

## Association of Assistive Technology Act Programs (ATAP)

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SUBMITTED ELECTRONICALLY via [CAGinquiries@cms.hhs.gov](mailto:CAGinquiries@cms.hhs.gov)

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Attention: NCD 50.1: Speech-Generating Devices

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### Comments on Joint DME MAC Coverage Reminder for Speech Generating Devices

The Association of Assistive Technology Act Programs (ATAP) is pleased to provide the following comments to CMS regarding the National Coverage Determination (NCD) 50.1: Speech-Generating Devices. We appreciate the opportunity to provide comments. ATAP represents 54 state Assistive Technology Programs funded under the Assistive Technology (AT) Act of 2004. Assistive Technology Act Programs assure people with disabilities have access to and acquisition of the assistive technology services they need to live, work, and attend school in their communities.

State Assistive Technology Programs support the following points and additionally support the revisions in Attachment 1:

- The original language defining SGDs does not require significant change;
- The language with disqualifying characteristics needs to be removed;
- Device access technology must be recognized as essential, medically necessary accessories for patients with limited or no mobility;
- Other methods of communication, such as email, can be encompassed in the patient's right to "upgrade" their devices without sacrificing the integrity of the SGD benefit; and,

- Capped rental continues to be the primary barrier to comprehensive access to SGDs and communication.

With respect to the capped rental issue, this payment decision appears to be an overarching issue that prevents device upgrades and exacerbates problems with access to communication devices. The inclusion of SGDs as capped rental devices is perplexing and inconsistent with recent references and decisions made by CMS. In proposed rules, CMS cites key statutes that verify the Secretary's discretion in implementing the capped rental rule on certain devices. Specifically, § 1834(4) of the Social Security Act states:

Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient, and for that reason cannot be grouped with similar items for purposes of payment under this title, shall be made in a lump-sum amount.

In addition, § 1834(2)(a)(ii) of the Social Security Act specifies that DME acquired by purchase at least 75% of the time can be exempt from capped rental. As indicated in 2012 PDAC data, SGDs were purchased 99.7% of the time. A recent announcement by CMS retroactively added an accessory code to the purchase list, demonstrating that CMS can provide a purchase option under their authority.

ATAP appreciates the opportunity to provide these comments and urges CMS to support these revisions. Please feel free to contact Audrey Busch, ATAP Director of Policy and Advocacy at 202.344.5674 or [audrey.busch@ataporg.org](mailto:audrey.busch@ataporg.org) with any questions.