



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration
Division of Freedom of Information

N2-20-16
7500 Security Boulevard
Baltimore, MD 21244-1850

Refer to: C9FOIA0216(SDB)

AUG 24 1999

Mr. Lewis Golinker
Consultant
Assistive Technology Funding and
Systems Change Project
202 East State Street
Suite 507
Ithaca, New York 14850

Dear Mr. Golinker:

I am responding to your March 1, 1999, Freedom of Information (FOIA) request for a complete copy of (a) the October 15, 1986 Chicago Regional Office "Crickmore" letter, which is designated MR-13; (b) the correspondence from Mr. Crickmore, dated September 29, 1986, to which the October 15, 1986 refers, and is a response; (c) all other documents, such as (but not limited to) other regional office communications, whether in letter, memorandum, or other form, that address Medicare's coverage or exclusion of AAC devices; and (d) all of the documents reviewed by and/or relied upon by Ms. Kaylor in preparation of her response to Senator Wellstone.

The agency located four pages that respond to item d of your request. I am releasing those pages in their entirety. However, after a careful search of the files of HCFA, i.e., a search reasonably calculated to locate records responsive to items a, b, and, c of your request and employing reasonable standards, we were unable to locate any records responsive to items a, b, and, c of your request.

Page 2 - Mr. Lewis Golinker

There is no charge for processing this request because the chargeable fee does not exceed \$15.00.

If you wish, you may appeal this determination. To file an appeal, your request must be mailed within 30 days of the date of this letter to: The Deputy Administrator, Health Care Financing Administration, C5-16-03, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Please mark your envelope "Freedom of Information Act Appeal" and enclose a copy of this letter.

Sincerely,

A handwritten signature in black ink that reads "Phillip Brown". The signature is written in a cursive style with a long, sweeping underline.

Phillip Brown
Director
Division of Freedom of Information

Enclosure

03/05/98 OCSQ, CAG 03980016 ADRIENNE

SUGGESTED DRAFT LANGUAGE FOR REPLY TO CONGRESSMAN PAUL D. WELLSTONE

I am responding to your inquiry on behalf of your constituents who have severe expressive communication limitations. Your inquiry expressed concern that Medicare does not cover augmentive or alternative communication devices. You state that electronic or nonelectronic devices allow persons with severe expressive communication limitations to produce or transmit messages or symbols in a manner that compensates for their communication disability.

On or before May 1989, Medicare published section 60-9 of the Medicare Coverage Issues Manual (CIM) which excluded Medicare coverage for augmentive communication devices. In accordance with this section of the manual, augmentive communication devices are not covered under Part B of Medicare. The lack of coverage stems from limitations in the coverage provisions of the law that are found in Title XVIII of the Social Security Act (Act).

Title XVIII of the Act defines the services that are eligible for coverage by the Medicare program. Title XVIII does not specifically identify augmentive communication devices as a Medicare benefit. Therefore, for augmentive communication devices to be covered, they must meet the requirements that apply to one of the services that is specifically authorized by the Medicare statute. In addition to meeting the definition of one of the services authorized by the Act, there must be no provision in the Act that excludes them from coverage. Also, these devices would have to be "reasonable and necessary" for the treatment or diagnosis of the patient, in accordance with section 1862(a)(1)(A) of the Act.

There are several relevant statutory provisions that must be considered in discussing Medicare's coverage of augmentive communication devices. Section 1861(s)(6) of the Act provides for the coverage of durable medical equipment (DME). However, as the statutory language suggests, coverage is limited to equipment that primarily and customarily serves a "medical purpose" and generally is not useful to an individual in the absence of an illness or injury. As indicated, in section 60-9 of the CIM, we do not consider augmentive communication devices to be primarily medical in nature. While we recognize that in some instances these types of devices may be used for a medical purpose, nevertheless, these items can also be useful for any individual that may have diminished communication abilities that occur as a natural part of the aging process. Audio and visual aids, such as equipment that enable the hearing impaired to use a telephone, a computerized device that enables the user to send messages or a closed circuit television where a camera transposes an enlarged image onto a screen, may be useful to any individual with less than perfect vision or hearing acuity.

The statute also provides for the coverage of prosthetic devices. Section 1861(s)(8) of the Act defines prosthetic devices as items that ". . . replace all or part of an internal body organ." Augmented communication devices may enhance a person's communication abilities, nevertheless, we do not believe they actually serve as a replacement for any internal body organ. We also note that section 1862 (a) (7) of the Act excludes from coverage eyeglasses and hearing aids. We interpret this section of the law to mean that Congress never intended the Medicare program to pay for devices that are used to lessen the effects of impaired visual and hearing acuity that normally accompanies the aging process.

Although title XVIII does not specifically identify augmentative communication devices as a Medicare benefit, it does provide coverage for rehabilitative services such as physical therapy and speech therapy which may be helpful to your constituents. We no longer have a separate administrative file on augmentative communication devices. This policy was established on or before May 1989.

I hope this information addresses your concerns.

PAUL D. WELLSTONE
MINNESOTA

715

MINNESOTA TOLL FREE NUMBER:
1-800-642-6041

United States Senate
WASHINGTON, DC 20510-2303

COMMITTEES:
LABOR AND HUMAN RESOURCES
SMALL BUSINESS
INDIAN AFFAIRS
VETERANS' AFFAIRS
FOREIGN RELATIONS

November 13, 1997

Ms. Nancy-Ann Min DeParle
Administrator, HCFA
Suite 314G, HHH Building
200 Independence Avenue SW
Washington, D.C. 20201

Dear Ms. DeParle:

Members of my staff are currently working with constituents in Minnesota who have severe expressive communication limitations. Despite their expressive communication limitations, these individuals are or want to be highly successful. Their success can be linked to their ability to effectively communicate with the assistance of an augmentative or alternative communication device. These electronic or nonelectronic devices allow persons with severe expressive communication limitations to produce or transmit messages or symbols in a manner that compensates for their communication disability.

