



State of Wisconsin
2017 - 2018 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 381**

January 22, 2018 - Offered by Senator VUKMIR.

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.

Analysis by the Legislative Reference Bureau

This substitute amendment 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 substitute amendment, 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 substitute amendment specifies that complex rehabilitation technology includes complex rehabilitation manual and power wheelchairs, adaptive seating and positioning items, and other specialized equipment such as standing frames and gait trainers, as well as options and accessories related to any of these items. The substitute amendment provides that, subject to certain requirements, durable medical equipment that is considered complex rehabilitation technology, excluding speech generating devices, is a benefit under the Medical Assistance program.

The substitute amendment requires DHS to include in its rules certain provisions including 1) designation of billing codes as complex rehabilitation technology; 2) 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; 3) establishment and maintenance of payment rates for complex rehabilitation technology that are adequate to ensure complex needs patients have access to complex rehabilitation technology; 4) a requirement for contracts with the department that managed care plans providing services to Medical Assistance recipients comply with the rules promulgated by the department; and 5) a requirement that recipients who need certain complex rehabilitation technology must be evaluated by a qualified health care professional who does not have a financial relationship with a qualified supplier and a qualified complex rehabilitation technology professional, both of which are defined in the substitute amendment.

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. “Complex rehabilitation technology” includes complex
10 rehabilitation manual and power wheelchairs, adaptive seating and positioning
11 items, and other specialized equipment such as standing frames and gait trainers,
12 as well as options and accessories related to any of these items.

13 3. “Individually configured” means having a combination of sizes, features,
14 adjustments, or modifications that a qualified complex rehabilitation technology

1 supplier can customize to the specific individual by measuring, fitting,
2 programming, adjusting, or adapting as appropriate so that the device operates in
3 accordance with an assessment or evaluation of the individual by a qualified health
4 care professional and is consistent with the individual's medical condition, physical
5 and functional needs and capacities, body size, period of need, and intended use.

6 4. "Medicare" means coverage under Part A or Part B of Title XVIII of the
7 federal social security act, 42 USC 1395 et seq.

8 5. "Qualified complex rehabilitation technology professional" means an
9 individual who is certified as an assistive technology professional by the
10 Rehabilitation Engineering and Assistive Technology Society of North America.

11 6. "Qualified complex rehabilitation technology supplier" means a company or
12 entity that meets all of the following criteria:

13 a. Is accredited by a recognized accrediting organization as a supplier of
14 complex rehabilitation technology.

15 b. Is an employer of at least one qualified complex rehabilitation technology
16 professional to analyze the needs and capacities of the complex needs patient in
17 consultation with qualified health care professionals, to participate in the selection
18 of appropriate complex rehabilitation technology for those needs and capacities of
19 the complex needs patient, and to provide training in the proper use of the complex
20 rehabilitation technology.

21 c. Requires a qualified complex rehabilitation technology professional to be
22 physically present for the evaluation and determination of appropriate complex
23 rehabilitation technology for a complex needs patient.

24 d. Has the capability to provide service and repair by qualified technicians for
25 all complex rehabilitation technology it sells.

1 e. Provides written information at the time of delivery of the complex
2 rehabilitation technology to the complex needs patient stating how the complex
3 needs patient may receive service and repair for the complex rehabilitation
4 technology.

5 7. "Qualified health care professional" means any of the following:

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

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

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

9 d. A chiropractor licensed under ch. 446.

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

13 1. Designation of billing codes as complex rehabilitation technology including
14 creation of new billing codes or modification of existing billing codes. The
15 department shall include provisions allowing quarterly updates to the designations
16 under this subdivision.

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

20 3. A requirement that Medical Assistance recipients who need a complex
21 rehabilitation manual wheelchair, complex rehabilitation power wheelchair, or
22 other complex rehabilitation seating component to be evaluated by all of the
23 following:

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

1 b. A qualified complex rehabilitation technology professional.

2 4. Establishment and maintenance of payment rates for complex rehabilitation
3 technology that are adequate to ensure complex needs patients have access to
4 complex rehabilitation technology, taking into account the significant resources,
5 infrastructure, and staff needed to appropriately provide complex rehabilitation
6 technology to meet the unique needs of complex needs patients.

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

10 6. Protection of access to complex rehabilitation technology for complex needs
11 patients.

12 (c) This subsection is not intended to affect coverage of speech generating
13 devices, including healthcare common procedure coding system codes E2500, E2502,
14 E2504, E2506, E2508, E2510, E2511, E2512, and E2599, under the Medical
15 Assistance program.

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

17 49.46 (2) (b) 6. dm. Subject to the requirements under s. 49.45 (9r), durable
18 medical equipment that is considered complex rehabilitation technology, excluding
19 speech generating devices.

20 **SECTION 3. Nonstatutory provisions.**

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

