

7527

2013-2014 Regular Sessions

I N A S S E M B L Y

May 23, 2013

Introduced by M. of A. McDONALD, LAVINE, MAISEL, MONTESANO -- Multi-Sponsored by -- M. of A. DUPREY, GABRYSZAK, ROSA, SIMANOWITZ -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring specific Medicaid insurance codes related to complex needs patients' therapy and treatment; and to amend the insurance law, in relation to requiring managed care contracts to comply with certain reimbursement rates related to complex needs patients' therapy and treatment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "complex needs patient act".
3 S 2. Legislative intent. It is the intent of the Legislature to:
4 a. protect access for complex needs patients to important technology
5 and supporting services;
6 b. establish and improve safeguards relating to the delivery and
7 provision of medically necessary complex rehabilitation technology;
8 c. provide supports for complex needs patients to stay in the home or
9 community setting, prevent institutionalization, and prevent hospitali-
10 zations and other costly secondary complications; and
11 d. establish adequate pricing for complex rehabilitation technology
12 for the purpose of allowing continued access to appropriate products and
13 services.
14 S 3. The public health law is amended by adding a new section 23 to
15 read as follows:
16 S 23. COMPLEX NEEDS PATIENT BENEFITS. 1. DEFINITIONS. AS USED IN THIS
17 SECTION: (A) "COMPLEX NEEDS PATIENT" MEANS AN INDIVIDUAL WITH A DIAGNO-
18 SIS OR MEDICAL CONDITION THAT RESULTS IN SIGNIFICANT PHYSICAL OR FUNC-
19 TIONAL NEEDS AND CAPACITIES. SUCH TERM SHALL INCLUDE INDIVIDUALS WITH
20 PROGRESSIVE OR DEGENERATIVE NEUROMUSCULAR DISEASES OR INJURIES OR TRAUMA
21 WHICH RESULTED IN SIGNIFICANT PHYSICAL OR FUNCTIONAL NEEDS AND CAPACI-
22 TIES, INCLUDING, BUT NOT LIMITED TO, INDIVIDUALS WITH SPINAL CORD INJU-
23 RY, TRAUMATIC BRAIN INJURY, CEREBRAL PALSY, MUSCULAR DYSTROPHY, SPINA
24 BIFIDA, OSTEOGENESIS IMPERFECTA, ARTHROGRYPOSIS, AMYOTROPHIC LATERAL

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 SCLEROSIS, MULTIPLE SCLEROSIS, DEMYELINATING DISEASE, MYELOPATHY, MYOPA-
2 THY, PROGRESSIVE MUSCULAR ATROPHY, ANTERIOR HORN CELL DISEASE, POST-PO-
3 LIO SYNDROME, CEREBELLAR DEGENERATION, DYSTONIA, HUNTINGTON'S DISEASE,
4 SPINOCEREBELLAR DISEASE, AND CERTAIN TYPES OF AMPUTATION, PARALYSIS, OR
5 PARESIS THAT RESULT IN SIGNIFICANT PHYSICAL OR FUNCTIONAL NEEDS AND
6 CAPACITIES.

7 (B) "COMPLEX REHABILITATION TECHNOLOGY" MEANS ITEMS CURRENTLY CLASSI-
8 FIED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AS OF JANUARY
9 FIRST, TWO THOUSAND THIRTEEN AS DURABLE MEDICAL EQUIPMENT THAT ARE INDI-
10 VIDUALLY CONFIGURED FOR INDIVIDUALS TO MEET THEIR SPECIFIC AND UNIQUE
11 MEDICAL, PHYSICAL, AND FUNCTIONAL NEEDS AND CAPACITIES FOR BASIC ACTIV-
12 ITIES OF DAILY LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING IDEN-
13 TIFIED AS MEDICALLY NECESSARY TO PREVENT HOSPITALIZATION OR INSTITUTION-
14 ALIZATION OF A COMPLEX NEEDS PATIENT. SUCH ITEMS SHALL INCLUDE, BUT NOT
15 BE LIMITED TO, COMPLEX REHABILITATION POWER WHEELCHAIRS, HIGHLY CONFIG-
16 URABLE MANUAL WHEELCHAIRS, ADAPTIVE SEATING AND POSITIONING SYSTEMS, AND
17 OTHER SPECIALIZED EQUIPMENT SUCH AS STANDING FRAMES AND GAIT TRAINERS.
18 THE RELATED HEALTHCARE COMMON PROCEDURE CODE SYSTEM (HCPCS) BILLING
19 CODES INCLUDE, BUT ARE NOT LIMITED TO:

