STATE OF NEW YORK

6569--A

2025-2026 Regular Sessions

IN ASSEMBLY

March 6, 2025

Introduced by M. of A. BORES, LAVINE, GALLAHAN, GALLAGHER -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the social services law, in relation to enacting the "consumer wheelchair repair bill of rights act"

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

Section 1. Short title. This act shall be known and may be cited as the "consumer wheelchair repair bill of rights act".

§ 2. Article 32 and section 670 of the general business law, as amended by chapter 219 of the laws of 2006, are renumbered article 32-A and section 676 and a new section 677 is added to read as follows:

§ 677. Right to repair wheelchairs. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) (i) "Authorized repair provider" means a person that is unaffiliated with a manufacturer other than through an arrangement with such manufacturer, whether for a definite or an indefinite period, in which such manufacturer, for the purpose of offering to provide services to an equipment owner regarding the owner's equipment or a part, grants such person:

(1) a license to use a trade name, service mark, or other proprietary identifier; or

(2) authorization under any other arrangement to act on behalf of such manufacturer.

(ii) "Authorized repair provider" includes, but is not limited to, a manufacturer that offers to provide services to an owner of such manufacturer's equipment regarding such owner's equipment or a part if such manufacturer does not have an arrangement with an unaffiliated person, as described in subparagraph (i) of this subdivision.

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

LBD08308-03-5

(b) "Documentation" means a manual; diagram, including a schematic diagram; reporting output; service code description; or similar type of information, whether in an electronic or tangible format, that a manufacturer provides to an authorized repair provider for purposes of assisting such authorized repair provider with services performed on such manufacturer's equipment or a part.

(c) "Embedded software" means programmable instructions provided on firmware delivered with an electronic component of equipment or with any part for the purpose of restoring or improving operation of such equipment or part; and shall include but not be limited to all relevant patches and fixes that the manufacturer makes to equipment or to any part for the purpose of restoring or improving such equipment or part.

(d) "Equipment" means a powered wheelchair.

(e) (i) "Fair and reasonable costs" with respect to obtaining documentation, parts, embedded software, firmware, or tools from a manufacturer to provide services, means terms that are equivalent to the most favorable terms that such manufacturer offers to an authorized repair provider and costs that are no greater than such manufacturer's suggested retail price. Costs considered under this subparagraph shall be calculated using net costs incurred, accounting for any discounts, rebates, or incentives offered.

(ii) With respect to documentation, "fair and reasonable terms and costs" means that the manufacturer provides such documentation, including any relevant updates to such documentation, at no charge; except that such manufacturer may charge a fee for a printed copy of such documentation if the amount of such fee covers only such manufacturer's actual cost to prepare and send such printed copy of such documentation.

(iii) With respect to tools that are software programs, "fair and reasonable terms and costs" means that the manufacturer provides such tools that are software programs:

(1) at no charge and without requiring authorization or internet access or otherwise imposing impediments to access or use;

(2) in the course of effectuating the diagnosis, maintenance, or repair and enabling the full functionality of the equipment or part; and

(3) in a manner that does not impair the efficient and cost-effective performance of the equipment or part.

(f) "Firmware" means a software program or set of instructions programmed on equipment or a part to allow such equipment or part to communicate with itself or with other computer hardware.

(g) (i) "Independent repair provider", except as otherwise provided in subparagraph (ii) of this paragraph, means a person in the state that is:

(1) neither a manufacturer's authorized repair provider nor affiliated with a manufacturer's authorized repair provider; and

(2) engaged in offering or providing services.

(ii) "Independent repair provider" means:

(1) an authorized repair provider if such authorized repair provider is offering or providing services for a manufacturer other than a manufacturer with which such authorized repair provider has an arrangement described in paragraph (a) of this subdivision; or

(2) a manufacturer with respect to offering or providing services for another manufacturer's equipment or part.

(h) "Original equipment manufacturer" or "manufacturer" means a person doing business in the state and engaged in the business of selling, leasing, or otherwise supplying new equipment or parts manufactured by or on behalf of itself to any individual, business, or other entity.

(i) "Owner" means a person that owns equipment or an agent of such person.

(j) "Part" means a new or used replacement part for equipment that a manufacturer offers for sale or otherwise makes available for the purpose of providing services.

(k) "Powered wheelchair" means a motorized wheeled device designed for use by a person with a physical disability.

(l) "Services" means diagnostic, maintenance, or repair services performed on equipment or a part.

(m) "Tools" means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of equipment or parts, including software or other mechanism that provides, programs, or pairs a new part; calibrates functionality; or performs any other function required to return such equipment or part to fully functional condition.

