

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

March 4, 2010

Our Reference: SPA TX 09-042

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

Dear Mr. Millwee:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 09-042, dated December 22, 2009. The amendment updates the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule.

Additionally, please note that when the State submits a State Plan Amendment (SPA) that may impact Indians or Indian health providers, CMS will look for evidence of the State's Tribal consultation process for that SPA. Pursuant to the new section 1902(a)(73) of the Act added by section 5006(e) of the Recovery and Reconstruction Act of 2009, the State must submit evidence to CMS regarding the solicitation of advice prior to submission of the State Plan Amendment. Such consultation must include all federally-recognized tribes, Indian Health Service and Urban Indian Organizations within the State.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of October 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 large black rectangular redaction box covering the signature of the sender.

for Bill Brooks
Associate Regional Administrator

Enclosures

cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 09-042	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: October 1, 2009	
5. TYPE OF PLAN MATERIAL (Circle One): <input type="checkbox"/> COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment) <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> 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) Prosthetics: §1905(a)(12) of the Social Security Act; 42 CFR § 440.120(c)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 \$33,543 b. FFY 2011 \$31,019 c. FFY 2012 \$30,273	
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	
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): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> 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 December 22, 2009			
17. DATE RECEIVED: 22 December, 2009			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 22 December, 2009		18. DATE APPROVED: 8 March, 2010	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 October, 2009		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Dir. of Medicaid & Children's Health	
23. REMARKS:			

Attachment to Blocks 8 and 9 of CMS Form 179

TX Transmittal No. 09-042, Amendment 888

**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 09-025)

STATE <u>Texas</u>	A
DATE REC'D <u>12-22-09</u>	
DATE APPV'D <u>3-7-10</u>	
DATE EFF <u>10-1-09</u>	
HCFA 179 <u>09-72</u>	

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 October 1, 2009. The fee schedule was posted on January 9, 2010.

~~SUPERSEDES: TN- 09-25~~

TN No. 09-72 Approval Date 3-7-10 Effective Date 10-1-09
Supersedes TN No. 09-25

Marks, Marsha L. (CMS/SC)

From: Marks, Marsha L. (CMS/SC)
Sent: Tuesday, March 09, 2010 9:57 AM
To: CMS CMSO_508_SPA
Cc: Blunt, Ford J. (CMS/SC); Prisby, Karen L. (CMS/CMCHO);
'TexasStateMedicaid_Director@hhsc.state.tx.us'
Subject: Final Approval Pkg for TX 09-42
Attachments: Final Approval Pkg for TX 09-42.pdf

See attached. Hard copies are being sent by regular mail.

State: Texas

Brief Description: The amendment updates the fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) in the state plan. The fee schedule is posted on the agency website and payment was uniform for governmental and private providers.

Approval Date: 4 March, 2010

Effective Date: 1 October, 2009

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