20 (1) PURE COMPLEX REHAB TECHNOLOGY (CRT) CODES: THESE HCPCS CODES
21 CONTAIN 100% CRT PRODUCTS: E0637, E0638, E0641, E0642, E0986, E1002,
22 E1003, E1004, E1005, E1006, E1007, E1008, E1009, E1010, E1011, E1014,
23 E1037, E1161, E1220, E1228, E1229, E1231, E1232, E1233, E1234, E1235,
24 E1236, E1237, E1238, E1239, E2209, E2291, E2292, E2293, E2294, E2295,
25 E2300, E2301, E2310, E2311, E2312, E2313, E2321, E2322, E2323, E2324,
26 E2325, E2326, E2327, E2328, E2329, E2330, E2331, E2351, E2373, E2374,
27 E2376, E2377, E2609, E2610, E2617, E8000, E8001, E8002, K0005, K0835,
28 K0836, K0837, K0838, K0839, K0840, K0841, K0842, K0843, K0848, K0849,
29 K0850, K0851, K0852, K0853, K0854, K0855, K0856, K0857, K0858, K0859,
30 K0860, K0861, K0862, K0863, K0864, K0868, K0869, K0870, K0871, K0877,
31 K0878, K0879, K0880, K0884, K0885, K0886, K0890, K0891, AND K0898.

32 (2) MIXED CRT CODES: THESE HCPCS CODES CONTAIN A MIX OF CRT PRODUCTS
33 AND STANDARD MOBILITY AND ACCESSORY PRODUCTS: E0950, E0951, E0952,
34 E0955, E0956, E0957, E0958, E0960, E0967, E0978, E0990, E1015, E1016,
35 E1028, E1029, E1030, E2205, E2208, E2231, E2368, E2369, E2370, E2605,
36 E2606, E2607, E2608, E2613, E2614, E2615, E2616, E2620, E2621, E2624,
37 E2625, K0004, K0009, K0040, K0108, AND K0669.

38 (3) FUTURE CODES CREATED TO EXPAND ON OR REPLACE THOSE INDICATED IN
39 SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

40 (C) "INDIVIDUALLY CONFIGURED" MEANS A COMBINATION OF FEATURES, ADJUST-
41 MENTS, OR MODIFICATIONS A SUPPLIER MAKES TO A DEVICE THAT ARE SPECIFIC
42 TO AN INDIVIDUAL AND THAT THE SUPPLIER PROVIDES BY MEASURING, FITTING,
43 PROGRAMMING, ADJUSTING, OR ADAPTING THE DEVICE AS APPROPRIATE SO THAT
44 THE DEVICE IS CONSISTENT WITH AN ASSESSMENT OR EVALUATION OF THE INDI-
45 VIDUAL BY A HEALTH CARE PROFESSIONAL AND CONSISTENT WITH THE INDIVID-
46 UAL'S MEDICAL CONDITION, PHYSICAL AND FUNCTIONAL NEEDS, CAPACITIES, BODY
47 SIZE, PERIOD OF NEED, AND INTENDED USE.

48 (D) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER" MEANS A
49 COMPANY OR ENTITY THAT:

50 (1) IS ACCREDITED BY A RECOGNIZED ACCREDITING ORGANIZATION AS A
51 SUPPLIER OF COMPLEX REHABILITATION TECHNOLOGY;

52 (2) IS ENROLLED IN THE MEDICARE PROGRAM AND MEETS THE SUPPLIER AND
53 QUALITY STANDARDS ESTABLISHED FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS
54 UNDER THE MEDICARE PROGRAM;

55 (3) EMPLOYS AT LEAST ONE COMPLEX REHABILITATION TECHNOLOGY PROFES-
56 SIONAL FOR EACH LOCATION TO (I) ANALYZE THE NEEDS AND CAPACITIES OF

1 QUALIFIED INDIVIDUALS WITH COMPLEX MEDICAL NEEDS, (II) ASSIST IN SELECT-
2 ING APPROPRIATE COVERED COMPLEX REHABILITATION TECHNOLOGY ITEMS FOR SUCH
3 NEEDS AND CAPACITIES, AND (III) PROVIDE TRAINING IN THE USE OF THE
4 SELECTED COVERED COMPLEX REHABILITATION TECHNOLOGY ITEMS; THE COMPLEX
5 REHABILITATION TECHNOLOGY PROFESSIONAL SHALL BE CERTIFIED BY THE REHA-
6 BILITATION ENGINEERING AND ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA
7 AS AN ASSISTIVE TECHNOLOGY PROFESSIONAL (ATP);

