



## 2017 SENATE BILL 381

August 3, 2017 - Introduced by Senators VUKMIR, TESTIN, PETROWSKI and VINEHOUT, cosponsored by Representatives JAGLER, KLEEFISCH, BALLWEG, KUGLITSCH, OTT, SANFELIPPO and WICHGERS. Referred to Committee on Health and Human Services.

- 1     **AN ACT** *to create* 49.45 (9r) and 49.46 (2) (b) 6. dm. of the statutes; **relating to:**  
2             complex rehabilitation technology for complex needs patients in the Medical  
3             Assistance program and requiring the exercise of rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill requires the Department of Health Services to establish rules and policies for access to complex rehabilitation technology by complex needs patients who are recipients of Medical Assistance. Under the bill, a “complex needs patient” is an individual with a diagnosis or medical condition that results in significant physical impairment or functional limitation, and “complex rehabilitation technology” means items classified within Medicare 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. The bill requires the department to include in its rules certain provisions including, among other things: designation of billing codes as complex rehabilitation technology; establishment of specific supplier standards for companies and entities that provide complex rehabilitation technology and limiting reimbursement only to suppliers that are qualified complex rehabilitation technology suppliers; establishment and maintenance of payment rates for complex rehabilitation technology that are adequate to ensure complex needs patients have access to complex rehabilitation technology; and a requirement for contracts with the department that managed care plans providing services to Medical Assistance

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recipients comply with the rules promulgated by the department. Finally, the bill specifies that complex rehabilitation technology, as defined in the bill, is a benefit under the Medical Assistance program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 49.45 (9r) of the statutes is created to read:

2           49.45 **(9r)** COMPLEX REHABILITATION TECHNOLOGY. (a) In this subsection:

3           1. “Complex needs patient” means an individual with a diagnosis or medical  
4 condition that results in significant physical impairment or functional limitation.

5           2. “Complex rehabilitation technology” means items classified within Medicare  
6 as durable medical equipment that are individually configured for individuals to  
7 meet their specific and unique medical, physical, and functional needs and capacities  
8 for basic activities of daily living and instrumental activities of daily living identified  
9 as medically necessary.

10           3. “Individually configured” means having a combination of sizes, features,  
11 adjustments, or modifications that a qualified complex rehabilitation technology  
12 supplier can customize to the specific individual by measuring, fitting,  
13 programming, adjusting, or adapting as appropriate so that the device operates in  
14 accordance with an assessment or evaluation of the individual by a qualified health  
15 care professional and is consistent with the individual’s medical condition, physical  
16 and functional needs and capacities, body size, period of need, and intended use.

17           4. “Medicare” means coverage under Part A or Part B of Title XVIII of the  
18 federal social security act, 42 USC 1395 et seq.

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1           5. “Qualified complex rehabilitation technology professional” means an  
2 individual who is certified as an assistive technology professional by the  
3 Rehabilitation Engineering and Assistive Technology Society of North America.

4           6. “Qualified complex rehabilitation technology supplier” means a company or  
5 entity that meets all of the following criteria:

6           a. Is accredited by a recognized accrediting organization as a supplier of  
7 complex rehabilitation technology.

8           b. Is an enrolled supplier for purposes of Medicare reimbursement that meets  
9 the supplier and quality standards established for durable medical equipment  
10 suppliers, including those for complex rehabilitation technology under Medicare.

11           c. Is an employer of at least one qualified complex rehabilitation technology  
12 professional to analyze the needs and capacities of the complex needs patient in  
13 consultation with qualified health care professionals, to participate in the selection  
14 of appropriate complex rehabilitation technology for those needs and capacities of  
15 the complex needs patient, and to provide training in the proper use of the complex  
16 rehabilitation technology.

17           d. Requires a qualified complex rehabilitation technology professional to be  
18 physically present for the evaluation and determination of appropriate complex  
19 rehabilitation technology for a complex needs patient.

20           e. Has the capability to provide service and repair by qualified technicians for  
21 all complex rehabilitation technology it sells.

22           f. Provides written information at the time of delivery of the complex  
23 rehabilitation technology to the complex needs patient stating how the complex  
24 needs patient may receive service and repair for the complex rehabilitation  
25 technology.

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1           7. “Qualified health care professional” means any of the following:

2           a. A physician or physician assistant licensed under subch. II of ch. 448.

3           b. A physical therapist licensed under subch. III of ch. 448.