(n) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses, or telephone numbers, or other information relating to any business or profession which is secret and of value. To be a "trade secret" the owner thereof shall have taken measures to prevent the secret from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

2. (a) Except as provided under paragraph (b) of this subdivision:

(i) For the purpose of providing services for equipment in the state, an original equipment manufacturer shall, with fair and reasonable terms and costs, make available to an independent repair provider or owner of such manufacturer's equipment any documentation, parts, embedded software, firmware, or tools that are intended for use with the equipment or any part, including updates to documentation, parts, embedded software, firmware, or tools.

(ii) With respect to equipment that contains an electronic security lock or other security-related function, a manufacturer shall, with fair and reasonable terms and costs, make available to independent repair providers and owners any documentation, parts, embedded software, firmware, or tools needed to reset the lock or function when disabled in the course of providing services. The manufacturer may make the documentation, parts, embedded software, firmware, or tools available to independent repair providers and owners through appropriate secure release systems.

(b) (i) Paragraph (a) of this subdivision shall not apply to:

(1) a part that is no longer available to the original equipment manufacturer; or

(2) conduct that would require the manufacturer to divulge a trade secret; except that a manufacturer shall not refuse to make available to an independent repair provider or owner any documentation, part, embedded software, firmware, or tool necessary to provide services on grounds that such documentation, part, embedded software, firmware, or tool itself is a trade secret.

(ii) (1) A manufacturer may redact documentation to remove trade secrets from such documentation before providing access to such documentation if the usability of such redacted documentation for the purpose of providing services is not diminished.

(2) A manufacturer may withhold information regarding a component of, design of, functionality of, or process of developing a part, embedded software, firmware, or a tool if such information is a trade secret and

the usability of such part, embedded software, firmware, or tool for the purpose of providing services is not diminished.

(c) An original equipment manufacturer shall not be liable for faulty or otherwise improper repairs provided by independent repair providers or owners, including faulty or otherwise improper repairs that cause:

(i) damage to powered wheelchairs that occur during such repairs;

(ii) any indirect, incidental, special, or consequential damages; or

(iii) an inability to use, or a reduced functionality of, a powered wheelchair resulting from the faulty or otherwise improper repair.

3. (a) Except as provided under paragraph (b) of this subdivision, nothing in this section shall:

(i) alter the terms of any contract or other arrangement in force on the effective date of this section between an original equipment manufacturer and an authorized repair provider, including the performance or provision of warranty or recall repair work and any exclusivity or noncompete clause in a contract;

(ii) require a manufacturer to provide an independent repair provider or owner access to information, other than documentation, that such manufacturer provides to an authorized repair provider pursuant to a contract or other arrangement with such authorized repair provider except as necessary to comply with paragraph (a) of subdivision two of this section; or

(iii) exempt a manufacturer from a products liability claim that is otherwise authorized under law.

(b) With respect to a contract or other arrangement, or renewal of a contract or existing arrangement, that an original equipment manufacturer enters into after the effective date of this section, any contract term, provision, agreement, or language in such contract or arrangement that waives, avoids, restricts, or limits such manufacturer's obligations under this section shall be void and unenforceable.

§ 3. The general business law is amended by adding a new section 678 to read as follows:

§ 678. Timely repair of wheelchairs. 1. No later than one year after the effective date of this section, and after consultation with the deputy secretary for human services and mental hygiene, the office of the chief disability officer shall establish a "timely repair for wheelchair program" under which wheelchair manufacturers and authorized wheelchair dealers or wheelchair lessors shall be held accountable for wheelchair repairs requested by wheelchair owners as provided in this section.

2. The chief disability officer shall require all wheelchair repairs in the state to be completed within ten days of a request for such repair. Such ten-day period shall start on the first business day following the date of the request, provided that such wheelchair owner permits a wheelchair manufacturer, authorized wheelchair dealer or wheelchair lessor to access the device by either delivery to the custody of such wheelchair manufacturer, authorized wheelchair dealer or wheelchair lessor, or alternatively, to the identified agent or other representative. This election by the wheelchair owner can include at their personal home, the home of a specified friend, a school, a dayhab program, place of employment, or medical facility.

3. During the repair process, if any condition or defect renders a wheelchair out of service for a total of thirty days or longer, the owner of such wheelchair shall be entitled to receive a temporary wheelchair from the manufacturer of such owner's wheelchair for use until such wheelchair owner's wheelchair is repaired and returned.

4. A wheelchair manufacturer, authorized wheelchair dealer or wheelchair lessor shall maintain an electronic mail address and a phone line that is dedicated solely to receiving wheelchair repair requests. Such electronic mail address and phone line shall be accessible each day and capable of receiving and recording messages. Authorized wheelchair dealers shall: (a) respond to a request for wheelchair repair no later than one business day after the date such request was made; and (b) order parts necessary for a wheelchair repair no later than three business days after assessing the need for such repair.

