

CHAPTER 253

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 14-1211

BY REPRESENTATIVE(S) Young, Ginal, Singer, Tyler, Duran, Exum, Fields, Kraft-Tharp, Labuda, Lee, May, Melton, Mitsch Bush, Primavera, Rosenthal, Schafer, Vigil, Williams;
also SENATOR(S) Tochtrop, Aguilar, Guzman, Heath, Kefalas, Newell, Nicholson, Steadman.

AN ACT

CONCERNING ENSURING ACCESS TO QUALITY COMPLEX REHABILITATION TECHNOLOGY IN THE MEDICAID PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 25.5-5-323 as follows:

25.5-5-323. Complex rehabilitation technology - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES IT IS IN THE BEST INTERESTS OF THE PEOPLE OF THE STATE OF COLORADO TO:

(a) CONTINUE TO PROTECT ACCESS TO IMPORTANT TECHNOLOGY AND SUPPORTING SERVICES FOR ELIGIBLE CLIENTS;

(b) ESTABLISH AND IMPROVE CURRENT SAFEGUARDS RELATING TO THE DELIVERY, PROVISION, AND REPAIR OF MEDICALLY NECESSARY COMPLEX REHABILITATION TECHNOLOGY;

(c) CONTINUE TO PROVIDE SUPPORTS FOR CLIENTS ACCESSING COMPLEX REHABILITATION TECHNOLOGY TO STAY IN THE HOME OR COMMUNITY SETTING, ENGAGE IN BASIC ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING, INCLUDING EMPLOYMENT, PREVENT INSTITUTIONALIZATION, AND PREVENT HOSPITALIZATION AND OTHER COSTLY SECONDARY COMPLICATIONS; AND

(d) CONTINUE ADEQUATE PRICING FOR COMPLEX REHABILITATION TECHNOLOGY FOR THE PURPOSE OF ALLOWING CONTINUED ACCESS TO APPROPRIATE PRODUCTS AND RELATED SERVICES INCLUDING MAINTENANCE AND REPAIR.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMPLEX REHABILITATION TECHNOLOGY" MEANS INDIVIDUALLY CONFIGURED MANUAL WHEELCHAIR SYSTEMS, POWER WHEELCHAIR SYSTEMS, ADAPTIVE SEATING SYSTEMS, ALTERNATIVE POSITIONING SYSTEMS, STANDING FRAMES, GAIT TRAINERS, AND SPECIFICALLY DESIGNATED OPTIONS AND ACCESSORIES CLASSIFIED AS DURABLE MEDICAL EQUIPMENT THAT:

(I) ARE INDIVIDUALLY CONFIGURED FOR INDIVIDUALS TO MEET THEIR SPECIFIC AND UNIQUE MEDICAL, PHYSICAL, AND FUNCTIONAL NEEDS AND CAPACITIES FOR BASIC ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING, INCLUDING EMPLOYMENT, IDENTIFIED AS MEDICALLY NECESSARY TO PROMOTE MOBILITY IN THE HOME AND COMMUNITY OR PREVENT HOSPITALIZATION OR INSTITUTIONALIZATION OF THE CLIENT;

(II) ARE PRIMARILY USED TO SERVE A MEDICAL PURPOSE AND GENERALLY NOT USEFUL TO A PERSON IN THE ABSENCE OF ILLNESS OR INJURY; AND

(III) REQUIRE CERTAIN SERVICES PROVIDED BY A QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROVIDER TO ENSURE APPROPRIATE DESIGN, CONFIGURATION, AND USE OF SUCH ITEMS, INCLUDING PATIENT EVALUATION OR ASSESSMENT OF THE CLIENT BY A HEALTH CARE PROFESSIONAL, AND THAT ARE CONSISTENT WITH THE CLIENT'S MEDICAL CONDITION, PHYSICAL AND FUNCTIONAL NEEDS AND CAPACITIES, BODY SIZE, PERIOD OF NEED, AND INTENDED USE.

(b) "INDIVIDUALLY CONFIGURED" MEANS THAT A DEVICE HAS FEATURES, ADJUSTMENTS, OR MODIFICATIONS SPECIFIC TO A CLIENT THAT A QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER PROVIDES BY MEASURING, FITTING, PROGRAMMING, ADJUSTING, ADAPTING, AND MAINTAINING THE DEVICE SO THAT THE DEVICE IS CONSISTENT WITH AN ASSESSMENT OR EVALUATION OF THE CLIENT BY A HEALTH CARE PROFESSIONAL AND CONSISTENT WITH THE CLIENT'S MEDICAL CONDITION, PHYSICAL AND FUNCTIONAL NEEDS AND CAPACITIES, BODY SIZE, PERIOD OF NEED, AND INTENDED USE.

(c) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE REHABILITATION ENGINEERING AND ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA OR OTHER NATIONALLY RECOGNIZED ACCREDITING ORGANIZATIONS AS AN ASSISTIVE TECHNOLOGY PROFESSIONAL.