8 (4) HAS THE COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL PHYSICALLY
9 PRESENT FOR THE EVALUATION AND DETERMINATION OF THE APPROPRIATE INDIVID-
10 UALLY CONFIGURED COMPLEX REHABILITATION TECHNOLOGIES FOR THE QUALIFIED
11 INDIVIDUAL WITH COMPLEX MEDICAL NEEDS;

12 (5) PROVIDES SERVICE AND REPAIR BY QUALIFIED TECHNICIANS FOR ALL
13 COMPLEX REHABILITATION TECHNOLOGY PRODUCTS IT SELLS; AND

14 (6) PROVIDES WRITTEN INFORMATION TO THE COMPLEX NEEDS PATIENT AT THE
15 TIME OF DELIVERY ABOUT HOW THE INDIVIDUAL MAY RECEIVE SERVICE AND
16 REPAIRS.

17 (E) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL" MEANS
18 AN INDIVIDUAL WHO IS CERTIFIED BY THE REHABILITATION ENGINEERING AND
19 ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA AS AN ASSISTIVE TECHNOLOGY
20 PROFESSIONAL (ATP).

21 2. CREATION OF A SEPARATE RECOGNITION FOR COMPLEX REHABILITATION TECH-
22 NOLOGY. (A) THE DEPARTMENT OF HEALTH SHALL PROVIDE A SEPARATE RECOGNI-
23 TION WITHIN THE STATE'S MEDICAID PROGRAM FOR COMPLEX REHABILITATION
24 TECHNOLOGY AND SHALL MAKE OTHER REQUIRED CHANGES TO PROTECT ACCESS TO
25 APPROPRIATE PRODUCTS AND SERVICES. THE DEPARTMENT SHALL PROVIDE SEPARATE
26 RECOGNITION FOR INDIVIDUALLY CONFIGURED COMPLEX REHABILITATION TECHNOLO-
27 GY PRODUCTS AND SERVICES FOR COMPLEX NEEDS PATIENTS. SUCH SEPARATE
28 RECOGNITION SHALL TAKE INTO CONSIDERATION THE CUSTOMIZED NATURE OF
29 COMPLEX REHABILITATION TECHNOLOGY AND THE BROAD RANGE OF SERVICES NECES-
30 SARY TO MEET THE UNIQUE MEDICAL AND FUNCTIONAL NEEDS OF PEOPLE WITH
31 COMPLEX MEDICAL NEEDS BY DOING ALL OF THE FOLLOWING:

32 (A) BY USING AS A REFERENCE THOSE BILLING CODES LISTED UNDER SUBPARA-
33 GRAPHS ONE AND TWO OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION,
34 DESIGNATING APPROPRIATE CURRENT BILLING CODES AS COMPLEX REHABILITATION
35 TECHNOLOGY AND, AS NEEDED, CREATING NEW BILLING CODES FOR SERVICES AND
36 PRODUCTS COVERED FOR COMPLEX NEEDS PATIENTS.

37 (B) ESTABLISHING SPECIFIC SUPPLIER STANDARDS FOR COMPANIES OR ENTITIES
38 THAT PROVIDE COMPLEX REHABILITATION TECHNOLOGY AND RESTRICTING THE
39 PROVISION OF COMPLEX REHABILITATION TECHNOLOGY TO ONLY THOSE COMPANIES
40 OR ENTITIES THAT MEET SUCH STANDARDS.

41 (C) THE DEPARTMENT SHALL REQUIRE COMPLEX NEEDS PATIENTS RECEIVING
42 COMPLEX REHABILITATION TECHNOLOGY TO BE EVALUATED BY:

43 (1) A QUALIFIED HEALTH CARE PROFESSIONAL, INCLUDING, BUT NOT LIMITED
44 TO, A PHYSICAL THERAPIST, OCCUPATIONAL THERAPIST, OR OTHER HEALTH CARE
45 PROFESSIONAL WHO PERFORMS SPECIALTY EVALUATIONS WITHIN HIS OR HER SCOPE
46 OF PRACTICE; AND

47 (2) A QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL.

48 S 4. The insurance law is amended by adding a new section 4806 to read
49 as follows:

50 S 4806. COVERAGE FOR COMPLEX REHABILITATION TECHNOLOGY PRODUCTS AND
51 SERVICES FOR COMPLEX NEEDS PATIENTS. ANY MANAGED CARE PLAN AMENDED,
52 DELIVERED, ISSUED, OR RENEWED IN THIS STATE SHALL ADOPT THE REGULATIONS
53 AND POLICIES OUTLINED IN SECTION TWENTY-THREE OF THE PUBLIC HEALTH LAW.

54 S 5. This act shall take effect immediately.