WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 462	Assembly Substitute Amendment 2
Memo published: **February 16, 2018**	*Contact*: **Brian Larson, Senior Staff Attorney**

BACKGROUND

In administering the state Medical Assistance (MA) program, the Department of Health Services (DHS) must pay allowable charges incurred on behalf of MA recipients for medical supplies and equipment prescribed by a physician. These items are commonly referred to as "durable medical equipment" (DME). In an index referred to as the *ForwardHealth Durable Medical Equipment (DME) Index*, DHS has identified which specific items of DME are included in the coverage. The *Index* includes equipment categorized as home health equipment, respiratory and oxygen equipment, wheelchair equipment, orthotics, prosthetics, and other equipment. In some cases, if DME is prescribed to an MA recipient, but it does not appear in the *Index*, DHS may approve the item by separate request.

2017 ASSEMBLY BILL 462

2017 Assembly Bill 462 modifies procedures related to certain DME under the MA program. The bill creates a category of DME referred to as "complex rehabilitation technology" (CRT), and imposes requirements on items of CRT that do not generally apply to DME, as described below.

Definitions

The bill includes definitions for the following terms:

- "Complex rehabilitation technology" means items classified as durable medical equipment under Medicare and individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic

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activities of daily living and instrumental activities of daily living identified as medically necessary.

- "Complex needs patient" means an individual with a diagnosis or medical condition that results in significant physical impairment or functional limitation.
- "Individually configured" means having 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 as appropriate so that the device operates in accordance with an assessment or evaluation of the individual by a qualified health care professional and is consistent with the individual's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.
- "Qualified complex rehabilitation technology professional" means an individual who is certified as an assistive technology professional by the Rehabilitation Engineering and Assistive Technology Society of North America.
- "Qualified complex rehabilitation technology supplier" means a company or entity that is accredited by a recognized accrediting organization as a supplier of complex rehabilitation technology and that meets additional requirements specified in the bill, including enrollment as a supplier for purposes of federal Medicare reimbursement that meets the supplier and quality standards established for suppliers of complex rehabilitation technology and other durable medical under the Medicare program.
- "Qualified health care professional" means any of the following:
  - A physician or physician assistant licensed under subch. II of ch. 448, Stats.
  - A physical therapist licensed under subch. III of ch. 448, Stats.
  - An occupational therapist licensed under subch. VII of ch. 448, Stats.

Rules and Policies for CRT

Under the bill, those items of DME to which the definition applies are reclassified as CRT, separate from the general DME category. The bill requires DHS to promulgate rules for use of CRT by MA recipients. The rules must do all of the following:

- Establish specific supplier standards for companies or entities that provide CRT, and limit reimbursement only to those that are qualified CRT suppliers.
- Create a screening requirement applicable to all MA recipients who need a manual wheelchair, power wheelchair, or other seating component. The screening must include an evaluation by each of the following:
  - A qualified health care professional who does not have a financial relationship with a qualified CRT supplier.

  - A qualified CRT professional.
  - Protect access to CRT for complex needs patients.
- Establish and maintain payment rates for CRT that are adequate to ensure complex needs patients have access to CRT, taking into account certain criteria specified in the bill.
- Include designation of billing codes as CRT. The designation must include creation of new billing codes or modification of existing billing codes, which may be updated at least quarterly. The bill also provides a list of over 100 specific billing codes that must be included in the designation.
- Require managed care contracts entered into by DHS to ensure that DHS's rules and other policies for use of CRT apply to manage care plans providing services to MA recipients.

ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2 changes certain definitions in the bill, and modifies the timeline for promulgation of administrative rules by DHS related to CRT, as described below. In addition, the substitute amendment clarifies that speech generating devices are not included in the changes under the bill.

Definitions

The substitute amendment changes the definition of "complex rehabilitation technology," to include 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 removes from the definition of a "qualified complex rehabilitation technology supplier" the requirement of being an enrolled supplier for purposes of federal Medicare reimbursement that meets the supplier and quality standards established for suppliers of CRT and other durable medical under the Medicare program.

Also, the substitute amendment adds a chiropractor licensed under ch. 446, Stats., to the definition of "qualified health care professional."

Rules and Policies for CRT

The substitute amendment retains the requirement that the rules promulgated by DHS include designation of billing codes as CRT. However, it removes the list of over 100 specific billing codes that must be included in the designation.

The substitute amendment also modifies the timeframe for the promulgation of rules for the use of CRT. Instead of requiring submission of the rules no later than the first day of the

seventh month beginning after the effective date of the bill, the substitute amendment requires DHS to submit the rules no later than the 13th month beginning after the effective date of the bill.

BILL HISTORY

Representative Jagler offered Assembly Substitute Amendment 2 on January 29, 2018. On February 1, 2018, the Assembly Committee on Health recommended adoption of the substitute amendment and passage of the bill, as amended, on votes of Ayes, 11; Noes, 0.

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