

July 31, 2014

Dear Representatives Ellmers and Barrow:

We would like to thank you for introducing H.R. 5083, the Medicare DMEPOS Audit Improvement and Reform Act (AIR Act). We are pleased to support this important legislation, which will make the Medicare audit process more effective and efficient for durable medical equipment, orthotics, prosthetics, and supplies (DMEPOS) Medicare claims.

On December 24, 2013 the Administrative Law Judge (ALJ)—the final level of appeal for Medicare claims—stopped taking new appeals, including those from the DMEPOS sector. Currently, there are approximately 600,000 appeals before the ALJ, of which a quarter are from DMEOS suppliers who have waited more than two years to get to the ALJ. These suppliers face an onslaught of audits from the Medicare Administrative Contractors (MACs), Supplemental Medicare Review Contractors (SMRC), Recovery Audit Contractors (RAC) and the Comprehensive Error Rate Testing Contractor (CERT).

The complication presented by the audit alphabet and delay in final appeals hinders the supplier's ability to service their patients. DMEPOS suppliers typically serve patients, often with rental items and on-going supplies and medications for a significant portion of the patient's life; in fact, many patients are served until they pass away. When auditing claims for ongoing rental items and sales, the MAC selects one claim for an item, normally the initial claim, and if the contractor denies, then all subsequent claims get denied as well. Although many denials get overturned in the appeal process up to the ALJ, waiting two years for payment impacts the ability of a supplier to service a beneficiary. Many companies scale back services, or close leaving beneficiaries to go through the process of finding a new supplier and obtaining required medical documentation to get their needed supplies, medications and durable medical equipment.

Your legislation (H.R. 5083) will increase transparency, education and outreach, and reward suppliers that have low error rates on audited claims. The AIR Act, which applies to all MACs, RACs, and all other contractors performing audits on DMEPOS, addresses those three points: it requires the reporting of error rates on audited claims after adjustment for those audited claims that have been overturned on appeal; requires thorough education and outreach; removes for one year all suppliers who have an error rate on audited claims of 15 percent or less (restricting them to one random claim audit per year); reinstates clinical inference, and limits look-back periods while fixing timely filing constraints on appeals.

We look forward to working with you, Congress, and the Administration to make the Medicare audit process more efficient to protect beneficiaries' access to the equipment and supplies they need.

Sincerely,

American Association for Homecare (AAHomecare)  
National Coalition for Assistive and Rehab Technology (NCART)  
American Podiatric Medical Association (APMA)  
National Home Infusion Association (NHIA)  
National Association for Medical Direction of Respiratory Care (NAMDRRC)  
The VGM Group  
North Carolina Association of Medical Equipment Services (NCAMES)  
Association for Home and Hospice Care of North Carolina  
Georgia Association of Medical Equipment Suppliers (GAMES)  
Alabama Durable Medical Equipment Association (ADMEA)  
Arizona Medical Equipment Suppliers Association (AZMESA)  
Association for Tennessee Home Oxygen & Medical Equipment Services (ATHOMES)  
Big Sky Association of Medical Equipment Services  
California Association of Medical Product Suppliers (CAMPS)  
Colorado Association for Medical Equipment Services (CAMES)  
Florida Alliance of Home Care Services (FAHCS)  
Florida Association of Medical Equipment Suppliers (FAMES)  
Great Lakes Home Medical Services Association  
Healthcare Association of Hawaii  
Home Medical Equipment and Services Association of New England (HOMES)  
Jersey Association of Medical Equipment Suppliers (JAMES)  
Kentucky Medical Equipment Suppliers Association (KMESA)  
Michigan Association for Home Care  
Midwest Association for Medical Equipment Services (MAMES)  
New York Medical Equipment Providers Association (NYMEP)  
Nevada Association of Medical Products Suppliers (NAMPS)  
Ohio Association of Medical Equipment Services (OAMES)  
Pennsylvania Association of Medical Suppliers (PAMS)  
South Carolina Medical Equipment Services Association (SCMESA)  
Virginia Association for Durable Medical Equipment Companies (VADMEC)  
Wisconsin Association of Medical Equipment Services (WAMES)  
West Virginia Medical Equipment Suppliers Association (WVMESA)