July 15, 2026

SUBMITTED ELECTRONICALLY

The Honorable Mehmet Oz, M.D.
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Protecting Access to Assistive Devices and Technologies and ITEM Coalition Response to Essential Health Benefits Request for Information (CMS-9874-NC)

Dear Administrator Oz:

The undersigned members of the Independence Through Enhancement of Medicare and Medicaid ("ITEM") Coalition are pleased to submit these comments in response to the Centers for Medicare and Medicaid Services ("CMS") Request for Information ("RFI") regarding the Affordable Care Act's ("ACA") Essential Health Benefits ("EHB") framework and the statutory requirement that the scope of EHB be equal to the scope of benefits provide under a typical employer plan.

The ITEM Coalition is a national consumer- and clinician-led coalition comprised of 103 national organizations advocating for access to and coverage of assistive devices, technologies, and related services for people with injuries, illnesses, disabilities, and chronic conditions of all ages. Our members represent individuals with a wide range of disabling conditions, as well as the providers who serve them, including limb loss and limb difference, multiple sclerosis, spinal cord injury, brain injury, stroke, paralysis, cerebral palsy, spina bifida, hearing, speech, and visual impairments, myositis, and other life-altering conditions.

The ITEM Coalition is deeply concerned that this RFI signals CMS's willingness to reconsider one of the ACA's most important consumer protections. While the Agency characterizes this effort as an information-gathering exercise, CMS expressly states in the RFI that the information received will inform its evaluation of whether revisions to the current EHB regulations may be appropriate through future rulemaking. We believe strongly that reopening the EHB framework without first identifying a demonstrated policy failure or statutory or regulatory deficiency creates unnecessary uncertainty for not only for consumers but also for health plans, providers, manufacturers, and states that have spent more than a decade building coverage policies around the ACA's existing protections.

From the ITEM Coalition's perspective, this review comes at a particularly consequential time. Medical devices and assistive technologies are advancing at an unprecedented pace, allowing individuals to achieve levels of mobility, independence, employment, physical activity, and community participation that were unimaginable just a decade ago. At the same time, many individuals continue to face arbitrary coverage restrictions that limit access to the medical devices and assistive technologies they need, including medically necessary prosthetic devices and related components. Rather than revisiting the statutory framework that has helped expand access to these services and technologies over the last decade, CMS should instead reaffirm that the EHB provisions of the ACA establish a durable national floor of coverage that evolves alongside medical innovation and state action and continues to protect consumers from inadequate benefit designs.

Accordingly, and for the reasons further illustrated below, **the ITEM Coalition strongly urges CMS to preserve the current EHB framework and reject any regulatory changes that would weaken access to medically necessary medical devices and assistive technologies.** Instead, the Agency should use this opportunity to reaffirm that the ACA's EHB framework is intended to promote innovation, improve functional outcomes, and ensure that individuals with disabilities can benefit from continued advances in medical science and technology.

The Current EHB Framework Has Been Critical to Expanding Access to Rehabilitative and Prosthetic Care

The ACA fundamentally transformed the individual and small-group insurance markets by establishing a national floor of meaningful health coverage through the EHB framework. Prior to enactment of the ACA, individuals with disabilities, chronic health conditions, and complex medical needs routinely encountered significant gaps in coverage for medically necessary assistive devices, technologies, and related supplies. Health plans frequently imposed arbitrary coverage limitations, restrictive medical necessity criteria, exclusions for advanced technologies, burdensome utilization management requirements, and other coverage restrictions that prevented consumers from obtaining the equipment and technologies necessary to maximize health, function, mobility, and independence.

For many individuals, these limitations extended well beyond mobility equipment such as wheelchairs to include prosthetic limbs, orthotic braces, complex rehabilitation technology, speech-generating devices, augmentative and alternative communication technologies, hearing technologies, seating and positioning systems, and numerous other medically necessary assistive technologies that are integral to modern health care. These restrictions often forced individuals to delay or forgo clinically appropriate treatment, rely on outdated technologies, experience preventable medical complications, or lose the ability to work, attend school, or live independently.

