

AN ACT CONCERNING ENSURING ACCESS TO QUALITY COMPLEX REHABILITATION TECHNOLOGY IN THE MEDICAID PROGRAM

Section 1. Short Title

A. This Act shall be known and may be cited as the “Complex Needs Patient Act”.

Section 2. Purpose

A. It is the intent of the Legislature to:

1. Protect access for complex needs patients to important medically necessary and individually configured complex rehabilitation technology (CRT) and supporting services;
2. Establish and improve safeguards relating to the evaluation, delivery, and repair of complex rehabilitation technology;
3. Provide supports for complex needs patients to stay in the home or community setting, engage in basic activities of daily living and instrumental activities of daily living including employment, prevent hospitalizations, prevent institutionalization, and prevent other costly secondary complications; and
4. Provide adequate Medicaid payment for complex rehabilitation technology for the purpose of allowing continued access to medically necessary products and related services, including maintenance and repair.

Section 3. Creation of Focused Regulations and Policies for Complex Rehabilitation Technology

A. The Department of Social Services shall establish focused regulations and policies for complex rehabilitation technology products and services. These focused regulations and policies shall take into consideration the customized nature of complex rehabilitation technology and the broad range of services necessary to meet the unique medical and functional needs of people with complex medical needs by:

1. Designating current HCPCS billing codes listed in Sections 4(A)(2)(a) and 4(A)(2)(b) of this Act as complex rehabilitation technology, and as needed, creating new billing codes or modifiers for services and products covered for complex needs patients;
2. Establishing specific supplier standards for companies or entities that provide complex rehabilitation technology and restricting the provision of complex rehabilitation technology to only qualified complex rehabilitation technology suppliers that meet such standards as defined in Section 4(A)(5) of this Act;
3. Requiring complex needs patients receiving a complex rehabilitation manual wheelchair, power wheelchair, or seating component to be evaluated by:
 - a. A qualified health care professional as defined in Section 4 (A)(6) of this Act; and
 - b. A qualified complex rehabilitation technology professional as defined in Section 4 (A)(4) of this Act;
4. Maintaining payment policies and rates for complex rehabilitation technology to ensure payment amounts are adequate to provide complex needs patients with access to such items. Such policies and rates shall take into account the significant resources, infrastructure, and staff needed to appropriately provide complex rehabilitation technology to meet the unique needs of complex needs patients;
5. Exempting the HCPCS billing codes listed in Sections 4(A)(2)(a) and 4(A)(2)(b) of this Act from inclusion in any bidding, selective contracting, or similar such initiative;
6. Requiring that Managed Care Medicaid plans adopt the regulations and policies outlined in this Act and contract with any willing, qualified complex rehabilitation technology supplier; and
7. Making other changes as needed to protect access to complex rehabilitation technology for complex needs patients.

Section 4. Definitions

A. As used in this Act:

1. "Complex needs patient" means an individual with a diagnosis or medical condition that results in significant physical impairment and/or functional limitation. Such term shall include, but not be limited to, individuals with 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 that result in significant physical impairment and/or functional limitation. "Complex needs patient" does not negate the requirement that an individual meet medical necessity requirements under authority rules to qualify for receiving complex rehabilitation technology.

