this cannot occur at the expense of reducing access to quality mobility products and the provision of related services. Adequate payment rates must be retained in order to provide sufficient access to complex rehab technology and accessories for both power and manual wheelchair users.

Within the Medicare program the number of people with disabilities using complex power or complex manual wheelchairs is roughly equal. Regardless of disability, disease, illness or condition, all people with disabilities are eligible for the same access to medically required mobility devices and services under Medicare, and anything less is unfair and problematic for beneficiaries. **We urge you to pass H.R. 3229/S. 2196 by December 31, 2016 (when the current delay expires) to ensure that accessories used with either CRT power or CRT manual wheelchairs are protected.**

We are happy to meet to discuss this issue further and are available for any questions that you might have. To contact the ITEM Coalition, please contact any of the Steering Committee Members listed below or contact the ITEM Coalition coordinators, Peter Thomas, at [peter.thomas@ppsv.com](mailto:peter.thomas@ppsv.com) or Leif Brierley at [Leif.Brierley@ppsv.com](mailto:Leif.Brierley@ppsv.com), or by calling 202-466-6550.

Sincerely,

**ITEM Coalition Steering Committee Members**

American Foundation for the Blind

Amputee Coalition

Christopher and Dana Reeve Foundation

National Multiple Sclerosis Society  
Paralyzed Veterans of America  
United Spinal Association

**ITEM Coalition General Membership**

Academy of Spinal Cord Injury Professionals  
American Congress of Community Supports & Employment Services (ACCSES)  
American Academy of Physical Medicine & Rehabilitation  
American Association of People with Disabilities  
American Association on Health and Disability  
American Cochlear Implant Alliance  
American Congress of Rehabilitation Medicine  
American Medical Rehabilitation Providers Association  
American Occupational Therapy Association  
American Therapeutic Recreation Association  
Assistive Technology Industry Association  
Association for Education and Rehabilitation of the Blind and Visually Impaired (AER)  
Association for the Education and Rehabilitation of the Blind and Visually Impaired  
Association of Assistive Technology Act Programs  
Association of University Centers on Disabilities  
Brain Injury Association of America  
Caregiver Action Network  
Center for Medicare Advocacy  
Clinician Task Force  
Easterseals  
Institute for Matching Person & Technology, Inc.  
Lakeshore Foundation  
National Association for the Advancement of Orthotics and Prosthetics  
National Association of State Head Injury Administrators  
National Council on Independent Living  
National Disability Rights Network  
Rehabilitation Engineering and Assistive Technology Society of North America  
Spina Bifida Association  
The Myositis Association  
The Simon Foundation for Continence  
Unite 2 Fight Paralysis

CC:

Senate Finance Committee Members  
House Ways & Means Committee Members  
House Energy & Commerce Committee Members