The EHB framework has helped address these longstanding market failures by establishing a national baseline for comprehensive health coverage and improving access to medically necessary devices and technologies for consumers purchasing coverage in the individual and small-group markets. Although coverage gaps and implementation challenges remain, the framework established by Congress has significantly reduced historical disparities in coverage,

improved consistency across health plans, and strengthened consumer protections for individuals who rely on assistive technologies to maintain their health, independence, and quality of life.

These protections are no less important today than they were when the ACA was enacted. In fact, they are even more critical given the extraordinary pace of innovation in medical devices and assistive technologies. Over the past decade, advances in prosthetic and orthotic technologies, complex rehabilitation technology, communication devices, hearing technologies, digital health tools, remote monitoring technologies, and other assistive innovations have dramatically expanded opportunities for individuals with disabilities and chronic health conditions to live healthier, more independent, and more productive lives. The EHB framework should continue to serve as the foundation that enables consumers to benefit from these advancements; not become a vehicle for limiting access to emerging technologies through narrower coverage standards or outdated interpretations of medical necessity.

Innovation Supports Strengthening EHB and Not Weakening It

CMS explains that advances in medical technology and health care delivery are among the reasons for undertaking this comprehensive review of the EHB framework. The ITEM Coalition agrees that the landscape of medical devices and assistive technologies has evolved dramatically since enactment of the ACA. However, we strongly believe these advancements provide a compelling reason to preserve and strengthen the EHB framework; not reconsider or weaken the consumer protections Congress deliberately established.

The rapid pace of innovation has fundamentally changed what constitutes the standard of care for many individuals with disabilities and chronic health conditions. Medical devices and assistive technologies today are more sophisticated, personalized, and effective than ever before, allowing clinicians to better tailor interventions to an individual's medical needs and functional goals. As these technologies continue to evolve, health insurance coverage must evolve with them to ensure that patients are able to benefit from clinically appropriate advances in treatment.

The evolution of prosthetic technology provides a compelling example. Today's prosthetic devices have significantly evolved since the ACA was enacted. Microprocessor-controlled knees and ankles, powered prosthetic components, elevated vacuum suspension systems, advanced socket technologies, lightweight composite materials, digital fabrication techniques, osseointegration or "bone-anchored prostheses," and activity-specific prosthetic devices have fundamentally transformed the standard of care for individuals living with limb loss and limb difference. These technologies are not conveniences or luxury items. They are medically necessary interventions that restore mobility, improve balance and safety, reduce falls, prevent secondary musculoskeletal injuries, decrease chronic pain, increase physical activity, and enable individuals to participate fully in family and community life. Similar advances have occurred across the broader spectrum of assistive technologies and devices, improving mobility, independence, and overall health for millions of Americans.

Importantly, innovation does not diminish the need for robust EHB protections; it reinforces it. As medical technology advances, health insurance coverage must evolve alongside it to ensure that consumers can benefit from clinically appropriate, evidence-based innovations. The purpose of the EHB framework should not be limited to preserving access to the standard of care that

existed in 2010. Rather, it should ensure that individuals continue to benefit from advances in medicine, engineering, and technology that improve health, restore function, and promote independence. The current EHB framework allows for gradual modification of the benefits states include in their EHB package, consistent with other ACA protections.

The ITEM Coalition is concerned that narrowing the EHB framework or adopting an overly restrictive interpretation of the "typical employer plan" standard could have the unintended consequence of slowing patient access to innovative technologies by encouraging benefit designs that exclude or delay coverage for emerging devices. Such an outcome would undermine the ACA's goal of providing meaningful health coverage and discourage the adoption of innovations that have been shown to improve outcomes while reducing long-term health care utilization and costs.

As medical technology continues to evolve, so too should coverage policies. CMS should view innovation as an opportunity to strengthen the implementation of the existing EHB framework by ensuing that benefit standards reflect contemporary clinical practice and keep pace with advances in medical devices and assistive technologies. The appropriate policy response to innovation is not to weaken the statutory framework established by Congress, but to ensure that consumers have timely and meaningful access to the technologies that define modern health care.