2. "Complex rehabilitation technology" means items classified within the Medicare program as of January 1, 2013 as durable medical equipment that are individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic activities of daily living and instrumental activities of daily living identified as medically necessary. Such items shall include, but not be limited to, complex rehabilitation manual and power wheelchairs and options/accessories, adaptive seating and positioning items and options/accessories, and other specialized equipment such as standing frames and gait trainers and options/accessories. The related HCPCS billing codes include, but are not limited to, the following:
 - a. Pure Complex Rehabilitation Technology Codes- These HCPCS codes contain 100% complex rehabilitation technology products: E0637, E0638, E0641, E0642, E0986, E1002, E1003, E1004, E1005, E1006, E1007, E1008, E1009, E1010, E1011, E1014, E1037, E1161, E1220, E1228, E1229, E1231, E1232, E1233, E1234, E1235, E1236, E1237, E1238, E1239, E2209, E2291, E2292, E2293, E2294, E2295, E2300, E2301, E2310, E2311, E2312, E2313, E2321, E2322, E2323, E2324, E2325, E2326, E2327, E2328, E2329, E2330, E2331, E2351, E2373, E2374, E2376, E2377, E2609, E2610, E2617, E8000, E8001, E8002, K0005, K0835, K0836, K0837, K0838, K0839, K0840, K0841, K0842, K0843, K0848, K0849, K0850, K0851, K0852, K0853, K0854, K0855, K0856, K0857, K0858, K0859, K0860, K0861, K0862, K0863, K0864, K0868, K0869, K0870, K0871, K0877, K0878, K0879, K0880, K0884, K0885, K0886, K0890, K0891, and K0898;
 - b. Mixed Complex Rehabilitation Technology Codes- These HCPCS codes contain a mix of complex rehabilitation technology products and standard mobility and accessory products: E0950, E0951, E0952, E0955, E0956,

E0957, E0958, E0960, E0967, E0978, E0990, E1015, E1016, E1028, E1029, E1030, E2205, E2208, E2231, E2368, E2369, E2370, E2605, E2606, E2607, E2608, E2613, E2614, E2615, E2616, E2620, E2621, E2624, E2625, K0004, K0006, K0007, K0008, K0009, K0040, K0108, and K0669; and

- c. Future codes created to expand on or replace those listed in Sections 4(A)(2)(a) and 4(A)(2)(b) of this Act.
3. "Employee" means a person whose taxes are withheld by a qualified complex rehabilitation technology supplier and reported to the Internal Revenue Service.
 4. "Healthcare Common Procedure Coding System" (HCPCS) means the billing codes used by Medicare and overseen by the federal centers for Medicare and Medicaid Services that are based on the current procedural technology codes developed by the American Medical Association.
 5. "Individually configured" means a device has a combination of sizes, features, adjustments, or modifications that a qualified complex rehabilitation technology supplier can customize to the specific individual by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the individual by a qualified health care professional and consistent with the individual's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.
 6. "Qualified complex rehabilitation technology professional" means an individual who is certified as an Assistive Technology Professional (ATP) by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA).
 7. "Qualified complex rehabilitation technology supplier" means a company or entity that:
 - a. Is accredited by a recognized accrediting organization as a supplier of complex rehabilitation technology;
 - b. Is an enrolled Medicare supplier and meets the supplier and quality standards established for durable medical equipment suppliers, including those for complex rehabilitation technology, under the Medicare program;
 - c. Employs as a W-2 employee at least one qualified complex rehabilitation technology professional for each location to:
 - i. Analyze the needs and capacities of the complex needs patient in consultation with qualified health care professionals;

- ii. Participate in the selection of appropriate complex rehabilitation technology for such needs and capacities; and
 - iii. Provide technology-related training in the proper use of the complex rehabilitation technology.
 - d. Requires a qualified complex rehabilitation technology professional be physically present for the evaluation and determination of appropriate complex rehabilitation technology;
 - e. Has the capability to provide service and repair by qualified technicians for all complex rehabilitation technology it sells; and
 - f. Provides written information at the time of delivery of complex rehab technology regarding how the complex needs patient may receive service and repair.
8. “Qualified health care professional” means a health care professional licensed by the state Department of Public Health who has no financial relationship with a qualified complex rehabilitation technology supplier. Qualified health care professional includes, but is not limited to: (A) a licensed physician, (B) a licensed physical therapist, (C) a licensed occupational therapist, or (D) other licensed health care professional who performs specialty evaluations within the professional's scope of practice.

Section 5. Effective Date

A. This Act shall take effect on _____.