(d) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER" MEANS A COMPANY OR ENTITY THAT:

(I) IS ACCREDITED BY A RECOGNIZED ACCREDITING ORGANIZATION AS A SUPPLIER OF COMPLEX REHABILITATION TECHNOLOGY;

(II) MEETS THE SUPPLIER AND QUALITY STANDARDS ESTABLISHED FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS UNDER THE MEDICARE OR MEDICAID PROGRAM;

(III) EMPLOYS AT LEAST ONE QUALIFIED COMPLEX REHABILITATION TECHNOLOGY

PROFESSIONAL FOR EACH LOCATION TO:

(A) ANALYZE THE NEEDS AND CAPACITIES OF CLIENTS FOR A COMPLEX REHABILITATION TECHNOLOGY ITEM IN CONSULTATION WITH THE EVALUATING CLINICAL PROFESSIONALS;

(B) ASSIST IN SELECTING APPROPRIATE COMPLEX REHABILITATION TECHNOLOGY ITEMS FOR SUCH NEEDS AND CAPACITIES; AND

(C) PROVIDE THE CLIENT TECHNOLOGY-RELATED TRAINING IN THE PROPER USE AND MAINTENANCE OF THE SELECTED COMPLEX REHABILITATION TECHNOLOGY ITEMS;

(IV) HAS THE QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL DIRECTLY INVOLVED WITH THE ASSESSMENT, AND DETERMINATION OF THE APPROPRIATE INDIVIDUALLY CONFIGURED COMPLEX REHABILITATION TECHNOLOGY FOR THE CLIENT, WITH SUCH INVOLVEMENT TO INCLUDE SEEING THE CLIENT VISUALLY EITHER IN PERSON OR BY ANY OTHER REAL-TIME MEANS WITHIN A REASONABLE TIME FRAME DURING THE DETERMINATION PROCESS.

(V) MAINTAINS A REASONABLE SUPPLY OF PARTS, ADEQUATE PHYSICAL FACILITIES, AND QUALIFIED SERVICE OR REPAIR TECHNICIANS TO PROVIDE CLIENTS WITH PROMPT SERVICE AND REPAIR OF ALL COMPLEX REHABILITATION TECHNOLOGY IT SELLS OR SUPPLIES; AND

(VI) PROVIDES THE CLIENT WRITTEN INFORMATION AT THE TIME OF SALE AS TO HOW TO ACCESS SERVICE AND REPAIR.

(3) THE STATE DEPARTMENT SHALL PROVIDE A SEPARATE RECOGNITION WITHIN THE STATE'S MEDICAID PROGRAM ESTABLISHED UNDER ARTICLES 4, 5, AND 6 OF THIS TITLE FOR COMPLEX REHABILITATION TECHNOLOGY AND SHALL MAKE OTHER REQUIRED CHANGES TO PROTECT CLIENT ACCESS TO APPROPRIATE PRODUCTS AND SERVICES. SUCH SEPARATE RECOGNITION MUST TAKE INTO CONSIDERATION THE CUSTOMIZED NATURE OF COMPLEX REHABILITATION TECHNOLOGY AND THE BROAD RANGE OF RELATED SERVICES NECESSARY TO MEET THE UNIQUE MEDICAL AND FUNCTIONAL NEEDS OF CLIENTS AND INCLUDE THE FOLLOWING:

(a) THE STATE DEPARTMENT NOTIFYING THE QUALIFIED REHABILITATION TECHNOLOGY SUPPLIERS CONCERNING THE PARAMETERS OF THE COMPLEX REHABILITATION TECHNOLOGY BENEFIT, WHICH BENEFIT MUST INCLUDE THE USE OF QUALIFIED REHABILITATION TECHNOLOGY SUPPLIERS AS WELL AS BILLING PROCEDURES THAT SPECIFY THE TYPES OF EQUIPMENT IDENTIFIED AND INCLUDED IN THE COMPLEX REHABILITATION TECHNOLOGY BENEFIT. THE STATE DEPARTMENT SHALL CREATE COMPLEX REHABILITATION TECHNOLOGY BENEFIT PARAMETERS THAT ARE EASILY UNDERSTOOD BY AND ACCESSIBLE TO CLIENTS AND QUALIFIED REHABILITATION TECHNOLOGY SUPPLIERS. THE STATE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE NO LATER THAN THIRTY DAYS PRIOR TO A COLLABORATIVE PROCESS THAT INCLUDES DISCUSSION OF ANY PROPOSED CHANGES TO THE TYPES OF EQUIPMENT IDENTIFIED AND INCLUDED IN THE COMPLEX REHABILITATION TECHNOLOGY BENEFIT.

