



Senate

General Assembly

File No. 311

February Session, 2024

Substitute Senate Bill No. 308

Senate, April 8, 2024

The Committee on Human Services reported through SEN. LESSER of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT IMPLEMENTING TASK FORCE RECOMMENDATIONS FOR WHEELCHAIR REPAIR.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) As used in this section,
2 section 17b-278j of the general statutes, as amended by this act, and
3 section 2 of this act:

4 (1) "Authorized wheelchair dealer" means any company doing
5 business in the state selling or leasing wheelchairs, including complex
6 rehabilitation technology wheelchairs.

7 (2) "Complex rehabilitation technology" has the same meaning as
8 provided in section 17b-278j of the general statutes, as amended by this
9 act.

10 (3) "Complex rehabilitation technology wheelchair" means a
11 specialized, medically necessary manual or powered wheelchair
12 individually configured for the user with specialized equipment that

13 requires evaluation, configuration, fitting, adjustment, programming
14 and long-term maintenance and repair services.

15 (4) "Consumer" means the purchaser or lessee of a wheelchair,
16 including a complex rehabilitation technology wheelchair, irrespective
17 of whether the purchase or lease of the wheelchair is funded in whole
18 or in part by the consumer or privately or publicly funded health
19 insurance.

20 (5) "Timely repair" means as soon as practicable but not later than ten
21 calendar days after the date of request for repair from a consumer,
22 provided the consumer makes the wheelchair available and any prior
23 approval required from an insurer has been acquired.

24 (6) "Wheelchair" means a manual or motorized wheeled device that
25 enhances the mobility or positioning of an individual with a disability
26 and includes a complex rehabilitation technology wheelchair.

27 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) An authorized wheelchair
28 dealer shall timely repair a wheelchair, including a complex
29 rehabilitation technology wheelchair, sold or leased by such dealer in
30 the state. An authorized wheelchair dealer who sells or leases a complex
31 rehabilitation technology wheelchair in the state shall provide service
32 and timely repair of such wheelchair at a consumer's home upon
33 request.

34 (b) An authorized wheelchair dealer shall maintain a phone line for
35 consumer repair requests that is accessible each business day and
36 capable of recording messages. The authorized wheelchair dealer shall
37 (1) respond to a request for wheelchair repair not later than one business
38 day after the date of request, and (2) maintain a sufficient supply of parts
39 to timely repair wheelchairs, including complex rehabilitation
40 technology wheelchairs.

41 (c) An authorized wheelchair dealer may assess reasonable fees for
42 the timely repair of any wheelchair for which a warranty has expired
43 and an additional surcharge for repairing a wheelchair that is not

44 functional due to a condition or defect that results from abuse, neglect
45 or unauthorized modification or alteration of the wheelchair.

46 (d) An authorized wheelchair dealer who contracts with the
47 Department of Social Services to sell or lease wheelchairs to Medicaid
48 recipients shall be subject to penalties pursuant to section 17b-278j of the
49 general statutes, as amended by this act, for violations of the provisions
50 of this section.

51 Sec. 3. Section 17b-4 of the general statutes is repealed and the
52 following is substituted in lieu thereof (*Effective October 1, 2024*):

53 (a) The Department of Social Services shall plan, develop, administer,
54 operate, evaluate and provide funding for services for individuals and
55 families served by the department who are in need of personal or
56 economic development. In cooperation with other social service
57 agencies and organizations, including community-based agencies, the
58 department shall work to develop and fund prevention, intervention
59 and treatment services for individuals and families. The department
60 shall: (1) Provide appropriate services to individuals and families as
61 needed through direct social work services rendered by the department
62 and contracted services from community-based organizations funded
63 by the department; (2) collect, interpret and publish statistics relating to
64 individuals and families serviced by the department; (3) monitor,
65 evaluate and review any program or service which is developed,
66 operated or funded by the department; (4) supervise the establishment
67 of pilot programs funded by the department in local communities which
68 assist and support individuals and families in personal and economic
69 development; (5) improve the quality of services provided, operated
70 and funded by the department and increase the competency of its staff
71 relative to the provision of effective social services by establishing and
72 supporting ongoing staff development and training; and (6) encourage
73 citizen participation in the development of social service priorities and
74 programs.

