

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER: 09-001	2. STATE: TEXAS
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE: January 1, 2009
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5. TYPE OF PLAN MATERIAL (Circle One):

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT


6. FEDERAL STATUTE/REGULATION CITATION: Home Health Durable Medical Equipment (DME) and Supplies: §1905(a)(7) of the Social Security Act; 42 CFR §440.70(b)(3) Prosthetic Devices: §1905(a)(12) of the Social Security Act; 42 CFR § 440.120	7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2009 (\$12,569) b. FFY 2010 (\$17,612) c. FFY 2011 (\$18,979)
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: * SEE ATTACHMENT TO BLOCKS 8 AND 9	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): * SEE ATTACHMENT TO BLOCKS 8 AND 9
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10. SUBJECT OF AMENDMENT:
The proposed amendment updates the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule.


11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED **Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.**
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Chris Traylor State Medicaid Director Post Office Box 85200 Austin, Texas 78708
13. TYPED NAME: Chris Traylor	
14. TITLE: State Medicaid Director	
15. DATE SUBMITTED March 30, 2009	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 30 March, 2009	18. DATE APPROVED: 10 November, 2009
PLAN APPROVED - ONE COPY ATTACHED	

19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 January, 2009	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: Bill Brooks	22. TITLE: Associate Regional Administrator Div of Medicaid & Children's Health

23. REMARKS: **"Pen + Ink Changes made per State's RAI submission dated 9-21-09."**

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street, Room 833
Dallas, Texas 75202



Division of Medicaid & Children's Health, Region VI

November 10, 2009

Our Reference: SPA TX 09-001

Mr. Chris Traylor
Associate Commissioner for Medicaid & CHIP
Health and Human Services Commission
Post Office Box 13247
Mail Code: H100
Austin, Texas 78711

Dear Mr. Traylor:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 09-001, dated March 30, 2009. The purpose of this plan is to update the durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) fee schedule and clarify coverage for prosthetics.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of January 1, 2009. A copy of the CMS-179 and approved plan pages are enclosed with this letter.

If you have any questions, please contact Ford J. Blunt at (214) 767-6381.

Sincerely,

A black rectangular redaction box covering the signature of Bill Brooks.

Bill Brooks
Associate Regional Administrator

Enclosures

cc: Tamela Griffin, Policy Development Support

Home Health Services

- F. Services are limited to:
- (i) Part-time or intermittent professional nursing services provided by a registered nurse or licensed vocational nurse with appropriate supervision furnished through a Title XIX home health agency or by a registered nurse when no home health agency exists in the area.
 - (ii) Services of a home health aide who has been assigned by a professional registered nurse and who is under the supervision of a professional registered nurse.
 - (iii) Visits by either a nurse or a home health aide as defined under this program.
 - (iv) Certain medical supplies, equipment and appliances suitable for use in the recipient's place of residence.
 - (v) Physical therapy services, provided by a physical therapist meeting the criteria defined in §440.110, are available only for treatment of acute musculoskeletal or neuromuscular conditions or acute exacerbations of a chronic musculoskeletal or neuromuscular condition.
 - (vi) Occupational therapy services, provided by an occupational therapist meeting the criteria defined in §440.110, are available for the evaluation and function-oriented treatment of individuals whose ability to function in life roles is impaired by recent or current physical illness, injury or condition. There must be specific goals to achieve a functional level within a reasonable amount of time based on the therapist's evaluation and the physician's assessment and plan of care.
- G. Medicare must be utilized as a primary resource for payment of home health benefits for those persons who are enrolled in Medicare.

SUPERSEDES. TN- 06-08

STATE <u>Texas</u>	A
DATE REC'D <u>3-30-09</u>	
DATE APPV'D <u>11-10-09</u>	
DATE EFF <u>1-1-09</u>	
HCFA 179 <u>09-01</u>	

TN No. 09-01

Approval Date 11-10-09

Effective Date 1-1-09

Supersedes TN No. 06-08

STATE	Texas	A
DATE REC'D	3-30-09	
DATE APPV'D	11-10-09	
DATE EFF	1-1-09	
HCFA 179	09-01	

12c. Prosthetics

a) Definition

Prosthetics outlined in this section of the state plan include orthotic devices and prosthetic devices.

Orthotic and prosthetic devices are defined as replacement, correction, or support devices prescribed by the physician or other licensed practitioner of the healing arts within the scope of professional practice as defined by Texas law to:

- (1) artificially replace a missing portion of the body;
- (2) prevent or correct physical deformity or malfunction; or
- (3) support a weak or deformed portion of the body.

Hearing aids are considered prosthetic devices and defined as an electronic device that amplifies sound to compensate for impaired hearing.

b) Services

With the exception of hearing aids described below, the provision of orthotics and prosthetic devices are limited to EPSDT recipients.

- (1) *Orthotics and Prosthetics.*
Orthotic and prosthetic devices require prior authorization and must be medically necessary. The services are provided under 42 CFR §440.120(c) and in accordance with applicable state and federal law and regulation. Orthotic and prosthetic devices are available to Medicaid EPSDT-eligible recipients under the age of 21 years when medically necessary and eligible for federal financial participation.
- (2) *Hearing Aids.*
Hearing aids are a benefit for all Medicaid eligible recipients when medically necessary. Medical necessity for a hearing aid must be determined through an examination conducted by a physician licensed to practice medicine or osteopathy in the state where and when the service is performed.

c) Providers

Orthotic and prosthetic devices are a benefit of the Texas Medicaid Program when provided by a Medicaid-enrolled orthotist or a prosthetist/orthotist licensed by the state and in accordance with applicable state and federal laws and regulations.

