

**DEPARTMENT OF HEALTH CARE SERVICES
NOTICE OF GENERAL PUBLIC INTEREST AND REQUEST FOR PUBLIC INPUT
RELEASE DATE: DECEMBER 28, 2022**

PROPOSED STATE PLAN AMENDMENT 23-0003 TO ADJUST THE MEDI-CAL FEE-FOR-SERVICE REIMBURSEMENT RATES FOR DURABLE MEDICAL EQUIPMENT

This notice serves to provide information of public interest regarding proposed State Plan Amendment (SPA) 23-0003 that the Department of Health Care Services (DHCS) plans to submit to the Centers for Medicare and Medicaid services (CMS). The proposed SPA is seeking federal authority to adjust certain Medi-Cal Fee-For-Service (FFS) reimbursement rates for durable medical equipment (DME) supplies, effective January 1, 2023. DHCS requests input from beneficiaries, providers, and other interested stakeholders concerning proposed SPA 23-0003, which is attached below.

SPA 23-0003 proposes to establish a reimbursement methodology to conduct an annual rate review, and adjust Medi-Cal FFS rates for certain DME items in accordance with Welfare and Institution Code section 14105.48. The reimbursement methodology provides that effective January 1, 2023, and on January 1 each year thereafter, rates for DME, except wheelchairs, wheelchair accessories, and speech-generating devices and related accessories, that exceed 80 percent of the most current Medicare rate, as provided in the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies, will be reduced to 80 percent of the corresponding Medicare rate. Rates for wheelchairs, wheelchair accessories, and speech-generating devices and related accessories that exceed 100 percent of the corresponding Medicare rate, as provided in the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies, will be reduced to 100 percent of the corresponding Medicare rate.

DHCS estimates that the annual aggregate Medi-Cal expenditures for DME will decrease by approximately \$1.3 million in total funds.

The proposed SPA is subject to approval by CMS.

PUBLIC REVIEW AND COMMENTS

The proposed changes included in draft SPA 23-0003 are attached to this notice for public comment. DHCS is requesting stakeholder input on the impact, if any, on access to services as a result of the proposed action.

Upon submission to CMS, a copy of the proposed SPA 23-0003 will be published at the following internet address:

<https://www.dhcs.ca.gov/formsandpubs/laws/Pages/PendingStatePlanAmendments.aspx>

If you would like to view the SPA in person once it becomes available, please visit your local county welfare department. You may also request a copy of proposed SPA 23-0003 using the mailing or email addresses listed below.

Written comments may be sent to the following address:

Department of Health Care Services
Fee-For-Service Rate Development Division
1501 Capitol Avenue, MS 4600
Sacramento, California 95899-7417

Comments may also be emailed to PublicInput@dhcs.ca.gov. Please indicate SPA 23-0003 in the subject line or message.

To be assured consideration prior to submission of the SPA to CMS, comments must be received no later than January 27, 2023. Please note that comments will continue to be accepted after January 27, 2023, but DHCS may not be able to consider those comments prior to the initial submission of SPA 23-0003 to CMS.

A copy of submitted public comments to SPA 23-0003 may be requested in writing to the mailing or email addresses identified above.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

REIMBURSEMENT METHODOLOGY FOR ESTABLISHING REIMBURSEMENT RATES FOR DURABLE MEDICAL EQUIPMENT, ORTHOTIC AND PROSTHETIC APPLIANCES, AND LABORATORY SERVICES

1. Notwithstanding any other provision of this Attachment, the methodology utilized by the State Agency in establishing Medi-Cal fee-for-service reimbursement rates for durable medical equipment as described in State Plan Attachment 3.1-A, paragraph 2a, entitled "Hospital Outpatient Department Services and Organized Outpatient Clinic Services", and Paragraph 7c.2, entitled "Home Health Services Durable Medical Equipment", will be calculated by the Department of Health Care Services (DHCS) using the following methodology:
 - (a) Reimbursement for the rental or purchase of durable medical equipment with a specified maximum allowable rate established by Medicare, except wheelchairs, wheelchair accessories, wheelchair replacement parts, and speech-generating devices and related accessories, shall be the lesser of the following:
 - (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1, entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public or the net purchase price of the item (as documented in the provider's books and records), plus no more than a 100 percent mark-up. (Refer to Reimbursement Methodology table at page 3e.)
 - (2) For dates of services on or after January 1, 2023, the rate in effect on the Medi-Cal Fee Schedule for the current calendar year, shall be the lowest of the following:
 1. The rate in effect on the Medi-Cal Fee Schedule as of December 31 of the preceding calendar year;
 2. 80 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies in the current calendar year. (Refer to Reimbursement Methodology Table at page 3e.)
 - (3) Effective January 1, 2023, and on January 1 of each year thereafter, DHCS will adjust rates exceeding 80 percent of the corresponding rate on the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies. Any rate that does not exceed 80 percent of the Medicare rate will not be adjusted.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: California

