

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-13-.01

Rule Title: Durable Medical Equipment, Supplies, Appliances, Prosthetics, Orthotics & Pedorthics - General

_____ New; X Amend; _____ Repeal; _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____ no

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ yes

Is there another, less restrictive method of regulation available that could adequately protect the public? _____ no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____ no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____ no

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? _____ no

Does the proposed rule have an economic impact? _____ no

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer: Stephanie Lindsay

Date: 6/20/2018

ALABAMA MEDICAID AGENCY

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Medicaid Agency

RULE NO. & TITLE: 560-X-13-.01 - Durable Medical Equipment, Supplies, Appliances, Prosthetics, Orthotics & Pedorthics - General

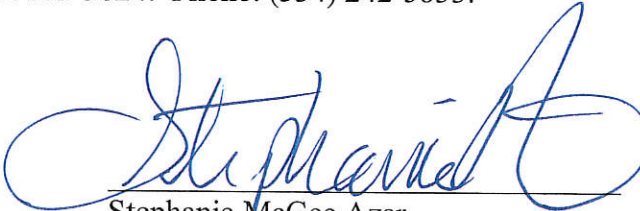
INTENDED ACTION: Amend 560-X-13-.01

SUBSTANCE OF PROPOSED ACTION: The above referenced rule is being amended to state the requirements of physicians, certified registered nurse practitioners, and physician assistants for placing the initial written prescription or order for certain medical supplies, equipment, and appliances.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments may be submitted to the Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Agency business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written/Oral comments concerning this change must be received by the Alabama Medicaid Agency no later than August 3, 2018.

CONTACT PERSON AT AGENCY: Stephanie Lindsay, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Phone: (334) 242-5833.


Stephanie McGee Azar
Commissioner

Rule No. 560-X-13-.01 Durable Medical Equipment, Supplies, Appliances, Prosthetics, Orthotics & Pedorthics - General

- (1) Durable Medical Equipment (DME), supplies, and appliances, are available as Medicaid program benefits to eligible Medicaid beneficiaries for use in any setting in which normal life activities take place.
- (2) The covered DME, supplies, appliances, and Prosthetics, Orthotics and Pedorthics (POP) are for medical therapeutic purposes, and must be ordered by the prescriber in connection with the plan of treatment, and the items will minimize the necessity for hospitalization, nursing home, or other institutional care. The prescriber of these items must comply with 42 C.F.R. § 440.70 as well as all other federal and state rules and regulations in order to receive reimbursement.
- (3) DME is equipment:
 - (a) that can withstand repeated use;
 - (b) is primarily and customarily used to serve a medical purpose;
 - (c) generally is not useful to a person in the absence of an illness, disability or injury; and
 - (d) can be removable or reusable.All requirements of the definition must be met before an item can be considered to be DME.
- (4) Refer to Rule No. 560-X-13-.18 for Prosthetics, Orthotics and Pedorthics (POP) guidelines.
- (5) The cost of the item must not be disproportional to the therapeutic benefits or more costly than a reasonable alternative. The item must not serve the same purpose as equipment already available to the recipient. DME may be purchased or rented for a Medicaid recipient meeting the established criteria. Please refer to Chapter 14, DME, of the Medicaid Provider Manual published on Medicaid's website.
 - (a) Medicaid covers the purchase of DME items for long term use. Long term use is defined as the use of DME which exceeds six months.
 - (b) Medicaid covers the rental of DME items for six months or less.
- (6) A recipient does not have to be a Home Health Care patient in order to receive coverage for products covered under this Chapter.
- (7) The provider is responsible for educating the recipient in the use of the DME. The provider is also responsible for delivery and set up of the DME.
- (8) All appliances and standard DME approved for payment by Medicaid must have a warranty of a minimum of one year; this may include the manufacturer's warranty. Please refer to Rule No. 560-X-13-.19.

(9) Requirements for Placing the Initial Written Prescription or Order for Certain Medical Supplies, Equipment, and Appliances.

(a) The physician who develops the recipient's written plan of care ("the ordering physician") is required to sign and place the initial prescription or order for certain medical supplies, equipment, and appliances.

(b) The ordering physician may only place the initial written prescription or order after the required face-to-face visit is conducted and documented by an authorized practitioner.

(c) Subsequent written prescriptions or orders for refills, ancillary supplies, repairs or services, or re-certifications do not require the ordering physician's signature or an additional face-to-face visit.

(d) Either the ordering physician or one of the following authorized non-physician practitioners (NPP) may both conduct and document the clinical findings from the required face-to-face visit so that the ordering physician can place and sign the initial written prescription or order for certain medical supplies, equipment, and appliances:

1. Certified registered nurse practitioners (CRNP) or clinical nurse specialists (CNS) working under a collaboration agreement under Alabama law with the ordering physician;

2. Physician assistants (PA) under the supervision of the ordering physician;
or

3. Attending acute or post-acute physicians, if recipients are admitted to home health services immediately after discharge from an acute or post-acute stay.

(e) The required face-to-face visit for the initial written prescription or order for certain medical supplies, equipment, and appliances must be related to the primary reason why the recipients require the certain medical supplies, equipment, and appliances and must occur no more than 6 months prior to the start of services. The required face-to-face visit may be conducted using telehealth systems.

(f) The ordering physician is also required to review the recipient's written plan of care annually to determine the recipient's continued need for all medical supplies, equipment, and appliances.

(g) Not all initial written prescriptions or orders for medical supplies, equipment, and appliances require a face-to-face visit be conducted. The face-to-face visit requirement is limited only to the certain medical supplies, equipment, and appliances that are also subject to a face-to-face requirement under the Medicare DME program as "Specific Covered Items" in 42 C.F.R. 410.38(g).

Author: Kelli Littlejohn Newman, PharmD, Director, Clinical Services.

Authority: State Plan; 42 CFR Section 440.70; and Title XIX, Social Security Act.

History: Rule effective October 1, 1982. **Amended:** November 11, 1985, March 10, 1997, July 9, 1997, September 15, 2004. **Amended:** Filed May 11, 2012; effective June 15, 2012.

Amended: Filed April 11, 2014; effective May 16, 2014. **Amended:** Filed November 18, 2015; effective February 25, 2016. **Amended:** Filed February 10, 2017; effective March 27, 2017.

Amended: Filed June 20, 2018.