Minnesota is a leader in the field of augmentative and alternative communication. Dr. Joe Reichle, a nationally renowned expert in the field of augmentative and alternative communication is on the faculty of the University of Minnesota. Able Net, a manufacturer of augmentative and alternative communication systems employs Peggy Locke, a nationally known expert in the field. During the 1997 legislative session, the Minnesota legislature enacted legislation expanding access to augmentative and alternative communication systems for Medicaid recipients. (Minnesota Laws 1997, Chapter 203, Article 4, Section 26)

Despite the state's leadership in this field, Minnesotans are still having difficulty obtaining the augmentative and alternative communication devices they need. These difficulties are due to Medicare's refusal to cover these devices for its recipients. Medicare had inaccurately categorized these devices as convenience items and thus does not cover them. This Medicare policy is the subject of a National Coverage Decision, which is cited in the Medicare Durable Medical Equipment Reference List, found §60-9 of the Medicare Coverage Issues Manual. The National Coverage Decision has a significant negative impact upon Minnesotans. Please provide the following regarding Medicare's National Coverage Decision for augmentative and alternative communication:

- the date the National Coverage Decision was issued;

HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2303
(202) 224-5641

2550 UNIVERSITY AVENUE, WEST
COURT INTERNATIONAL BUILDING
ST. PAUL, MN 55114-1025
(612) 645-0323

POST OFFICE BOX 281
105 2D AVENUE, SOUTH
VIRGINIA, MN 55792
(218) 741-1074

417 LITCHFIELD AVENUE, SW
WILLMAR, MN 56201
(320) 231-0001

- HCFA's administrative file for this national coverage;
- information relating to any requests to change this national coverage decision;
- HCFA's response to requests to change this coverage decision; and
- information relating to the most efficient and effective means to change a national coverage decision.

Members of my staff are willing to meet with you to discuss augmentative and alternative communication and Medicare's National Coverage Decision for augmentative and alternative communication devices.

Thank you for your attention to these important matters.

Sincerely,



Paul D. Wellstone
United States Senator

PDW:mja



ASSISTIVE TECHNOLOGY FUNDING AND SYSTEMS CHANGE PROJECT



1660 L STREET, NW
SUITE 700
WASHINGTON, DC
20036-5602
1.800.827.0093
202.776.0406
TDD: 1.800.833.8272
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ATPROJECT@UCPA.ORG

March 1, 1999

Mr. Philip Brown
Director
Division of Freedom of Information & Privacy
Health Care Financing Administration
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

RE: Request Pursuant to the Freedom
of Information Act

CONSORTIUM FOR
ASSISTIVE
TECHNOLOGY
LEADERSHIP AND
SYSTEMS CHANGE

Dear Mr. Brown:

UNITED CEREBRAL
PALSY ASSOCIATIONS

I am conducting research for the Assistive Technology Funding and Systems Change Project, of the United Cerebral Palsy Associations. The United Cerebral Palsy Associations is a national not-for-profit organization providing information, advocacy and therapeutic services to and on behalf of persons with cerebral palsy and other disabilities. The ATFSCP is a federally supported provider of national technical assistance regarding the availability of funding for assistive technology devices and services. My task is to produce an article, which will be published by ATFSCP and distributed without charge, to persons with disabilities, their families, advocates and services providers, regarding the coverage policies and practices of health based benefits programs for augmentative and alternative communication devices. Currently, I am conducting research related to the Medicare program.

ALLIANCE FOR
TECHNOLOGY ACCESS

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ON INDEPENDENT LIVING

NATIONAL PARENT
NETWORK ON
DISABILITIES

RESNA TECHNICAL
ASSISTANCE PROJECT

To date, I have spoken with Elizabeth Carder, Esq., who shared correspondence dated July 8, 1998 from you stating that HCFA cannot locate its original files related to its policy statement regarding AAC devices. (Attachment A). I also have spoken with Steven White, who works at the American Speech-Language-Hearing Association, and who shared with me one page of a letter dated October 15, 1986, from the HCFA Region V Office, to Mr. Stephen T. Crickmore. (Attachment B). However, as noted, ASHA provided only the first page of this letter: it cannot locate the other pages. And, I have spoken with staff of Senator Paul Wellstone's office, who shared correspondence sent to him by Ms. Adrienne Kaylor. (Attachment C).

I write to request, pursuant to the FOIA, that you provide me the following documents:

- a) a complete copy of the October 15, 1986 Chicago Regional Office "Crickmore" letter, which is designated MR-13;
- b) a complete copy of the correspondence from Mr. Crickmore, dated September 29, 1986, to which the October 15, 1986 refers, and is a response;
- c) a complete copy of all other documents, such as (but not limited to) other regional office communications, whether in letter, memorandum, or other form, that address Medicare's coverage or exclusion of AAC devices.
- d) a copy of all of the documents reviewed by and/or relied upon by Ms. Kaylor in preparation of her response to Senator Wellstone.

Thank you for your assistance in this matter. Please contact me if you have any questions regarding the scope of this request.

I request the waiver of any fees associated with this request.

Sincerely,

Lewis Golinker
Consultant

Please direct questions and reply to:
202 East State Street
Suite 507
Ithaca, New York 14850
607-277-7286(v)
607-277-5239(fax)
lgolinker@aol.com(e-mail)

Enc.: Attachment A-C