CMS Should Consider the Cumulative Effect of Recent Federal Policy Changes

The ITEM Coalition is particularly concerned that this RFI cannot be viewed in isolation. Earlier this year, CMS finalized significant changes to the federal defrayal policy in the Department of Health and Human Services ("HHS") Notice of Benefit and Payment Parameters ("NBPP") for 2027 rule. As the ITEM Coalition noted in our comments in response to that proposed rule, the revised defrayal policy creates uncertainty regarding state benefit mandates that exceed EHBs and may discourage states from adopting new coverage requirements for medically necessary health benefits and technologies.

In many cases, coverage policies must evolve alongside advances in technology and contemporary standards of care. State efforts to improve access to medically necessary devices, technologies, and related services often seek to ensure that coverage keeps pace with these developments and addresses persistent gaps in access to care. Such efforts recognize that individuals with disabilities and other chronic conditions require access to technologies that support not only basic mobility, but also essential daily activities such as bathing and personal hygiene, as well as health maintenance, physical activity, independence, and full participation in daily life. Additional uncertainty regarding the future scope of EHB could discourage states from pursuing benefit clarifications or coverage requirements designed to improve access to medically necessary care. Additional uncertainty regarding the future scope of EHB could discourage these efforts and impede progress toward more comprehensive and responsive coverage policies.

ITEM Coalition Recommendations

Accordingly, the ITEM Coalition respectfully urges CMS to:

- Preserve the current EHB framework and reject proposals that would weaken consumer access to medical devices and assistive technologies;
- Ensure that coverage policies keep pace with advances in science, engineering, and clinical practice;
- Evaluate medical devices and assistive technologies based on long-term health, functional, and economic outcomes rather than short-term expenditures alone;
- Consider the cumulative impact of this RFI and the 2027 Notice of Benefit and Payment Parameters final rule on state initiatives to expand access to these technologies;
- Preserve state's flexibilities to adopt benefit clarifications and mandates that expand access to medically necessary care without creating unnecessary federal barriers; and
- Continue engaging individuals with mobility impairments, clinicians, researchers, manufacturers, and disability organizations as CMS evaluates the future of the EHB framework.

The ACA's EHB provisions have played a critical role in expanding access to medical devices and assistive technologies and reducing longstanding barriers faced by individuals with mobility impairment. At a time when technological innovation is rapidly improving health outcomes and quality of life, federal policy should support continued progress. The ITEM Coalition therefore strongly urges CMS to preserve the current EHB framework and ensure that future policies continue to promote access to medical devices and assistive technologies for all Americans who depend on them.

****

Thank you for your consideration of these comments in response to the CMS Request for Information on the Essential Health Benefits framework. Should you have any further questions, please contact the ITEM Coalition Co-Coordinators at Peter.Thomas@PowersLaw.com and Michael.Barnett@PowersLaw.com or by calling 202-466-6550.

Sincerely,

The Undersigned Members of the ITEM Coalition

Access Ready, Inc.
ACCSES
All Wheels Up
ALS Association*
American Academy of Physical Medicine & Rehabilitation
American Association of People with Disabilities
American Association on Health and Disability
American Congress of Rehabilitation Medicine
American Council of the Blind
American Macular Degeneration Foundation
American Music Therapy Association
Amputee Coalition*
Autistic Women & Nonbinary Network
Blinded Veterans Association

Brain Injury Association of America
Center on Aging and DIS-Ability Policy
Christopher & Dana Reeve Foundation*
3DA
Epilepsy Foundation of America
Hearing Loss Association of America
International Registry of Rehabilitation Technology Suppliers (iNRRTS)
Institute for Matching Person and Technology
Lakeshore Foundation
Long Island Center for Independent Living, Inc.
National Association for the Advancement of Orthotics and Prosthetics (NAAOP)
National Disability Rights Network (NRDN)
Prevent Blindness
RESNA
Rifton Equipment
Spina Bifida Association*
Team Gleason*
VisionServe Alliance

****Indicates ITEM Coalition Steering Committee Member***