



State of Tennessee

PUBLIC CHAPTER NO. 1050

SENATE BILL NO. 2368

By Watson, Akbari, Yager, Massey

Substituted for: House Bill No. 2147

By Hale, Hill, Helton-Haynes, Carringer, McCalmon, Moon, Davis, Burkhardt, Eldridge

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 47, Chapter 18; Title 56; Title 68 and Title 71, relative to complex rehabilitation technology.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new part:

47-18-3401.

As used in this part:

(1) "Authorized complex rehabilitation technology supplier" means a seller of complex rehabilitation technology that supplies products and services for complex rehabilitation technology equipment;

(2) "Complex rehabilitation technology":

(A) Has the same meaning as defined in § 71-5-159; and

(B) Includes a manual wheelchair or power wheelchair;

(3) "Independent repair person" means a person who does not have a formal relationship or agreement with a complex rehabilitation technology manufacturer, provider, or supplier;

(4) "Manual wheelchair":

(A) Has the same meaning as described in § 71-5-159(a)(1); and

(B) Includes an unpowered, specialized, and medically necessary wheelchair;

(5) "Power wheelchair" has the same meaning as described in § 71-5-159(a)(1);

(6) "Preventative maintenance":

(A) Means the regular and routine maintenance of a wheelchair, as described in the wheelchair's owner's manual, to ensure that the wheelchair maintains its originally-designed quality, function, and utility; and

(B) Includes an assessment of:

(i) The physical condition of the complex rehabilitation technology; and

(ii) Any medically necessary repairs that the authorized technician is able to complete; and

(7) "Repair" means the repair or replacement of a deficient, broken, or otherwise malfunctioning part, component, hardware, or software, when the deficient, broken, or otherwise malfunctioning state of such part, component, hardware, or software results in the incapacity of or otherwise diminished capacity for use of a complex rehabilitation technology.

47-18-3402.

(a) An authorized complex rehabilitation technology supplier shall repair a complex rehabilitation technology wheelchair or manual wheelchair that the supplier sold to the consumer unless:

(1) The consumer has moved outside of the original supplier's service area;

(2) The repair is needed as the result of damage caused by consumer abuse or misuse of the complex rehabilitation technology that restricts the consumer's health insurance coverage, and the consumer refuses to pay for the repair; or

(3) The consumer, or the consumer's representative, poses a potential threat to the health and safety of the supplier.

(b) For purposes of providing services for equipment in this state, an original equipment manufacturer shall, with fair and reasonable terms and costs, make available to an independent repair provider or owner of the manufacturer's equipment any manufacturer documentation or tool that is intended for use with the equipment or any part described in subdivisions (d)(1)-(11), including updates to documentation, parts, or tools.

(c) With respect to any equipment or part described in subdivisions (d)(1)-(11) that contains an electronic security lock or other security-related function, an original equipment manufacturer shall, with fair and reasonable terms and costs, make available to an independent repair provider or owner manufacturer documentation, part, or tool needed to reset the lock or function of the equipment when disabled in the course of providing services. The manufacturer may make the documentation, parts, or tools available to an independent repair provider or owner through appropriate secure release systems.

(d) A consumer who owns a power wheelchair may choose to self-repair the power wheelchair or have repairs performed by an independent repair provider. This subsection (d) applies to the following items:

(1) Batteries;

(2) Battery chargers;

(3) Nonprogrammable joysticks;

(4) Joystick housings or brackets;

(5) Wheel assembly;

(6) Nonpositioning accessories;

(7) Anti-tip devices;

(8) Armrests, excluding positioning components designed for adjustment by a therapist or assistive technology professional;

(9) Caster spheres;

(10) Cosmetic shrouding; and

(11) Nonpower leg lowerers.

(e) A consumer who owns a manual wheelchair can choose to self-repair the manual wheelchair or have repairs performed by an independent repair provider. This subsection (e) applies to all repairs, except those that require clinical involvement.

(f) This section does not require an original equipment manufacturer to divulge a trade secret, except as necessary to provide documentation, parts, tools, service access methods, and training courses and materials on fair and reasonable terms.