75 (b) The Department of Social Services, in conjunction with the
76 Department of Public Health and the Department of Aging and

77 Disability Services, may adopt regulations in accordance with the
78 provisions of chapter 54 to establish requirements with respect to the
79 submission of reports concerning financial solvency and quality of care
80 by nursing homes for the purpose of determining the financial viability
81 of such homes, identifying homes that appear to be experiencing
82 financial distress and examining the underlying reasons for such
83 distress. Such reports shall be submitted to the Nursing Home Financial
84 Advisory Committee established under section 17b-339.

85 (c) The Department of Social Services, in conjunction with the
86 Department of Aging and Disability Services, shall adopt regulations in
87 accordance with the provisions of chapter 54 establishing standards for
88 complex rehabilitation technology, as defined in section 17b-278j, as
89 amended by this act, and penalties for violations of section 2 of this act.

90 Sec. 4. Section 17b-278j of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2024*):

92 (a) As used in this section:

93 (1) "Authorized wheelchair dealer" has the same meaning as
94 provided in section 1 of this act.

95 (2) "Complex rehabilitation technology" means products classified as
96 durable medical equipment within the Medicare program as of January
97 1, 2013, that are individually configured and medically necessary for
98 individuals to meet their specific and unique medical, physical and
99 functional needs and capacities for basic and instrumental activities of
100 daily living. Complex rehabilitation technology includes, but is not
101 limited to, (A) complex rehabilitation manual and power wheelchairs
102 and accessories, (B) adaptive seating and positioning items and
103 accessories, and (C) other specialized equipment and accessories, such
104 as standing frames and gait trainers.

105 (3) "Complex rehabilitation technology wheelchair" has the same
106 meaning as provided in section 1 of this act.

107 [(2)] (4) "Employee" means a person whose taxes are withheld by a

108 qualified complex rehabilitation technology supplier and reported to
109 the Internal Revenue Service.

110 [(3)] (5) "Healthcare Common Procedure Coding System" or
111 "HCPCS" means the billing codes used by Medicare and overseen by the
112 federal Centers for Medicare and Medicaid Services that are based on
113 the current procedural technology codes developed by the American
114 Medical Association.

115 [(4)] (6) "Individually configured" means a device with a combination
116 of sizes, features, adjustments or modifications that is customized by a
117 qualified complex rehabilitation technology supplier for a specific
118 individual by measuring, fitting, programming, adjusting or adapting
119 the device so that the device is consistent with the individual's medical
120 condition, physical and functional needs and capacities, body size,
121 period of need and intended use as determined by an assessment or
122 evaluation by a qualified health care professional.

123 [(5)] (7) "Medically necessary" has the same meaning as provided in
124 section 17b-259b.

125 [(6)] (8) "Mixed HCPCS codes" means codes that refer to a mix of
126 complex rehabilitation technology products and standard mobility and
127 accessory products.

128 [(7)] (9) "Pure HCPCS codes" means codes that refer exclusively to
129 complex rehabilitation technology products and services.

130 [(8)] (10) "Qualified complex rehabilitation technology professional"
131 means an individual who is certified as an Assistive Technology
132 Professional by the Rehabilitation Engineering and Assistive
133 Technology Society of North America.

