UNITED SPINAL NOW

Chair Providing And Care Providing

BY JAMES WEISMAN
GENERAL COUNSEL

The Build Back Better Act, the Biden Administration's plan for returning America to normalcy and making badly-needed upgrades and improvements to infrastructure and care-giving, promised to remedy long-ignored care-giving (and care-receiving) problems.

Sen. Joe Manchin (D-W.Va.) has all but killed the care-giving agenda – but the Administration is working hard to make at least some improvements and additions.

The policy of the United States is to provide homecare/nursing-home care for 90 days post-hospitalization for Medicare recipients. After that time period, Medicare is no longer in the personal- care business, leaving only long-term care insurers (assuming the individual needing care was prescient enough and economically able to purchase such insurance) and Medicaid as the primary payers.

Obviously, Medicaid, a state-run program, is for poor people, and the need for Medicaid is quickly realized by those in need of substantial hours of homecare as they spend down and become impoverished paying for their own care. Once they are poor, Medicaid picks up the care. Many of these people have worked all of their lives, only to see their life savings quickly exhausted paying for personal care.

Massachusetts and Washington state see the folly of this program and have garnered all homecare under one administrator, provided personal care to the "other than Medicaid-eligible" population needing such care, and charged them an affordable sliding scale premium for the service. The theory behind this approach is that people provided with good care can stay in the labor force and stay productive.

They can be taxpayers as well as good workers, if they can get enough personal care, at affordable rates, to remain in the labor force. At least anecdotal evidence shows that these workers remained healthier than their homebound counterparts.

Since the 1999 *Olmstead* ADA decision by the Supreme Court to require states to provide services in the most integrated settings appropriate to recipients' needs, the states have failed in a large way to provide enough care options to Medicaid recipients to keep them living in the community safely and effectively. This creates the undesired outcome of inability to live in the community and nursing home admissions.

United Spinal is working on this and another issue keeping people from enjoying all the community has to offer.

The Social Security Act requires durable medical equipment for use in the home, to be approved and supplied by Medicare. HHS reimbursement approval policies have been draconian – to keep expenses down, the agency has limited the types and utility of chairs available in the United States and has repeatedly and wrongfully denied the equipment needed because it is not intended for use in the home, but in the community.

This ridiculous policy, which has survived Affordable Care Act passage and regulation writing by the Obama Administration without reform, even has private insurers mimicking it. Namely, some employers' health plans will only pay for wheelchairs that are for home use. The employer's plan doesn't pay for a chair the employee can take to work.

Couple the "in the home" rule with the fact that Obamacare allows caps on durable medical equipment so an employer's health plan could, for example, be capped at $2,500 for a $30,000 wheelchair.

The fed's wheelchair reimbursement policy stifles creativity and innovation and prevents access to state of the art equipment that makes life easier for wheelchair users, makes them more employable and self-sufficient, and keeps PWDs unemployed or under-employed and isolated.

The fed's personal care attendant scheme keeps PWDs at home and out of the labor force.

By 2022, they should know better. United Spinal will send advocates to the Hill again for our Roll on Capitol Hill lobbying trip. They will challenge Congresspeople and Senators to fix decades-long problems they've created and inspire young Congressional staffers to dream about solutions.