- (b) Reimbursement for the rental or purchase of a wheelchair, wheelchair accessories, wheelchair replacement parts, and speech-generating devices and related accessories, with a specified maximum allowable rate established by Medicare shall be the lowest of the following:
- (1) The amount billed in accordance with California Code of Regulations, Title 22, Section 51008.1 entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records), plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) For dates of services on or after January 1, 2023, the rate in effect on the Medi-Cal Fee Schedule for the current calendar year, shall be the lowest of the following:
 1. The rate in effect on the Medi-Cal Fee Schedule as of December 31 of the preceding calendar year;
 2. 100 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for wheelchairs, wheelchair accessories, wheelchair replacement parts, and speech-generating devices and related accessories in the current calendar year. (Refer to Reimbursement Methodology Table at page 3e.)
 - (3) Effective January 1, 2023, and on January 1 of each year thereafter, DHCS will adjust rates exceeding 100 percent of the corresponding rate on the Medicare rural fee schedule for wheelchairs, wheelchair accessories, wheelchair replacement parts, and speech-generating devices and related accessories. Any rate that does not exceed 100 percent of the Medicare rate will not be adjusted.
- (c) Reimbursement for the rental or purchase of all durable medical equipment billed to the Medi-Cal program utilizing HCPCS codes with no specified maximum allowable rate (either non-covered by Medicare or Medicare did not establish a reimbursement rate), except wheelchairs, wheelchair accessories, and wheelchair replacement parts, shall follow the methodology specified in paragraph 1(a)(2) and be the lowest of the following:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: California

- (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1 entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item, (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) The actual acquisition cost plus a markup to be established by the State Agency based on rate studies and periodic reviews to provide a reasonable reimbursement and maintain adequate access to care. (Refer to Reimbursement Methodology Table at page 3e.)
 - (3) The manufacturer's suggested retail purchase price, documented by a printed catalog or hard copy of an electronic catalog page published on a date defined by Welfare and Institution Code section 14105.48, reduced by a percentage discount of 20 percent. (Refer to Reimbursement Methodology Table at page 3e.)
- (d) Reimbursement for the rental or purchase of wheelchairs, wheelchair accessories, and wheelchair replacement parts billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate (either non-covered by Medicare or Medicare did not establish a reimbursement rate) shall follow the methodology specified in paragraph 1(b)(2) and be the lowest of the following:
- (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1 entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) The actual acquisition cost plus a markup to be established by the State Agency based on rate studies and periodic review to assure adequate reimbursement and access to care. (Refer to Reimbursement Methodology Table at page 3e.)
 - (3) The manufacturer's suggested retail purchase price, documented by a printed catalog or a hard copy of an electronic catalog page published on a date defined by Welfare and Institutions Code section 14105.48, reduced by a percentage discount of 20 percent, or by 15 percent if the provider employs or contracts with a qualified rehabilitation professional.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: California

(Refer to Reimbursement Methodology at page 3f.)

- (e) Reimbursement for the purchase of all durable medical equipment supplies and accessories without a specified maximum allowable rate (either non-covered by Medicare or Medicare did not establish a reimbursement rate), and which are not described in subparagraphs (a)-(d) above, shall be the lesser of the following;
- (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1 entitled ("Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) The acquisition cost for the item, plus a 23 percent markup. (Refer to Reimbursement Methodology Table at page 3f.)
2. Except as otherwise noted in the State Plan, state-developed fee schedules are the same for both governmental and private providers of DME services. All Medi-Cal Fee-for-service rates are published at:
<https://files.medi-cal.ca.gov/Rates/RatesHome.aspx>

Reimbursement Methodology Table			
Paragraph	Effective Date	Percentage/Methodology	Authority
1(a)(1), (b)(1), (c)(1), (d)(1), (e)(1)	August 28, 2013	No more than 100 percent markup	California Code of Regulations, title 22, section 51008.1
1(a)(2)	January 1, 2023	Does not exceed 80% of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies	California Welfare and Institutions Code section 14105.48
1(b)(2)	January 1, 2023	Does not exceed 100% of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies	California of Welfare and Institutions Code section 14105.48
1(c)(2)	November 1, 2003	The acquisition cost plus a 67% markup	Rate Study
1(c)(3)	November 1, 2003	The manufacturer's suggested retail purchase price reduced by percentage discount of 20%	California Welfare and Institutions Code section 14105.48
1(d)(2)	January 1, 2004	The acquisition cost plus a 67% markup	Rate Study
1(d)(3)	January 1, 2004	The manufacturer's suggested retail purchase price reduced by a percentage discount of 20%, or by 15% if the provider employs or contracts with a qualified rehabilitation professional	California Welfare and Institutions Code section 14105.48