4           c. An occupational therapist licensed under subch VII of ch. 448.

5           (b) The department shall promulgate rules and other policies for use of complex  
6           rehabilitation technology by recipients of Medical Assistance. The department shall  
7           include in the rules all of the following:

8           1. Designation of billing codes as complex rehabilitation technology including  
9           creation of new billing codes or modification of existing billing codes. The  
10          department shall include provisions allowing quarterly updates to the designations  
11          under this subdivision.

12          2. Establishment of specific supplier standards for companies or entities that  
13          provide complex rehabilitation technology and limiting reimbursement only to  
14          suppliers that are qualified complex rehabilitation technology suppliers.

15          3. A requirement that Medical Assistance recipients who need a manual  
16          wheelchair, power wheelchair, or other seating component to be evaluated by all of  
17          the following:

18           a. A qualified health care professional who does not have a financial  
19          relationship with a qualified complex rehabilitation technology supplier.

20           b. A qualified complex rehabilitation technology professional.

21          4. Establishment and maintenance of payment rates for complex rehabilitation  
22          technology that are adequate to ensure complex needs patients have access to  
23          complex rehabilitation technology, taking into account the significant resources,  
24          infrastructure, and staff needed to appropriately provide complex rehabilitation  
25          technology to meet the unique needs of complex needs patients.

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1           5. A requirement for contracts with the department that managed care plans  
2 providing services to Medical Assistance recipients comply with this subsection and  
3 the rules promulgated under this subsection.

4           6. Protection of access to complex rehabilitation technology for complex needs  
5 patients.

6           **SECTION 2.** 49.46 (2) (b) 6. dm. of the statutes is created to read:

7           49.46 (2) (b) 6. dm. Durable medical equipment that is considered complex  
8 rehabilitation technology, subject to the requirements under s. 49.45 (9r).

9           **SECTION 3. Nonstatutory provisions.**

10           (1) (a) The department of health services shall submit in proposed form the  
11 rules required under section 49.45 (9r) of the statutes, including the rules described  
12 under paragraph (b), to the legislative council staff under section 227.15 (1) of the  
13 statutes no later than the first day of the 7th month beginning after the effective date  
14 of this paragraph.

15           (b) The department of health services shall include in the proposed rules  
16 submitted under paragraph (a) rules that designate all of the following healthcare  
17 common procedure code system codes, which are used in the federal Medicare  
18 program, as complex rehabilitation technology for the Medical Assistance program:

19           1. Pure complex rehabilitation technology codes of E0637, E0638, E0641,  
20 E0642, E0986, E1002, E1003, E1004, E1005, E1006, E1007, E1008, E1009, E1010,  
21 E1011, E1012, E1014, E1037, E1161, E1220, E1228, E1229, E1231, E1232, E1233,  
22 E1234, E1235, E1236, E1237, E1238, E1239, E2209, E2291, E2292, E2293, E2294,  
23 E2295, E2300, E2301, E2310, E2311, E2312, E2313, E2321, E2322, E2323, E2324,  
24 E2325, E2326, E2327, E2328, E2329, E2330, E2331, E2351, E2373, E2374, E2376,  
25 E2377, E2609, E2610, E2617, E8000, E8001, E8002, K0005, K0835, K0836, K0837,

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1 K0838, K0839, K0840, K0841, K0842, K0843, K0848, K0849, K0850, K0851, K0852,  
2 K0853, K0854, K0855, K0856, K0857, K0858, K0859, K0860, K0861, K0862, K0863,  
3 K0864, K0868, K0869, K0870, K0871, K0877, K0878, K0879, K0880, K0884, K0885,  
4 K0886, K0890, K0891, and K0898.

5 2. Mixed complex rehabilitation technology product and standard mobility and  
6 accessory product codes of E0950, E0951, E0952, E0955, E0956, E0957, E0958,  
7 E0960, E0967, E0978, E0990, E0995, E1015, E1016, E1028, E1029, E1030, E2205,  
8 E2208, E2231, E2368, E2369, E2370, E2605, E2606, E2607, E2608, E2613, E2614,  
9 E2615, E2616, E2620, E2621, E2624, E2625, K0004, K0006, K0007, K0008, K0009,  
10 K0040, K0108, and K0669.

11 (c) The department shall in the proposed rules exempt the codes listed in  
12 paragraph (b) from any bidding or selective contracting requirements.

13 (END)