

## AUTHORITY

### **CMS DOES HAVE THE AUTHORITY TO REVISE THE HCPCS CODES THAT IT INCLUDES IN THE ROUND 1 RE-BID FOR DMEPOS COMPETITIVE BIDDING**

- The intent of the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA) was to address identified shortcomings and enhance the competitive bidding program. During committee hearing and debates, Members of Congress emphasized that the program should be completely revised to ensure competition in the market and continuity in patient care. (*Congressional Letter to Secretary Sebelius, June 18, 2009*)
- While MIPPA does state that CMS is to rebid the same “items and services” included in the original round one it does not specify that the same HCPCS codes be rebid. To the contrary, nowhere within MIPPA does it specify to the HCPCS code level regarding what items were to be included or excluded from bidding.
- In specifically excluding “certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs)” and negative pressure wound therapy MIPPA does not specify the associated HCPCS codes.

*Sec. 154(a)(1):*

*(B) in paragraph (2)(A), by inserting before the period at the end the following: “and excluding certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs)”.*

*Sec. 154(a)(1)(A)(iv) by adding at the end the following new subparagraphs:*

*“(IV) there shall be excluded negative pressure wound therapy items and services.”*

- Pertaining to DMEPOS, and specifically to competitive bidding, “services” are not reimbursed or bid separately. Why was a reference to services even included in MIPPA if the intent was to take each point literally?

### **CMS HAS THE AUTHORITY TO EXCLUDE SPECIALIZED WHEELCHAIR SEATING FROM THE REBID OF ROUND ONE OF COMPETITIVE BIDDING**