

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**

---

April 16, 2010

Our Reference: SPA TX 10-009

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 10-009, dated March 23, 2010. This amendment updates the fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) in the state plan.

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 American Recovery and Reinvestment Act (ARRA) 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 April 1, 2010. 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: Emily Zalkovsky, Policy Development Support

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER:  <b>10-009</b>	2. STATE:  <b>TEXAS</b>						
		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:  <b>April 1, 2010</b>							
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: <b>Home Health Durable Medical Equipment (DME) and Supplies: §1905(a)(7) of the Social Security Act; 42 CFR §440.70(b)(3)</b>  <b>Prosthetic Devices: §1905(a)(12) of the Social Security Act; 42 CFR § 440.120</b>		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT  <table style="width:100%; border: none;"> <tr> <td style="padding-left: 20px;">a. FFY 2010</td> <td style="text-align: right;">\$107,975</td> </tr> <tr> <td style="padding-left: 20px;">b. FFY 2011</td> <td style="text-align: right;">\$202,872</td> </tr> <tr> <td style="padding-left: 20px;">c. FFY 2012</td> <td style="text-align: right;">\$213,524</td> </tr> </table>		a. FFY 2010	\$107,975	b. FFY 2011	\$202,872	c. FFY 2012	\$213,524
a. FFY 2010	\$107,975								
b. FFY 2011	\$202,872								
c. FFY 2012	\$213,524								
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>SEE ATTACHMENT TO BLOCKS 8 AND 9</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>SEE ATTACHMENT TO BLOCKS 8 AND 9</b>							
10. SUBJECT OF AMENDMENT:  <b>The proposed amendment updates the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule.</b>									
11. GOVERNOR'S REVIEW (Check One):									
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <b>Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.</b>							
12. SIGNATURE OF STATE AGENCY OFFICIAL:  		16. RETURN TO:  <b>Billy R. Millwee State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711-5200</b>							
13. TYPED NAME: <b>Billy R. Millwee</b>									
14. TITLE: <b>State Medicaid Director</b>									
15. DATE SUBMITTED <b>March 23, 2010</b>									
<b>FOR REGIONAL OFFICE USE ONLY</b>									
17. DATE RECEIVED: <b>23 March, 2010</b>		18. DATE APPROVED: <b>16 April, 2010</b>							
PLAN APPROVED - ONE COPY ATTACHED									
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>1 April, 2010</b>		20. SIGNATURE OF REGIONAL OFFICIAL:  							
21. TYPED NAME: <b>Bill Brooks</b>		22. TITLE: <b>Associate Regional Administrator Div of Medicaid &amp; Children's Health</b>							
23. REMARKS:									

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

**TX Transmittal No. 10-009, Amendment 902**

**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 10-005)

STATE	<u>Texas</u>	A
DATE REC'D	<u>3-23-10</u>	
DATE APPV'D	<u>4-16-10</u>	
DATE EFF	<u>4-1-10</u>	
HCFA 179	<u>10-09</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 April 1, 2010. The fee schedule will be posted on April 9, 2010.

TN No. 10-09

Approval Date 4-16-10

Effective Date 4-1-10

Supersedes TN No. 10-05

SUPERSEDES: TN-10-05

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

---

**From:** Marks, Marsha L. (CMS/SC)  
**Sent:** Thursday, April 22, 2010 2:07 PM  
**To:** CMS CMSO\_508\_SPA  
**Cc:** Blunt, Ford J. (CMS/SC); Prisby, Karen L. (CMS/CMCHO)  
**Subject:** Approval Pkg for TX 10-09  
**Attachments:** TX1009APPROVAL.doc; Final Approval Package TX 10-09.pdf

See Attached.

State: Texas

**Brief Description:** Amendment updates the fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). State indicated that non-federal share of payment will be funded through Medicaid Agency & the State. The reduction does not directly impact on Indians, Indian health programs or Urban Indian Organizations.

**Effective Date:** 4/1/10

**Approval Date:** 4/16/2010

**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)