134 [(9)] (11) "Qualified complex rehabilitation technology supplier"
135 means a company or entity that:

136 (A) Is accredited by a recognized accrediting organization as a
137 supplier of complex rehabilitation technology;

138 (B) Is an enrolled Medicare supplier and meets the supplier and
139 quality standards established for durable medical equipment, including
140 those for a complex rehabilitation technology supplier under the
141 Medicare program;

142 (C) Has at least one employee who is a qualified complex
143 rehabilitation technology professional for each service location to (i)
144 analyze the needs and capacities of an eligible individual in consultation
145 with a qualified health care professional, (ii) participate in the selection
146 of appropriate covered complex rehabilitation technology for such
147 needs and capacities, and (iii) provide technology-related training in the
148 proper use of the complex rehabilitation technology;

149 (D) Requires a qualified complex rehabilitation technology
150 professional be physically present for the evaluation and determination
151 of appropriate complex rehabilitation technology for an eligible
152 individual;

153 (E) Has the capability to provide service and repair by qualified
154 technicians for all complex rehabilitation technology it sells; and

155 (F) Provides written information regarding how to receive service
156 and repair of complex rehabilitation technology to the eligible
157 individual at the time such technology is delivered.

158 [(10)] (12) "Qualified health care professional" means a health care
159 professional licensed by the state Department of Public Health who has
160 no financial relationship with a qualified complex rehabilitation
161 technology supplier. Qualified health care professional includes, but is
162 not limited to, (A) a licensed physician, (B) a licensed physical therapist,
163 (C) a licensed occupational therapist, or (D) other licensed health care
164 professional who performs specialty evaluations within the
165 professional's scope of practice.

166 (13) "Timely repair" has the same meaning as provided in section 1 of
167 this act.

168 (b) The Commissioner of Social Services shall, not later than January

169 1, 2015, report to the joint standing committee of the General Assembly
170 having cognizance of matters relating to human services on the impact
171 of: (1) Designating products and services included in mixed and pure
172 HCPCS billing codes as complex rehabilitation technology; (2) setting
173 minimum standards consistent with subdivision [(9)] (11) of subsection
174 (a) of this section in order for suppliers to be considered qualified
175 complex rehabilitation technology suppliers eligible for Medicaid
176 reimbursement; (3) preserving the option for complex rehabilitation
177 technology to be billed and paid for as a purchase allowing for single
178 payments for devices with a length of need of one year or greater,
179 excluding approved crossover claims for clients enrolled in Medicare
180 and Medicaid; and (4) requiring eligible individuals receiving a complex
181 rehabilitation manual wheelchair, power wheelchair or seating
182 component to be evaluated by a qualified health care professional and a
183 qualified complex rehabilitation technology professional to qualify for
184 reimbursement.

185 (c) The Commissioner of Social Services shall not require a new
186 prescription for the purchase or repair of complex rehabilitation
187 technology, including a complex rehabilitation technology wheelchair,
188 unless the original prescription is more than five years old. The
189 commissioner shall not require prior authorization for timely repair of
190 a complex rehabilitation technology wheelchair, if the original
191 prescription was written not more than five years earlier.

192 (d) The commissioner, to the extent permissible under federal law,
193 shall provide Medicaid coverage for annual maintenance of a Medicaid
194 recipient's complex rehabilitation technology wheelchair and any
195 backup complex rehabilitation technology wheelchair that the Medicaid
196 recipient may need during the repair of the primary complex
197 rehabilitation technology wheelchair. The commissioner shall amend
198 the Medicaid state plan if necessary to implement the provisions of this
199 section.

200 (e) The commissioner, following notice and opportunity for a hearing
201 pursuant to chapter 54, may reduce or withhold Medicaid funding for

202 any authorized complex rehabilitation technology supplier or
203 authorized wheelchair dealer who sells or leases wheelchairs to a
204 Medicaid recipient for violations of the provisions of section 2 of this act,
205 regardless of whether the violation concerned a wheelchair purchased,
206 leased or repaired under the Medicaid program. If the violation did not
207 concern a wheelchair purchased, leased or repaired under the Medicaid
208 program, the commissioner may reduce or withhold such funding
209 under any future contract with such authorized complex rehabilitation
210 technology supplier or authorized wheelchair dealer for the purchase,
211 lease or repair of a wheelchair, including a complex rehabilitation
212 technology wheelchair, under the Medicaid program.

