

Senate Bill No. 728

CHAPTER 451

An act to amend Section 14105.48 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 22, 2012. Filed with
Secretary of State September 22, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 728, Negrete McLeod. Medi-Cal: durable medical equipment reimbursement.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law requires the department to establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment, as defined. Existing law requires that reimbursement for all durable medical equipment billed to the Medi-Cal program using codes with no specified maximum allowable rate be the lesser of certain amounts, including the manufacturer's suggested retail price on June 1, 2006, as specified.

This bill would base this amount instead on the manufacturer's suggested retail price on or prior to the date of service.

The people of the State of California do enact as follows:

SECTION 1. Section 14105.48 of the Welfare and Institutions Code is amended to read:

14105.48. (a) The department shall establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment as defined in Section 51160 of Title 22 of the California Code of Regulations and the list shall be published in provider manuals. The list shall specify utilization controls to be applied to each type of durable medical equipment.

(b) Reimbursement for durable medical equipment, except wheelchairs, wheelchair accessories, and speech-generating devices and related accessories, shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(c) Reimbursement for wheelchairs, wheelchair accessories, and speech-generating devices and related accessories shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(d) Reimbursement for all durable medical equipment billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department, (3) the actual acquisition cost plus a markup to be established by the department, (4) the manufacturer's suggested retail purchase price on or prior to the date of service, and documented by a printed catalog or a hard copy of an electronic catalog page showing that price, reduced by a percentage discount not to exceed 20 percent, or not to exceed 15 percent for wheelchairs and wheelchair accessories if the provider employs or contracts with a qualified rehabilitation professional, as defined in paragraph (3) of subdivision (c) of Section 14105.485, or (5) a price established through targeted product-specific cost containment provisions developed with providers.

(e) Reimbursement for all durable medical equipment supplies and accessories billed to the Medi-Cal program shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the acquisition cost plus a 23 percent markup.

(f) Commencing January 1, 2007, reimbursement for oxygen delivery systems and oxygen contents shall utilize national HCPCS codes, and shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare Program for the same or a similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3, plus a percentage markup to be established by the department.

(g) Within six months of the effective date of the act that added this subdivision, the department shall review utilization of services and equipment resulting from the changes to this section made by that act, and shall assess whether the changes are contributing to inappropriate use of those services or equipment. If the department's review finds an increase in inappropriate use of those services or equipment, the Department of Finance shall notify the Joint Legislative Budget Committee of the State Department of Health Services' findings and recommended changes to ensure program integrity.

(h) Any regulation in Division 3 of Title 22 of the California Code of Regulations that contains provisions for reimbursement rates for durable medical equipment shall be amended or repealed effective for dates of service on or after the date of the act adding this section.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, actions under this section shall not be subject to the Administrative Procedure Act or to the review and approval of the Office of Administrative Law.

(j) The department shall consult with interested parties and appropriate stakeholders in implementing this section with respect to all of the following:

- (1) Notifying the provider representatives of the proposed change.
- (2) Scheduling at least one meeting to discuss the change.
- (3) Allowing for written input regarding the change.
- (4) Providing advance notice on the implementation and effective date of the change.

(k) The department may require providers of durable medical equipment to appeal Medicare denials for dually eligible beneficiaries as a condition of Medi-Cal payment.