STATE OF NEW YORK

3132

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. STECK -- Multi-Sponsored by -- M. of A. BUTTENSCHON, COLTON, CRUZ, DICKENS, ENGLEBRIGHT, EPSTEIN, GOTTFRIED, M. MILLER, NIOU, REYES, L. ROSENTHAL, SALKA, SANTABARBARA, SAYEGH, SEAWRIGHT, SIMON, WEPRIN, WILLIAMS -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to coverage and billing procedures in the Medicaid program 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:

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

§ 367-j. Complex rehabilitation technology; coverage and safeguards. 1. Definitions. As used in this section:

(a) "Complex needs patient" means a medical assistance 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,

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

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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 this title;

(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

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

(f) "Qualified health care professional" means a health care professional licensed or otherwise authorized to practice under title eight of the education law, acting within his or her scope of practice who has no financial relationship with the complex rehabilitation technology supplier.

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

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

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

benchmark reimbursement rates to be paid by managed care organizations under this paragraph.

§ 2. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.