Hearing aids must be furnished by approved hearing aid fitter and dispenser providers. Providers must meet all federal and state licensing laws and regulations applicable to provision of the service.

TN No. 09-01

Approval Date 11-10-09

Effective Date 1-1-09

Supersedes TN No. 05-08

SUPERSEDES: TN- 05-08

STATE	Texas	A
DATE REC'D	3-30-09	
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IN No. 09-01

Approval Date 11-10-09

Effective Date 1-1-09

Supersedes IN No. 05-08

SUPERSEDES: TN- 05-08

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- G. Medicare must be utilized as a primary resource for payment of home health benefits for those persons who are enrolled in Medicare.

SUPERSEDES: TN- 08-28

STATE	<u>Texas</u>	A
DATE REC'D	<u>3-30-09</u>	
DATE APPV'D	<u>11-10-09</u>	
DATE EFF	<u>1-1-09</u>	
HC:FA 179	<u>09-01</u>	

TN No. 09-01

Approval Date 11-10-09

Effective Date 1-1-09

Supersedes TN No. 08-28

8. Home Health Services (continued).

(b) Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

- (1) If the item of DMEPOS is covered by Medicare, the Medicaid fee will be equal to or a percentage of the Medicare fee from the most recent Medicare fee schedule specific to Texas that is available at the time of the fee review, unless there is documentation that the Medicare fee is insufficient for the items covered under the procedure code and required by the Medicaid population.
- (2) For items of DMEPOS not paid at the Medicare fee, the provider will either be reimbursed a fee determined by HHSC or through manual pricing. The fee determined by HHSC will be based on cost information from providers, manufacturers, surveys of the Medicaid fees for other states, survey information from national fee analyzers, or other relevant fee-related information.
- (3) HHSC uses manual pricing when one procedure code covers a broad range of items with a broad range of costs, since a single fee may not be a reasonable fee for all items covered under the procedure code, resulting in access-to-care issues. Examples include; 1) procedure codes with a description of "not otherwise covered," "unclassified," or "other miscellaneous"; and 2) procedure codes covering customized items. If manual pricing is used, the provider is reimbursed either the documented Manufacturer's Suggested Retail Price (MSRP) less 18 percent, or the documented Average Wholesale Price (AWP) less 10.5 percent, whichever is applicable. If one of these is not available, the provider's documented invoice cost is used as the basis for manual pricing. AWP pricing is used primarily for nutritional products and DMEPOS items sold in pharmacies.
- (4) The Medicaid fees for oxygen equipment, oxygen, and oxygen-related supplies will not exceed the Medicare fee for the same procedure code.
- (5) The agency's fee schedule was revised with new fees for DMEPOS effective for services on or after January 1, 2009. The fee schedule is to be posted on July 8, 2009.
- (6) All fee schedules are available through the agency's website as set out on Attachment 4.19-B, page 1.

SUPERSEDES: TN 08-41

STATE	<u>Texas</u>	A
DATE REC'D	<u>3-30-09</u>	
DATE APPV'D	<u>11-10-09</u>	
DATE EFF	<u>1-1-09</u>	
HCFA 179	<u>09-01</u>	

TN No. 09-01

Approval Date 11-10-09

Effective Date 1-1-09

Supersedes TN No. 08-41

Marks, Marsha L. (CMS/SC)

From: Marks, Marsha L. (CMS/SC)
Sent: Wednesday, November 18, 2009 11:45 AM
To: CMS CMSO_508_SPA
Cc: 'TexasStateMedicaid_Director@hhsc.state.tx.us'; Blunt, Ford J. (CMS/SC); Prisby, Karen L. (CMS/CMCHO); Guy, Jimmy L. (CMS/SC); CASTRO, JOHN B. (CMS/SC); Spencer, Rene (CMS/CMCHO); WARD, LYNN V. (CMS/SC); Branch, Jeffrey A. (CMS/SC)
Subject: Approval Pkg for TX 09-01
Attachments: TX 009-01 (Final Pkg).pdf; TX0901APPROVAL.doc

See Attached.

State: Texas

Brief Description: The amendment updates the fee schedules for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). It also clarifies coverage for prosthetics. There is a reduction in FFP due to an increase in Medicare rates. The fee schedule is posted on the State's website and the fee schedule payment is uniform for governmental and private providers.

Approval Date: 11/10/09

Effective Date: 1/1/09

R/

Marsha Marks // Dept of Health & Human Services // Centers for Medicare & Medicaid Services // Dallas Regional Office // Division of Medicaid & Children's Health // Dallas Texas 75202 // 214-767-6280 // Fax 214-767-0322 // marsha.marks@cms.hhs.gov

Attachment to Blocks 8 and 9 of CMS Form 179

Transmittal No. 09-001, Amendment 847

Home Health Services

**Number of the
Plan Section or Attachment**

**Number of the Superseded
Plan Section or Attachment**

Appendix 1 to Attachment 3.1-A
Page 15
DELETE Page
Page 26

Appendix 1 to Attachment 3.1-A
Page 15 (TN 06-008)
Page 15b (TN 08-028)
Page 26 (TN 05-008)

Appendix 1 to Attachment 3.1-B
Page 15
DELETE Page
Page 26

Appendix 1 to Attachment 3.1-B
Page 15 (TN 08-028)
Page 15b (TN 08-028)
Page 26 (TN 05-008)

Attachment 4.19-B
Page 3a

Attachment 4.19-B
Page 3a (TN 08-041)