(g) An original equipment manufacturer is not liable for faulty or otherwise improper repairs provided by an independent repair provider or owner, including faulty or otherwise improper repairs that cause:

(1) Damage to the power wheelchair that occurs during the repair;

(2) Indirect, incidental, special, or consequential damage; or

(3) An inability to use, or a reduced functionality of, a power wheelchair resulting from the repair.

(h) The department of commerce and insurance shall develop an attestation statement that the authorized complex rehabilitation technology supplier must submit affirming compliance with the applicable repair and service requirements of this section.

(i) An authorized complex rehabilitation technology supplier may offer preventative maintenance visits at the supplier's discretion, and such maintenance visits may be performed when the supplier is repairing the equipment for an unrelated issue.

(j) This section does not apply to a repair by an independent repair provider that would require programmability or clinical involvement to ensure appropriate patient seating and positioning.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 4, is amended by adding the following as a new part:

71-4-2301.

As used in this part:

(1) "Authorized complex rehabilitation technology supplier" means a seller of complex rehabilitation technology that supplies products and services for complex rehabilitation technology equipment;

(2) "Complex rehabilitation technology":

(A) Has the same meaning as defined in § 71-5-159; and

(B) Includes a manual wheelchair;

(3) "Manual wheelchair":

(A) Has the same meaning as described in § 71-5-159(a)(1); and

(B) Includes a nonpower, specialized, and medically necessary wheelchair;

(4) "Preventative maintenance" means an assessment of a complex rehabilitation technology and its use by an authorized technician working on behalf of an authorized complex rehabilitation technology supplier, including an assessment of:

(A) The physical condition of the complex rehabilitation technology;
and

(B) Any needed repairs that the authorized technician is able to complete;

(5) "Repair" means the repair or replacement of a deficient, broken, or otherwise malfunctioning part, component, hardware, or software, when the deficient, broken, or otherwise malfunctioning state of such part, component, hardware, or software results in the incapacity of or otherwise diminished capacity for use of a complex rehabilitation technology; and

(6) "TennCare program":

(A) Means the medical assistance program provided for in title 71, chapter 5, or a successor program; and

(B) Includes the CoverKids program provided for in title 71, chapter 3, part 11.

71-4-2302.

(a) A policy, certificate, or agreement for health insurance coverage issued under the TennCare program must provide coverage and reimbursement for:

(1) Medically necessary repairs provided by authorized complex rehabilitation technology equipment suppliers; and

(2) At least one (1) preventative maintenance visit per year provided by authorized complex rehabilitation technology equipment suppliers, including appropriate reimbursement for services rendered during the preventative maintenance, parts, labor, diagnostic and evaluation time, and other related costs.

(b) A TennCare program enrollee must be informed of the coverage required under this part at the time of initial enrollment and when a current enrollee renews a policy, certificate, or agreement for health insurance coverage under the TennCare program.

(c) A policy, certificate, or agreement for health insurance coverage issued in this state under the TennCare program must:

(1) Not require medical documentation or proof of continued need for a repair or preventative maintenance of a complex rehabilitation technology; and

(2) Consistent with federal law and regulations, provide coverage for telehealth visits for complex rehabilitation technology.

(d) Subdivision (c)(1) does not prohibit a policy issued under the TennCare program from requiring documentation needed for a medical necessity determination to be made in accordance with § 71-5-144.

71-4-2303.

(a) A preventative maintenance visit may be performed at any location agreed upon by the enrollee and the authorized complex rehabilitation technology supplier and is not required to be performed at the enrollee's location.

(b)(1) Preventative maintenance must be performed by a qualified technician who is an employee of the authorized complex rehabilitation technology supplier, and must be performed according to the manufacturer's guidelines. The preventative maintenance may be performed during a complex rehabilitation technology appointment for an unrelated issue, and is not required to be a standalone appointment or event.

(2) The authorized complex rehabilitation technology supplier shall document and maintain all records of preventative maintenance services performed pursuant to this part.

SECTION 3. This act takes effect July 1, 2024, the public welfare requiring it, and applies to policies delivered, issued, renewed, or amended on or after that date.

SENATE BILL NO. 2368

PASSED: April 24, 2024



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2024



BILL LEE, GOVERNOR