

DRAFT

[Place on official letterhead]

August 26, 2015

VIA ELECTRONIC MAIL

The Honorable Sylvia M. Burwell
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201
Sylvia.Burwell@hhs.gov

**Re: Concerns Related to Medicare Restrictions in Coverage of Artificial Limbs:
Proposed/Draft LCD on Lower Limb Prostheses (DL33787)**

Dear Secretary Burwell:

Passionate and engaged constituents of mine have informed me of a new Draft/Proposed Local Coverage Determination (LCD) for Lower Limb Prostheses (DL-33787) that, if implemented, would severely restrict access to modern prosthetic care to Medicare beneficiaries in need of prosthetic limbs. This limitation in access to these needed benefits is deeply concerning and I urge you to reconsider this proposal as expeditiously as possible.

Medicare beneficiaries pay into the Medicare Trust Fund all their lives. They deserve access to current standards of prosthetic care when they sustain a limb amputation. This can be a very traumatic experience, but with modern prostheses, amputees can live a healthy, active life. Rather than being relegated to a wheelchair or spending the twilight years of their life in nursing homes, seniors who sustain limb loss can regain remarkable levels of function. For the 6 million Medicare beneficiaries under age 65, modern prosthetic care can be a ticket back to work and independent living.

Worse yet, I understand these changes to the prosthetic limb benefit will also impact veterans with limb loss and will eventually trickle down to private commercial health plans. Given the major gains amputees have made in recent years with modern prostheses, this would truly be a shame.

It is not clear to me why the DME Medicare Administrative Contractors (DME MACs) would take such a drastic step in creating this new Medicare coverage policy. It is my understanding that while Medicare spending for prosthetic limbs crested in 2010 at \$770 million, it has decreased every year since, for a total decrease of 13.8 percent between 2010 and 2013, the most

recent year for which data is publicly available. The entire orthotic and prosthetic benefit is only one third of one percent of annual Medicare spending.

Rather than implementing a restrictive new coverage policy that potentially harms patients, the Centers for Medicare and Medicaid Services (CMS) should finally issue regulations for Section 427 of the Benefits Improvement and Protection Act (BIPA) of 2000. This section of the federal law has never been regulated, despite the fact that a proposed rule is apparently sitting at CMS awaiting the review process at HHS and publication. Section 427 would limit Medicare billing privileges only to “qualified practitioners and suppliers” of prosthetics and custom orthotics. This provision would not only improve the quality of care but serve to weed out of the program suppliers without sufficient education, training and experience to provide complex, customized prostheses and orthoses to Medicare beneficiaries. This strikes me as being a much better way to regulate this field than to simply restrict patient access to prosthetic benefits.

Thank you for considering my request of you to reconsider this Draft LCD. My constituents believe the policy should be rescinded and that CMS and its contractors should begin a dialogue with patients, prosthetists, physicians and other stakeholders to address CMS’s concerns through a more reasonable policy.

I am available to discuss this issue with you further and express my concerns on behalf of the great people of 12th District of Texas.

Sincerely,

U.S. Congresswoman Kay Granger
Representing the 12th District of Texas

CC: Andy Slavitt, Acting Administrator
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