

STATE OF NEW YORK

4557--A

2017-2018 Regular Sessions

IN SENATE

February 17, 2017

Introduced by Sens. ORTT, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law and the public health law, in relation to Medicaid reimbursement for complex rehabilitation technology for patients with complex medical needs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The social services law is amended by adding a new section
2 367-j to read as follows:

3 § 367-j. Complex rehabilitation technology; reimbursement. 1. Definitions. As used in this section:

4 (a) "Complex needs patient" means a medical assistance enrollee with
5 significant physical or functional impairment resulting from a medical
6 condition or disease including, but not limited to: spinal cord injury,
7 traumatic brain injury, cerebral palsy, muscular dystrophy, spina bifi-
8 da, osteogenesis imperfecta, arthrogyrosis, amyotrophic lateral sclero-
9 sis, multiple sclerosis, demyelinating disease, myelopathy, myopathy,
10 progressive muscular atrophy, anterior horn cell disease, post-polio
11 syndrome, cerebellar degeneration, dystonia, huntington's disease,
12 spinocerebellar disease, and certain types of amputation, paralysis or
13 paresis.

14 (b) "Complex rehabilitation technology" means products classified as
15 durable medical equipment within the medicare program that are individ-
16 ually configured for individuals to meet their specific and unique
17 medical, physical and functional needs and capacities for basic and
18 functional activities of daily living. Such products include, but are
19 not limited to: individually configured manual and power wheelchairs
20 and accessories, adaptive seating and positioning items and accessories,
21

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

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1 and other specialized equipment such as standing frames and gait train-
2 ers and accessories.

3 (c) "Individually configured" means a device with a combination of
4 sizes, features, adjustments or modifications that are configured or
5 designed by a qualified complex rehabilitation technology supplier for a
6 specific individual by measuring, fitting, programming, adjusting or
7 adapting the device so that the device is consistent with the individ-
8 ual's medical condition, physical and functional needs and capabilities,
9 body size, period of need and intended use as determined by an assess-
10 ment or evaluation by a qualified health care professional.

11 (d) "Qualified complex rehabilitation technology professional" means
12 an individual who is certified as an assistive technology professional
13 by a nationally-recognized rehabilitation engineering and assistive
14 technology society.

15 (e) "Qualified complex rehabilitation technology supplier" means a
16 company or entity that:

17 (i) is accredited by a nationally-recognized accrediting organization;
18 (ii) is an enrolled supplier for durable medical equipment under the
19 federal medicare program and the medical assistance program under this
20 title;

21 (iii) has at least one qualified complex rehabilitation technology
22 professional available to analyze the needs and capacities of complex
23 needs patients in consultation with a qualified health care professional
24 and participate in the selection of appropriate complex rehabilitation
25 technology and provide training in the proper use of the complex reha-
26 bilitation technology;

27 (iv) requires a qualified complex rehabilitation technology profes-
28 sional be physically present for the evaluation and determination of
29 appropriate complex rehabilitation technology for complex needs
30 patients;

31 (v) has the capability to provide service and repair by qualified
32 technicians for all complex rehabilitation technology it sells;

33 (vi) has at least one retail vending location within New York state;
34 and

35 (vii) provides written information regarding how to receive service
36 and repair of complex rehabilitation technology to the complex needs
37 patient prior to the ordering of such technology.

38 (f) "Qualified health care professional" means a health care profes-
39 sional licensed or otherwise authorized to practice under title eight of
40 the education law, acting within his or her scope of practice.

41 2. Reimbursement and billing procedures. (a) The commissioner shall
42 maintain specific reimbursement and billing procedures under this title
43 for complex rehabilitation technology products to ensure that Medicaid
44 payments for such products permit adequate access to such products and
45 services for complex needs patients and take into account the signif-
46 icant resources, infrastructure, and staff needed.

47 (b) The commissioner shall monitor the addition of new billing codes
48 for complex rehabilitation technology by the medicare program and shall
49 expeditiously incorporate such codes under this subdivision.