213 Sec. 5. Subdivision (1) of section 42-330 of the general statutes is
214 repealed and the following is substituted in lieu thereof (*Effective October*
215 *1, 2024*):

216 (1) "Assistive technology device" means any device sold, leased or
217 transferred in this state or to a consumer in this state on or after January
218 1, 1998, that is used or designed to be used to enable or enhance the
219 ability of a person with a disability to communicate, see, hear or achieve
220 mobility, including, but not limited to, (A) [manual or motor-driven
221 wheelchairs and other] assistive devices that enhance a mobility
222 impaired person's ability to achieve mobility, including seating and
223 positioning aids, except for a wheelchair or complex rehabilitation
224 technology wheelchair, as defined in section 1 of this act, (B) telephone
225 communication devices for persons who are hard of hearing and other
226 assistive listening devices that enhance the ability of a person who is
227 hard of hearing to hear or communicate, but not including hearing aids,
228 (C) voice synthesized computer modules, optical scanners, talking
229 software, braille printers and other assistive devices that enhance a sight
230 impaired person's ability to see or communicate, (D) computer
231 equipment with voice output, artificial larynges, voice amplification
232 devices and other alternative and augmentative communication
233 devices, (E) any system of such devices that, as a whole, is itself such a
234 device, (F) any component product of such devices that is itself
235 ordinarily such a device, and (G) any such device used primarily by a

236 dealer, lessor or manufacturer for the purpose of demonstration to the
237 public or to prospective purchasers or lessees. "Assistive technology
238 device" does not include batteries used in or nonessential accessories to
239 any such devices.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>October 1, 2024</i>	New section
Sec. 3	<i>October 1, 2024</i>	17b-4
Sec. 4	<i>October 1, 2024</i>	17b-278j
Sec. 5	<i>October 1, 2024</i>	42-330(1)

HS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Social Services, Dept.	GF - Potential Savings	See Below	See Below
Social Services, Dept.	GF - Potential Revenue Gain	See Below	See Below
Social Services, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill may result in a savings or potential revenue gain to the Department of Social Services (DSS) to the extent that certain authorized complex rehabilitation technology (CRT)¹ wheelchair dealers do not meet timely wheelchair repair requirements as specified in the bill. The bill requires DSS to establish regulations regarding timely wheelchair repair and allows DSS to enforce penalties for not doing so, including, but not limited to, withholding Medicaid funding.

The bill may result in a cost to DSS to the extent that the department needs to hire additional staff to conduct fair hearings to meet the provisions of the bill. For reference, the starting annual salary of a Fair Hearings Officer and Fair Hearings Supervisor is \$80,824 and \$93,567,

¹ CRT includes complex rehabilitation manual and power wheelchairs and accessories, adaptive seating and positioning items and accessories, and other specialized equipment and accessories.

respectively.

The bill may also result in a cost to DSS to the extent that federal law allows DSS to amend the Medicaid state plan to provide Medicaid coverage for annual wheelchair maintenance and any backup equipment. Currently, DSS does not reimburse for such services.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Administrative Services website

OLR Bill Analysis**sSB 308*****AN ACT IMPLEMENTING TASK FORCE RECOMMENDATIONS FOR WHEELCHAIR REPAIR.*****SUMMARY**

This bill requires authorized wheelchair dealers to perform timely repairs on wheelchairs, generally within 10 calendar days, and sets several related requirements. These requirements apply to any company in the state selling or leasing wheelchairs, including complex rehabilitation technology (CRT) wheelchairs, which are specialized, medically necessary manual or power wheelchairs that are individually configured for the user with specialized equipment that require evaluation, configuration, fitting, adjustment, programming, and long-term maintenance and repair services.

