

determination because the equipment was the same or similar to equipment already in use. Exh. 5, at 1B. The Medicare contractor affirmed the denial upon redetermination, on grounds that the record did not support that the beneficiary's "weight gain significantly impaired her ability to participate in mobility related activities." *Id.* The contractor concluded that the record failed to establish medical necessity. *Id.*

Upon reconsideration, the Qualified Independent Contractor (QIC) upheld the redetermination. Exh. 6. The QIC found that the beneficiary had previously received another power wheelchair on June 7, 2005, billed under HCPCS code K0010. *Id.* at 2. The QIC stated that the previous wheelchair was less than five years old, and the record did not indicate any loss or irreparable damage warranting a replacement. *Id.* The QIC rejected the appellant-supplier's argument that the beneficiary's weight gain reflected a change in condition justifying replacement, finding that medical records reflected only the beneficiary's current weight, but provided no information of the beneficiary's weight when receiving the previous wheelchair or that wheelchair's weight restrictions. *Id.*

The ALJ conducted a telephone hearing on February 20, 2009. Dec. at 1. During the hearing, the appellant's representative testified that after purchasing the previous wheelchair on June 7, 2005, the appellant brought that wheelchair in for repairs in August 2006 (for motor, casters); August 2007 (for batteries); and November 2007 (for arm pads and motors). Hearing audit. The ALJ found that during the last repair visit, "the Beneficiary was told that because she exceeded the weight limit for the chair, her warranty would be void and that the extra weight would increase the likelihood of repairs." *Id.* at 4. According to the ALJ, the beneficiary then asked her physician to order a new power wheelchair, although the beneficiary had no complaints that the previous wheelchair did not meet her needs. *Id.* The ALJ noted that the beneficiary's weight exceeded the recommended weight limit of her previous wheelchair by only two percent, and the record did not support that the new wheelchair was reasonable and necessary. *Id.* The ALJ thus found the new wheelchair not covered by Medicare and the appellant liable for noncovered costs.

The appellant sought Council review, arguing that when a beneficiary exceeds a wheelchair's weight capacity, the wheelchair has a greater chance of not "holding up" under patient usage. Exh. MAC-1, at 1. The appellant also contends

that when the beneficiary advised the appellant of her weight increase, and the beneficiary's physician confirmed the new weight, the appellant was "required to let her and the doctor know she had exceeded the weight capacity of her [previous] wheelchair." *Id.* The appellant argues that it could be held liable should the beneficiary sustain injuries related to wheelchair failure, that power wheelchair HCPCS codes also specify appropriate beneficiary weight ranges, and that equipment must be provided based on those specified weights. *Id.*

DISCUSSION

On June 7, 2005, the appellant provided the beneficiary with a "Quickie Aspire" power wheelchair, which was built to meet the requirements of HCPCS code K0823 and had a product weight capacity of 300 pounds. Exh. 7, at 27. A Certificate of Medical Necessity (CMN), dated March 8, 2005, states that the beneficiary weighed 270 pounds. *Id.* at 11. The CMN indicates diagnoses of traumatic amputation of the leg (ICD-9-CM code 897.4); arthropathy involving the ankle and foot (ICD-9-CM code 716.97); and carpal tunnel syndrome (ICD-9-CM code 354.0). As noted, the appellant's representative testified that over the next two years, the beneficiary brought this wheelchair in for repairs on three occasions, twice for engine repairs and once for batteries. Hearing audit.

An equipment questionnaire, dated February 4, 2008, states that a replacement wheelchair is needed because the beneficiary is over the weight limit for the current wheelchair, which "keeps breaking." Exh. 7, at 30. The beneficiary's physician signed a prescription dated February 4, 2008, for an electric wheelchair and provided a diagnosis of below the knee amputation. *Id.* at 24. Another prescription, signed by the physician and dated February 7, 2008, documents the beneficiary's "weight today" as 308 pounds. *Id.* at 23.

On February 18, 2008, the appellant recommended to the beneficiary's physician that the beneficiary obtain a "Jazzy Select 14XL" power wheelchair and accessories. Exh. 7, at 25. The physician indicated her agreement to that recommendation with her signature, dated February 19, 2008. *Id.* The order form/price list for the Jazzy power wheelchair reflects a 400 pound weight capacity. *Id.* at 31.

The appellant correctly points out that HCPCS coding for power wheelchairs reflects the beneficiary's weight. The beneficiary's previous wheelchair, the "Quickie Aspire," is manufactured to meet the requirements of HCPCS code K0823. The 2008 HCPCS and CPT Codebook provides a "long description" for HCPCS code K0823 of "power wheelchair, Group 2 standard, Captains Chair, patient weight capacity *up to and including 300 pounds.*" 2008 HCPCS and CPT Codebook (emphasis supplied). The beneficiary's current wheelchair, the "Jazzy Select 14 XL," is billed to Medicare under HCPCS code K0825, and has a "long description" of "power wheelchair, Group 2 heavy duty, Captains Chair, patient weight capacity *301 to 450 pounds.*" *Id.* (emphasis supplied). In relevant part, the contractor "LCD for Power Mobility Devices (L23598)" allows for Medicare coverage of Group 2 devices billed under HCPCS codes K0820-K0829 when other coverage criteria are met and "the wheelchair is appropriate for the patient's weight." Exh. 2, at 62.¹

The record establishes that the beneficiary weighed 270 pounds when receiving the previous wheelchair (HCPCS code K0823) on June 7, 2005, but that her weight had increased to 308 pounds as of February 7, 2008, before receiving the instant power wheelchair (HCPCS code K0825) on March 3, 2008. Exh. 7, at 11, 23. The beneficiary brought the previous "standard" power wheelchair in for significant repairs on three occasions in little more than two years. The beneficiary was no longer within the weight capacity for the previous wheelchair when she last brought it in for repairs.

In this case, the beneficiary's weight gain over a three year period exceeded the weight capacity for her previous standard power wheelchair, but met the weight capacity for the instant heavy duty power wheelchair. Under LCD criteria, Medicare covers power wheelchairs, in relevant part, when appropriate for the patient's weight. The Council therefore finds that the instant power wheelchair and accessories are covered by Medicare.

DECISION

¹ Local Coverage Determinations (LCDs) issued by Medicare contractors may be found using the search function in the Medicare Coverage Database at <http://www.cms.hhs.gov/mcd/overview.asp>. The Council and ALJs afford substantial deference to LCDs when applicable in a given case. 42 C.F.R. § 405.1062(a).

It is the decision of the Medicare Appeals Council that the power wheelchair and accessories provided to the beneficiary on March 3, 2008, are covered by Medicare. The decision of the ALJ is reversed.

MEDICARE APPEALS COUNCIL

/s/ M. Susan Wiley
Administrative Appeals Judge

/s/ Gilde Morrisson
Administrative Appeals Judge

Date: September 21, 2009