5. The office of the chief disability officer shall maintain a phone number and electronic mail address to be posted conspicuously on its website, to receive and record complaints regarding timely wheelchair repairs. No later than January first, two thousand twenty-seven, and annually thereafter, the chief disability officer shall submit a report to the governor and the legislature regarding any complaints received and recorded pursuant to this subdivision. Such report shall be published on the website of the office of the chief disability officer and visible to the general public.

6. (a) No later than December thirty-first, two thousand twenty-eight, and annually thereafter, an authorized wheelchair dealer that contracts with the state to sell or lease wheelchairs to Medicaid recipients shall submit a report to the office of the chief disability officer regarding repair of such wheelchairs. Such report shall include, but not be limited to, minimum, maximum and average times from the date and time of a wheelchair repair request for such authorized wheelchair dealer to: (i) respond; (ii) conduct a repair assessment (1) in the home or other community location, (2) remotely, or (3) at a repair facility; (iii) request any necessary prior authorization from the department of social services and receive a decision from the department of social services on such request; (iv) order any wheelchair parts needed; (v) receive delivery of any needed repair parts; and (vi) complete repairs (1) in the home or other community location, (2) remotely, or (3) at a repair facility.

(b) The office of the chief disability officer shall make the report submitted under paragraph (a) of this subdivision available to the public within sixty days of receiving it.

7. The chief disability officer, in conjunction with the attorney general's office, shall promulgate rules, regulations, reporting requirements, and penalties necessary to establish the timely repair for wheelchair program and implement the provisions of this section.

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

§ 367-j. Reimbursement and billing procedures for wheelchairs. 1. The commissioner shall maintain specific reimbursement and billing procedures under this title for the evaluation, diagnosis and repair of wheelchairs, to ensure that Medicaid payments for such service permit adequate access to such products and services for complex needs of patients and take into account the significant resources, infrastructure, and staff needed to make such evaluation, diagnosis and repair of wheelchairs.

2. The commissioner shall monitor the addition of new billing codes for the evaluation, diagnosis and repair of wheelchairs by the Medicare program and shall expeditiously incorporate such codes under this section.

3. Where reimbursement rates are determined by a managed care organization, such rates shall be determined consistent with this subdivi-

sion. The commissioner of social services may establish minimum benchmark reimbursement rates to be paid by managed care organizations under this paragraph.

4. For the purposes of this section, the term "wheelchair" means a manual or motorized wheeled device designed for use by a person with a physical disability, and shall apply to such devices whether owned or leased.

§ 5. Paragraph a and subparagraphs 1 and 2 of paragraph b of subdivision 2 and paragraph a of subdivision 3 of section 676 of the general business law, as amended by chapter 219 of the laws of 2006 and such section as renumbered by section two of this act, are amended to read as follows:

a. A manufacturer who sells a wheelchair to a consumer, either directly or through a wheelchair dealer, shall furnish the consumer with an express warranty for the wheelchair. The duration of the express warranty shall be not less than [~~one year~~] two years after first delivery of the wheelchair to the consumer. In the absence of an express warranty from the manufacturer, the manufacturer shall be deemed to have expressly warranted to the consumer of a wheelchair that, for a period of [~~one year~~] two years from the date of first delivery to the consumer, the wheelchair will be free from any condition or defect which substantially impairs the value of the wheelchair to the consumer.

(1) By law, the manufacturer shall be deemed to have provided to you, the purchaser of a wheelchair, a [~~one~~] two year warranty which starts on the date of first delivery to you. This warranty provides that the wheelchair will be free from any condition or defect that substantially impairs its use, value or safety.

(2) To ensure you receive the benefits of this warranty, you must report any problems and make the wheelchair available to the manufacturer, authorized wheelchair dealer or wheelchair lessor for repair before [~~one year~~] two years after first delivery.

a. If a new wheelchair does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the wheelchair lessor or any of the manufacturer's authorized wheelchair dealers and makes the wheelchair available for repair before [~~one year~~] two years after first delivery of the wheelchair to a consumer, the nonconformity shall be repaired at no charge to the consumer.

§ 6. The general business law is amended by adding a new section 679 to read as follows:

§ 679. Medically necessary wheelchair repairs. 1. Notwithstanding any other provision of law, any wheelchair repair that is needed within five years of the initial prescription shall be deemed medically necessary and shall not require a new prescription or prior authorization from insurance before proceeding with repair.

2. The chief disability officer shall seek any federal approval necessary, including amending the Medicaid state plan or applying for a Medicaid waiver, to implement the provisions of this section.

3. The department of financial services shall promulgate any rules and/or regulations to implement the provisions of this section.

§ 7. This act shall take effect January 1, 2026.