(b) ADOPTING SPECIFIC SUPPLIER STANDARDS, AS DESCRIBED IN PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION, FOR COMPANIES OR ENTITIES THAT PROVIDE COMPLEX REHABILITATION TECHNOLOGY AND RESTRICTING THE PROVISION OF COMPLEX REHABILITATION TECHNOLOGY TO THOSE COMPANIES OR ENTITIES THAT ARE QUALIFIED COMPLEX REHABILITATION SUPPLIERS;

(c) ENSURING THAT CLIENTS RECEIVING COMPLEX REHABILITATION TECHNOLOGY ARE EVALUATED OR ASSESSED, AS NEEDED, BY:

(I) A QUALIFIED HEALTH CARE PROFESSIONAL, INCLUDING BUT NOT LIMITED TO A LICENSED PHYSICAL THERAPIST, A LICENSED OCCUPATIONAL THERAPIST, OR OTHER LICENSED HEALTH CARE PROFESSIONAL WHO HAS NO FINANCIAL RELATIONSHIP WITH THE QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER AND PERFORMS SPECIALTY EVALUATIONS WITHIN HIS OR HER SCOPE OF PRACTICE; AND

(II) A QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL EMPLOYED BY THE QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER. THE ASSESSMENT AND DETERMINATION PERFORMED BY THE QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL EMPLOYED BY THE QUALIFIED COMPLEX REHABILITATION SUPPLIER SHALL CONTINUE TO BE INCLUDED IN THE REIMBURSEMENT FOR THE PURCHASED OR RENTED COMPLEX REHABILITATION TECHNOLOGY;

(d) CONTINUING PRICING POLICIES FOR COMPLEX REHABILITATION TECHNOLOGY, UNLESS SPECIFICALLY PROHIBITED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, INCLUDING THE FOLLOWING:

(I) CONTINUING TO ENSURE THAT THE REIMBURSEMENT AMOUNTS FOR COMPLEX REHABILITATION TECHNOLOGY, REPAIRS, AND SUPPORTING CLINICAL COMPLEX REHABILITATION TECHNOLOGY SERVICES ARE ADEQUATE TO ENSURE THAT QUALIFIED CLIENTS HAVE ACCESS TO THE ITEMS, TAKING INTO ACCOUNT THE UNIQUE NEEDS OF THE CLIENTS AND THE COMPLEXITY AND CUSTOMIZATION OF COMPLEX REHABILITATION TECHNOLOGY. THIS INCLUDES DEVELOPING PRICING POLICIES THAT ENSURE ACCESS TO ADEQUATE AND TIMELY REPAIRS.

(II) EXEMPTING COMPLEX REHABILITATION TECHNOLOGY FROM INCLUSION IN COMPETITIVE BIDDING PROGRAMS OR SIMILAR PROCESSES; AND

(III) PRESERVING THE OPTION FOR COMPLEX REHABILITATION TECHNOLOGY TO BE BILLED AND PAID FOR AS A PURCHASE ALLOWING FOR LUMP SUM PAYMENTS FOR DEVICES WITH A LENGTH OF NEED OF ONE YEAR OR GREATER, EXCLUDING APPROVED CROSSOVER CLAIMS FOR CLIENTS ENROLLED IN MEDICARE AND MEDICAID; AND

(e) MAKING OTHER CHANGES AS NEEDED TO PROTECT ACCESS TO COMPLEX REHABILITATION TECHNOLOGY FOR CLIENTS.

SECTION 2. In Colorado Revised Statutes, 25.5-5-404, **add** (1) (v) as follows:

25.5-5-404. Selection of managed care entities. (1) In addition to any other criteria specified in rule by the state board, in order to participate in the managed care system, the MCE shall comply with specific criteria that include, but are not

limited to, the following:

(v) THE MCE SHALL COMPLY WITH PROVISIONS RELATING TO COMPLEX REHABILITATION TECHNOLOGY ESTABLISHED BY THE STATE DEPARTMENT PURSUANT TO SECTION 25.5-5-323. THIS PROVISION DOES NOT APPLY TO ARTICLE 8 OF THIS TITLE.

SECTION 3. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the controlled maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased by \$16,533.

(2) In addition to any other appropriation, there is hereby appropriated to the department of health care policy and financing, for the fiscal year beginning July 1, 2014, the sum of \$51,133, or so much thereof as may be necessary, comprised of \$16,533 from the general fund and \$34,600 from federal funds, to be allocated to the executive director's office for the implementation of this act as follows:

(a) \$15,000, comprised of \$7,500 general fund and \$7,500 federal funds, for general administration, general professional services and special projects;

(b) \$25,200, comprised of \$6,300 general fund and \$18,900 federal funds, for information technology contracts and projects, Medicaid management information system maintenance and projects; and

(c) \$10,933, comprised of \$2,733 general fund and \$8,200 federal funds, for utilization and quality review contracts, professional services contracts.

SECTION 4. Act subject to petition - effective date. This act takes effect January 1, 2015; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on January 1, 2015, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: May 22, 2014