

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

July 16, 2010

Our Reference: SPA TX 10-018

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 10-018, dated May 5, 2010. This amendment adds external breast prostheses to the Prosthetics section of the 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 June 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,

/s/
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 AND MEDICAID SERVICES | | 1. TRANSMITTAL NUMBER: 10-018 | 2. STATE: TEXAS |
| | | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) | |
| TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES | | 4. PROPOSED EFFECTIVE DATE: June 1, 2010 | |
| 5. TYPE OF PLAN MATERIAL (Circle One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT | | | |
| COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment) | | | |
| 6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR §440.120(c) Section 1905(a)(12) of the Social Security Act | | 7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 \$ 28,735 b. FFY 2011 \$106,615 c. FFY 2012 \$106,903 | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT | |
| 10. SUBJECT OF AMENDMENT: The proposed amendment adds external breast prostheses to the Prosthetics section of the plan. The benefit will be covered when medically necessary for all Medicaid recipients who have a history of medically necessary mastectomy procedure(s). | | | |
| 11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL | | | |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL: | | 16. RETURN TO: | |
| 13. TYPED NAME: Billy R. Millwee | | Billy R. Millwee State Medicaid Director Post Office Box 13247 MC: H-100 Austin, Texas 78711-5200 | |
| 14. TITLE: State Medicaid Director | | | |
| 15. DATE SUBMITTED: May -5, 2010 | | | |
| FOR REGIONAL OFFICE USE ONLY | | | |
| 17. DATE RECEIVED: 5 May, 2010 | | 18. DATE APPROVED: 16 July, 2010 | |
| PLAN APPROVED - ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 June, 2010 | | 20. SIGNATURE OF REGIONAL OFFICIAL: | |
| 21. TYPED NAME: Bill Brooks | | 22. TITLE: Associate Regional Administrator Div of Medicaid & Children's Health | |
| 23. REMARKS: | | | |

12c. **Prosthetics**

| | | |
|-------------|---------|---|
| STATE | Texas | A |
| DATE REC'D. | 5-5-10 | |
| DATE APP'VD | 7-16-10 | |
| DATE EFF | 6-1-10 | |
| HOFA 179 | 10-18 | |

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.

External breast prosthesis is defined as an external prosthetic device that is used to replace breast tissue and to produce a symmetrical appearance of the breasts.

b) Services

With the exception of hearing aids and external breast prostheses 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.

TN No. 10-18 Approval Date 7-16-10 Effective Date 6-1-10

Supersedes TN No. 09-01

SUPERSEDES: TN- 09-01

12c. Prosthetics, continued

(3) *External Breast Prostheses.*

External breast prostheses are a benefit for all Medicaid eligible recipients with a history of medically necessary mastectomy procedure(s). This benefit includes external breast prostheses for the breast(s) on which medically necessary mastectomy procedure(s) have been performed. Medical necessity for an external breast prosthesis 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.

External breast prostheses are a benefit of the Texas Medicaid Program when provided by a licensed prosthetist or prosthetist/orthotist licensed by the state and in accordance with applicable state and federal laws and regulations.

| | |
|-----------------------------|---|
| STATE <u>Texas</u> | A |
| DATE REC'D. <u>5-5-10</u> | |
| DATE APPV'D. <u>7-16-10</u> | |
| DATE EFF. <u>6-1-10</u> | |
| HCFA 179 <u>10-18</u> | |

TN No. 10-18

Approval Date 7-16-10

Effective Date 6-1-10

Supersedes TN No. SUPERSEDES: NONE - NEW PAGE

| | | |
|--------------|----------------|---|
| STATE | <u>Texas</u> | A |
| DATE REC'D. | <u>5-5-10</u> | |
| DATE APPV'D. | <u>7-16-10</u> | |
| DATE EFF. | <u>6-1-10</u> | |
| HCFA 179 | <u>10-18</u> | |

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.

External breast prosthesis is defined as an external prosthetic device that is used to replace breast tissue and to produce a symmetrical appearance of the breasts.

b) Services

With the exception of hearing aids and external breast prostheses 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.

TN No. 10-18

Approval Date 7-16-10

Effective Date 6-1-10

Supersedes TN No. 09-01

SUPERSEDES: TN- 09-01

12c. Prosthetics, continued

(3) *External Breast Prostheses.*

External breast prostheses are a benefit for all Medicaid eligible recipients with a history of medically necessary mastectomy procedure(s). This benefit includes external breast prostheses for the breast(s) on which medically necessary mastectomy procedure(s) have been performed. Medical necessity for an external breast prosthesis 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.

External breast prostheses are a benefit of the Texas Medicaid Program when provided by a licensed prosthetist or prosthetist/orthotist licensed by the state and in accordance with applicable state and federal laws and regulations.

| | | |
|-------------|----------------|---|
| STATE | <u>Texas</u> | A |
| DATE REC'D | <u>5-5-10</u> | |
| DATE APPV'D | <u>7-16-10</u> | |
| DATE EFF | <u>6-1-10</u> | |
| HCFA 179 | <u>10-18</u> | |

TN No. 10-18 Approval Date 7-16-10 Effective Date 6-1-10
Supersedes TN No. _____ SUPERSEDES: NONE - NEW PAGE