



TESTIMONY OF

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**BEFORE THE
COMMITTEE ON FINANCE
U.S. SENATE**

**FRAUD AND ABUSE IN THE
POWER WHEELCHAIR PROGRAM**

APRIL 28, 2004



Chairman Grassley, Ranking Member Baucus, and Members of the Committee, thank you for the opportunity for the American Association for Homecare (AAHomecare) to assist the Committee's important review of the CMS Power Wheelchair Program.

AAHomecare is the only national association that represents every line of service within the homecare community. AAHomecare represents approximately 800 member companies employing thousands in all 50 states, including providers of durable medical equipment (DME), home health, infusion and respiratory care services and rehab and assistive technologies, as well as manufacturers and state associations.

AAHomecare joins this Committee in refusing to tolerate the stealing of taxpayers' hard-earned dollars set aside for the care of Medicare beneficiaries. We endorse zero tolerance for Medicare fraud and abuse involving power wheelchairs. AAHomecare will continue to assist CMS and the Federal law enforcement agencies in an effort to ensure the integrity of the Medicare program. For example, we have and will continue to suggest ways to improve coding of power wheelchairs in an effort to ensure greater precision in the billing and payment for medically necessary items.

As the investigations and related efforts in the power wheelchair area proceed, we respectfully caution about drawing overgeneralizations of our industry. The great majority of durable medical equipment (DME) providers and manufacturers in your states and hometowns are run by hard working American men and women interested in providing products that treat and improve medical conditions for patients at fair prices. These honest DME providers and manufacturers understand the importance of forming transparent, long-term relationships with the Medicare program. Those providers who



are not focused on the long-term appropriate needs of their patient community harm the program, and more importantly the patients.

This is why AAHomecare and its Rehab and Assistive Technology Council have adopted and promulgated a Code of Ethics, and have approved a Guide of Conduct for our membership. In addition, there are national credentialing bodies for professionals who serve individuals requiring rehab and assistive technology, including power wheelchairs.

We would like to present the following suggestions for addressing the fraud and abuse problems this Committee is focusing on with the power wheelchair benefit.

First, the guiding principle should be to provide each Medicare beneficiary with medical equipment technology that is both medically necessary and appropriate to give the patient a fuller, more satisfying and healthier life. Where a beneficiary has a genuine medical need for a power wheelchair, as judged by the patient's attending physician, the right wheelchair should be provided in accordance with that need. Not only will the Medicare patient benefit from increased independence, these individuals have better health outcomes when compared to individuals with similar medical conditions who are confined to their bed.

Second, Medicare coverage, coding, reimbursement and documentation policies for power wheelchairs, as well as standards for quality, should be improved.

- Coverage and coding policies must accurately capture the evolving and improving varieties of power wheelchair technologies and medically necessary accessories. For example, power wheelchairs with significantly different features and product cost should not be lumped together in



outdated Healthcare Common Procedure Coding System (HCPCS) codes that reflect older technology. AAHomecare has worked with CMS, and its contractors, the four Durable Medical Equipment Regional Carriers (DMERCs) and the Statistical Analysis DMERC (SADMERC) to improve coding for power wheelchair products. More specific product coding will provide prescribing physicians with better information, and will also improve Medicare billing and payment practices.

- Reimbursement should appropriately reflect medical equipment and overhead costs, including the cost of patient assessment and education, delivery and maintenance, and a reasonable return for the provider.
- Documentation. AAHomecare has previously submitted detailed recommendations to CMS to improve the use of medical necessity documentation in order to give providers clear guidelines on the criteria necessary to support a power wheelchair Medicare claim.
- Quality Standards. From the outset, AAHomecare's DME providers and manufacturers embraced the new MMA federal quality standards and accreditation requirements for DME. AAHomecare will work with CMS to ensure that any new standards complement quality control measures already voluntarily adopted by our industry.

Third, CMS and law enforcement agencies should bear in mind the critical distinction between merely negligent billing errors or omissions, on the one hand, and the intentional or “knowing” submission of false claims on the other. I think we can all agree that Medicare is an extraordinarily complex benefit program. Where errors have



been made in billing, coding, or documentation for furnishing a particular power wheelchair, the appropriate overpayment (if any) should be collected by the program consistent with the Medicare program's legal authorities. However, criminal sanctions and civil penalties are not appropriate for honest mistakes. Well-intentioned providers work hard to comply with Medicare requirements while faithfully serving the needs of the patients in their communities. They should neither be unfairly penalized nor subject to overgeneralizations based on the intentional misconduct of abusive operators.

On the other hand, we say, "Go get them," where law enforcement agencies obtain reliable evidence of the "knowing" submission of false claims, as defined in the False Claims Act and the Civil Monetary Penalty statute, or knowing and willful violations of the Anti-Kickback Statute. AAHomecare and all honest providers in this industry do not defend or tolerate this type of conduct.

Mr. Chairman, AAHomecare and our members are on the frontlines of serving Medicare beneficiaries each and every day - in your state and across the Nation. We vigorously advocate ethical and honest conduct in these endeavors, as well as clear, updated, and fair regulation. We will continue to serve as an experienced and knowledgeable resource for HHS and all others in this effort, including this Committee. Thank you.