The bill requires the Department of Social Services (DSS) to adopt regulations, with the Department of Aging and Disability Services, to establish (1) penalties for violating the bill's requirements on timely repair and (2) standards for CRT (see BACKGROUND). The bill also allows DSS to enforce the bill's timely repair requirements by withholding a violator's Medicaid funding.

The bill removes wheelchairs and CRT wheelchairs from the assistive technology device requirements under a separate state law that the Department of Consumer Protection (DCP) enforces. That law generally requires device manufacturers to repair defects within a certain time period and provide a refund or replacement if the device is sent for repair at least three times, or is out of service for at least 30 days, due to the same defect. This existing law, from which the bill exempts wheelchairs and CRT wheelchairs, sets procedures for returning and repairing purchased and leased devices, requires disclosure before returned devices are resold, allows DCP to adopt implementing

regulations, and allows for court enforcement (CGS §§ 42-330 to 42-344).

The bill also requires the DSS commissioner to provide Medicaid coverage for annual maintenance of a Medicaid recipient's CRT wheelchair and any backup CRT wheelchair the recipient may need during the repair. She must provide this coverage to the extent federal law allows and amend the Medicaid state plan if needed to implement these provisions.

Lastly, the bill prohibits the DSS commissioner from requiring (1) a new prescription to purchase or repair CRT, including a CRT wheelchair, unless the original prescription is more than five years old or (2) prior authorization for timely repair of a CRT wheelchair, if the original prescription was written within the prior five years.

EFFECTIVE DATE: October 1, 2024

TIMELY REPAIR AND RELATED REQUIREMENTS

The bill requires an authorized wheelchair dealer to timely repair a wheelchair it sold or leased in the state. Under the bill, a "wheelchair" is a manual or motorized wheeled device that enhances a person's mobility or positioning and includes a CRT wheelchair. A repair is timely if it is completed as soon as practicable and within 10 calendar days after a consumer request, as long as the consumer makes the wheelchair available and gets any necessary prior approval from an insurer.

The bill applies to consumers who buy or lease a wheelchair, regardless of if the consumer or private or public health insurance funds it. The bill requires authorized wheelchair dealers who sell or lease CRT wheelchairs to provide service and timely repair at a consumer's home upon request.

The bill also requires authorized wheelchair dealers to maintain a phone line for consumer repair requests. The phone line must be accessible each business day and able to record messages. The bill requires dealers to respond to repair requests within one business day after the request and maintain a sufficient supply of parts to timely

repair wheelchairs.

The bill allows authorized wheelchair dealers to assess (1) reasonable fees for timely wheelchair repair when the warranty has expired and (2) an additional surcharge for repairing a wheelchair that is not functional due to abuse, neglect, unauthorized modification, or alteration.

ENFORCEMENT

The bill requires DSS to set penalties in regulations for violating the bill's timely repair requirements. Under the bill, following notice and an opportunity for a hearing under the Uniform Administrative Procedure Act, DSS may reduce or withhold Medicaid funding for any authorized CRT supplier or wheelchair dealer who sells or leases wheelchairs to Medicaid recipients for violating the bill's timely repair requirements, regardless of whether the violation involved a wheelchair purchased, leased, or repaired under the Medicaid program. For violations involving wheelchairs sold, leased, or repaired outside of the Medicaid program, the bill authorizes the DSS commissioner to reduce or withhold Medicaid funding under any future Medicaid contract for wheelchair purchase, lease, or repair with the supplier or dealer.

BACKGROUND

Complex Rehabilitation Technology (CRT)

CRT includes products classified as durable medical equipment in the Medicare program as of January 1, 2013, that are individually configured and medically necessary for people to meet their specific and unique medical, physical, and functional needs and capacities for basic and instrumental activities of daily living. CRT includes complex rehabilitation manual and power wheelchairs and accessories, adaptive seating and positioning items and accessories, and other specialized equipment and accessories (e.g., standing frames and gait trainers).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 20 Nay 2 (03/19/2024)