50 (c) Where reimbursement rates for complex rehabilitation technology
51 products provided under section forty-four hundred three-f of the public
52 health law or section three hundred sixty-four-j of this title are
53 determined by a managed care organization, they shall be determined
54 consistent with this subdivision. The commissioner may establish minimum
55 benchmark reimbursement rates to be paid by managed care organizations
56 under this paragraph.

§ 2. The public health law is amended by adding a new section 2512 to read as follows:

§ 2512. Complex rehabilitation technology; reimbursement. 1. Definitions. As used in this section:

(a) "Complex needs patient" means a child health plus enrollee with significant physical or functional impairment resulting from a medical condition or disease including, but not limited to: spinal cord injury, traumatic brain injury, cerebral palsy, muscular dystrophy, spina bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic lateral sclerosis, multiple sclerosis, demyelinating disease, myelopathy, myopathy, progressive muscular atrophy, anterior horn cell disease, post-polio syndrome, cerebellar degeneration, dystonia, huntington's disease, spinocerebellar disease, and certain types of amputation, paralysis or paresis.

(b) "Complex rehabilitation technology" means products classified as durable medical equipment within the medicare program that are individually configured for individuals to meet their specific and unique medical, physical and functional needs and capacities for basic and functional activities of daily living. Such products include, but are not limited to: individually configured manual and power wheelchairs and accessories, adaptive seating and positioning items and accessories, and other specialized equipment such as standing frames and gait trainers and accessories.

(c) "Individually configured" means a device with a combination of sizes, features, adjustments or modifications that are configured or designed by a qualified complex rehabilitation technology supplier for a specific individual by measuring, fitting, programming, adjusting or adapting the device so that the device is consistent with the individual's medical condition, physical and functional needs and capabilities, body size, period of need and intended use as determined by an assessment or evaluation by a qualified health care professional.

(d) "Qualified complex rehabilitation technology professional" means an individual who is certified as an assistive technology professional by a nationally-recognized rehabilitation engineering and assistive technology society.

(e) "Qualified complex rehabilitation technology supplier" means a company or entity that:

(i) is accredited by a nationally-recognized accrediting organization;

(ii) is an enrolled supplier for durable medical equipment under the federal medicare program and the medical assistance program under title eleven of article five of the social services law;

(iii) has at least one qualified complex rehabilitation technology professional available to analyze the needs and capacities of complex needs patients in consultation with a qualified health care professional and participate in the selection of appropriate complex rehabilitation technology and provide training in the proper use of the complex rehabilitation technology;

(iv) requires a qualified complex rehabilitation technology professional be physically present for the evaluation and determination of appropriate complex rehabilitation technology for complex needs patients;

(v) has the capability to provide service and repair by qualified technicians for all complex rehabilitation technology it sells;

(vi) has at least one retail vending location within New York state; and

1 (vii) provides written information regarding how to receive service
2 and repair of complex rehabilitation technology to the complex needs
3 patient prior to the ordering of such technology.

4 (f) "Qualified health care professional" means a health care profes-
5 sional licensed or otherwise authorized to practice under title eight of
6 the education law, acting within his or her scope of practice.

7 2. Reimbursement and billing procedures. (a) The commissioner shall
8 maintain specific reimbursement and billing procedures under this title
9 for complex rehabilitation technology products to ensure that payments
10 for such products permit adequate access to such products and services
11 for complex needs patients and take into account the significant
12 resources, infrastructure, and staff needed.

13 (b) The commissioner shall monitor the addition of new billing codes
14 for complex rehabilitation technology by the medicare program and shall
15 expeditiously incorporate such codes under this subdivision.

16 (c) Where reimbursement rates for complex rehabilitation technology
17 products provided under this section are determined by an approved
18 organization, they shall be determined consistent with this subdivision.
19 The commissioner may establish minimum benchmark reimbursement rates to
20 be paid by approved organizations under this paragraph.

21 § 3. This act shall take effect on the first of April next succeeding
22 the date on which it shall have become a law; provided that effective
23 immediately, the commissioner of health shall make regulations and take
24 other actions reasonably necessary to implement this act on or before
25 such date.