

COMPLEX REHABILITATION TECHNOLOGY

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Senate Bill 449 (H-1) as reported from House committee
Sponsor: Sen. Kevin Daley

Analysis available at
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Senate Bill 450 (H-1) as reported from House committee
Sponsor: Sen. Jeff Irwin

House Committee: Health Policy
Senate Committee: Health Policy
Complete to 6-24-24

SUMMARY:

Senate Bills 449 and 450 would amend the Social Welfare Act to require the Department of Health and Human Services (DHHS) to develop policies and rules for **complex rehabilitation technology** products and services. Senate Bill 449 has the substantive provisions, and Senate Bill 450 has definitions for terms used in those provisions.

Complex rehabilitation technology would mean an item classified in the Medicare program as of January 1, 2020, as durable medical equipment that is individually configured for an individual to meet his or her specific and unique medical, physical, and functional needs and capacity for basic activities of daily living and instrumental activities of daily living identified as medically necessary. The term would include complex rehabilitation manual and power wheelchairs and options or accessories, adaptive seating and positioning items and options or accessories, and other specialized equipment such as standing frames and gait trainers and options or accessories.

The policies and rules required by the bills would have to do all of the following to take into consideration the **individually configured** nature of complex rehabilitation technology and the range of services needed to meet the unique medical and functional needs of an individual with complex medical needs:

- Designate specific **HCPCS** billing codes for complex rehabilitation technology and any appropriate new codes in the future.
- Exempt the related complex rehabilitation technology HCPCS billing codes from inclusion in bidding, selective contracting, or similar initiative.
- Establish specific supplier standards for a company or entity that provides complex rehabilitation technology and restrict providing that technology only to a **qualified complex rehabilitation technology supplier** or, if unavailable, to an individual, company, or entity approved by DHHS.
- Require a **complex needs patient** receiving a complex rehabilitation manual wheelchair, power wheelchair, or seating component to be evaluated by the following:
 - A **qualified health care professional**.
 - A **qualified complex rehabilitation technology professional**. However, if a qualified complex rehabilitation professional is not available, the following would apply:
 - A qualified health care professional could perform the evaluation and document the justification or medical necessity for the equipment and services being prescribed.

- A durable medical equipment supplier or individual approved by DHHS could deliver the equipment described above under the direction of a qualified health care professional and in coordination with a qualified health care professional.
- Maintain payment policies and rates for complex rehabilitation technology to ensure that payment amounts are adequate to provide complex needs patients with access to those items, taking into account the significant resources, infrastructure, and staff needed to appropriately provide that technology to meet the patient’s unique needs.
- Require managed care Medicaid plans to adopt the regulations and policies outlined in the bills and include those regulations and policies in their contracts with qualified complex rehabilitation technology suppliers.
- Make other changes as needed to protect access by complex needs patients to complex rehabilitation technology.

Individually configured would mean that a device has a combination of sizes, features, adjustments, or modifications that a qualified complex rehabilitation technology supplier can alter or apply to a specific individual by measuring, fitting, programming, adjusting, or adapting the device so it is consistent with an assessment or evaluation of the individual by a qualified health care professional and with the individual’s medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

HCPCS (“health care common procedure coding system”) would mean 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.

Qualified complex rehabilitation technology supplier would mean either of the following:

- A company or entity that meets all of the following:
 - It is accredited by a recognized accrediting organization as a supplier of complex rehabilitation technology.
 - It is an enrolled Medicare supplier and meets the supplier and quality standards established for durable medical equipment suppliers under Medicare, including for complex rehabilitation technology.
 - It has at least one ***employee*** for each location who is a qualified complex rehabilitation technology professional to do the following:
 - Analyze the needs and capacities of the complex needs patient in consultation with qualified health care professionals.
 - Participate in selecting appropriate complex rehabilitation technology for the patient’s needs and capacities.
 - Provide technology-related training in the proper use of the complex rehabilitation technology.
 - It requires a qualified complex rehabilitation technology professional to be physically present for the evaluation and determination of appropriate complex rehabilitation technology.
 - It has the capability to provide service and repair by a qualified technician for all complex rehabilitation technology it sells.

- At the time of delivery of complex rehabilitation technology, it provides written information regarding how the complex needs patient may receive service and repair.
- If a qualified complex rehabilitation technology supplier as defined above is unavailable, a company or entity approved by DHHS.

Employee would mean an employee as defined in the Internal Revenue Code. A person from whom an employer is required to withhold for federal income tax purposes would be *prima facie* an employee. Employee would not include a contract employee.

Complex needs patient would mean an individual with a diagnosis of a medical condition that results in significant physical impairment or functional limitation, such as spinal cord injury, traumatic brain injury, cerebral palsy, muscular dystrophy, spina bifida, osteogenesis imperfecta, arthrogyrosis, 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 or functional limitation. A complex needs patient would have to meet medical necessity requirements to qualify for receiving complex rehabilitation technology.

Qualified health care professional would mean a health care professional licensed under Article 15 of the Public Health Code who has no financial relationship with a qualified complex rehabilitation technology supplier. It would include a licensed health care professional who performs specialty evaluations within the professional’s scope of practice. If a qualified complex rehabilitation technology supplier were owned by a hospital, the health care professional could be employed by the hospital and work in an inpatient or outpatient setting.

Qualified complex rehabilitation technology professional would mean either of the following:

- An individual who is certified as an assistive technology professional by the Rehabilitation Engineering and Assistive Technology Society of North America or as a certified complex rehabilitation technology supplier by the National Registry of Rehabilitation Technology Suppliers.
- If a qualified complex rehabilitation technology *supplier* is unavailable based on the geographic location of the complex needs patient, an individual approved by DHHS based on demonstrated experience, education, and training.

Neither bill would take effect unless both bills were enacted.

Proposed MCL 400.108a (SB 450) and proposed MCL 400.108b (SB 449)

FISCAL IMPACT:

Senate Bills 449 and 450 would have a negligible fiscal impact on the state and no fiscal impact on local units of government. For fiscal year 2023-24, any fiscal impact related to Medicaid

reimbursements would be financed with federal and state funds at 64.94% and 35.06%, respectively.

POSITIONS:

Representatives of the following organizations testified in support of the bills (4-18-24):

- Michigan HomeCare and Hospice Association
- CareLine Medical
- Michigan Home Health Association
- American Physical Therapy Association (APTA) Michigan

The following organizations indicated support for the bills:

- ALS Association (4-18-24)
- Michigan Medicine (4-18-24)
- National Coalition for Assistive and Rehab Technology (4-16-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.