

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**

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November 23, 2009

Our Reference: SPA TX 09-025

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 09-025, dated September 9, 2009. The purpose of this plan amendment is to update the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule.

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

|  |  |   |                               |
|--|--|---|-------------------------------|
| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF<br/>STATE PLAN MATERIAL</b><br><b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>   |  | 1. TRANSMITTAL NUMBER:<br><br><b>09-025</b>   | 2. STATE:<br><br><b>TEXAS</b> |
|  |  | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)  |                               |
| TO: REGIONAL ADMINISTRATOR<br>CENTERS FOR MEDICARE & MEDICAID SERVICES<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES  |  | 4. PROPOSED EFFECTIVE DATE:<br><br><b>July 1, 2009</b>  |                               |
| 5. TYPE OF PLAN MATERIAL ( <i>Circle One</i> ):  |  |   |                               |
| <input type="checkbox"/> COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> ) <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT                          |  |   |                               |
| 6. FEDERAL STATUTE/REGULATION CITATION:<br><b>Home Health Durable Medical Equipment (DME) and Supplies: §1905(a)(7) of the Social Security Act; 42 CFR §440.70(b)(3)</b><br><br><b>Prosthetic Devices: §1905(a)(12) of the Social Security Act; 42 CFR § 440.120</b> |  | 7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT<br><br>a. FFY 2009 (\$14,780)<br>b. FFY 2010 (\$77,261)<br>c. FFY 2011 (\$65,799)                                |                               |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><br><b>SEE ATTACHMENT TO BLOCKS 8 AND 9</b>   |  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):<br><br><b>SEE ATTACHMENT TO BLOCKS 8 AND 9</b>                      |                               |
| 10. SUBJECT OF AMENDMENT:<br><br><b>The proposed amendment is an update to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule.</b>  |  |   |                               |
| 11. GOVERNOR'S REVIEW ( <i>Check One</i> ):  |  |   |                               |
| <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED<br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL  |  | <input checked="" type="checkbox"/> OTHER, AS SPECIFIED:<br><b>Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.</b> |                               |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:<br>   |  | 16. RETURN TO:<br><br><b>Chris Traylor<br/>State Medicaid Director<br/>Post Office Box 85200<br/>Austin, Texas 78708</b>                                  |                               |
| 13. TYPED NAME:<br><br><b>Chris Traylor</b>  |  |   |                               |
| 14. TITLE:<br><br><b>State Medicaid Director</b>   |  |   |                               |
| 15. DATE SUBMITTED<br><br><b>September 9, 2009</b>   |  |   |                               |
| <b>FOR REGIONAL OFFICE USE ONLY</b>  |  |   |                               |
| 17. DATE RECEIVED:<br><b>9 Sept, 2009</b>  |  | 18. DATE APPROVED:<br><b>23 November, 2009</b>  |                               |
| <b>PLAN APPROVED - ONE COPY ATTACHED</b>   |  |   |                               |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL:<br><br><b>1 Jul, 2009</b>   |  | 20. SIGNATURE OF REGIONAL OFFICIAL:<br>                               |                               |
| 21. TYPED NAME:<br><br><b>Bill Brooks</b>  |  | 22. TITLE:<br><b>Associate Regional Administrator<br/>Div of Medicaid &amp; Children's Health</b>   |                               |
| 23. REMARKS:   |  |   |                               |

**Attachment to Blocks 8 and 9 of CMS Form 179**

**TX Transmittal No. 09-025, Amendment 871**

**Number of the  
Plan Section or Attachment**

Attachment 4.19-B  
Page 3a

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

Attachment 4.19-B  
Page 3a (TN 09-012)

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 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 determined from 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) Manual pricing is reasonable 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 one 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) All fee schedules are available through the agency's website as set out on Attachment 4.19-B, page 1.
- (6) The agency's fee schedule was revised with new fees for DMEPOS effective for services on or after July 1, 2009. The fee schedule was posted on July 8, 2009.

SUPERSEDES: TN- 09-12

|                             |   |
|-----------------------------|---|
| STATE <u>Texas</u>          | A |
| DATE REC'D <u>9-9-09</u>    |   |
| DATE APPV'D <u>11-23-09</u> |   |
| DATE EFF <u>7-1-09</u>      |   |
| HCFA 179 <u>09-25</u>       |   |

TN No. 09-25

Approval Date 11-23-09

Effective Date 7-1-09

Supersedes TN No. 09-12

## **Marks, Marsha L. (CMS/SC)**

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**From:** Marks, Marsha L. (CMS/SC)  
**Sent:** Tuesday, December 08, 2009 1:07 PM  
**To:** CMS CMSO\_508\_SPA; 'Weems,Leslie'; Tamela  
**Cc:** 'TexasStateMedicaid\_Director@hhsc.state.tx.us'; Blunt, Ford J. (CMS/SC); Branch, Jeffrey A. (CMS/SC); Guy, Jimmy L. (CMS/SC); CASTRO, JOHN B. (CMS/SC); WARD, LYNN V. (CMS/SC); Spencer, Rene (CMS/CMCHO); Prisby, Karen L. (CMS/CMCHO)  
**Subject:** approval Pkg for TX 09-25  
**Attachments:** TX0925APPROVAL.doc; Approval Pkg (Final) TX 09-25.pdf

See Attached.

**State:** Texas

**Brief Description:** The amendment updates fee schedules for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). The reduction of FFP is due to a decrease in Medicare rates, which also are used to set the Medicaid service rates. The fee schedule is posted on the State's website and payment is uniform for governmental and private providers.

**Approval Date:** 11/23/09

**Effective Date:** 7/1/09

*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](mailto:marsha.marks@cms.hhs.gov)