
OLR Bill Analysis

sSB 308 (File 311, as amended by Senate "A")*

AN ACT IMPLEMENTING TASK FORCE RECOMMENDATIONS FOR WHEELCHAIR REPAIR.

SUMMARY

This bill (1) sets requirements related to wheelchair repair for authorized wheelchair dealers, (2) restricts prior authorization and new prescription requirements for customized wheelchair repair under Medicaid and complex rehabilitation technology (CRT) wheelchair repair under private insurance plans, and (3) establishes a CRT and Wheelchair Repair Advisory Council to monitor wheelchair repair and make recommendations on improving repair times.

Under the bill, wheelchairs are manual or motorized wheeled devices that enhance the mobility or positioning of an individual with a disability. Wheelchairs include CRT wheelchairs, which are specialized, medically necessary manual or powered wheelchairs that are individually configured for the user with specialized equipment that requires evaluation, configuration, fitting, adjustment, programming, and long-term maintenance and repair services.

*Senate Amendment "A" replaces the underlying bill and (1) delays and modifies its timely repair requirements; (2) moves up the bill's effective date from October 1, 2024, to July 1, 2024; (3) eliminates its provisions (a) requiring the Department of Social Services (DSS) to establish penalties for violating the timely repair requirements and enforce them by withholding Medicaid funds, (b) removing wheelchairs from the assistive technology requirements under a separate law that the Department of Consumer Protection (DCP) enforces, and (c) requiring DSS to provide Medicaid coverage for CRT wheelchair annual maintenance; and (4) adds provisions on (a) restrictions on prescriptions and prior authorizations in private insurance and (b) the CRT and Wheelchair Repair Advisory Council.

EFFECTIVE DATE: July 1, 2024

§§ 1 & 2 — TIMELY REPAIR REQUIREMENTS

The bill requires authorized wheelchair dealers (i.e., any company doing business in the state selling or leasing wheelchairs) to timely repair wheelchairs the dealer sells or leases in the state, which means as soon as practicable but not later than 10 business days after the date a consumer requests a repair. This requirement applies so long as the consumer makes the wheelchair available and any prior authorization required by an insurer has been acquired. Any time spent waiting for prior authorization, or for delivery of needed parts ordered for the repair, does not count towards the 10 day limit.

Dealers who sell or lease CRT wheelchairs must provide a timely repair at a consumer's home upon request. A consumer is a person who purchases or leases a wheelchair, irrespective of whether it is funded by the consumer or privately or publicly funded health insurance.

Repair Requests

The bill also requires authorized wheelchair dealers to maintain an email address and phonenumber for consumer repair requests that are available each business day to receive and record messages. The bill requires dealers to (1) respond to a repair request no later than one business day after the request and (2) order parts no later than three business days after assessing the need for a repair or receiving prior authorization from an insurer for the repair.

Repair Complaints

The bill requires the Office of the Healthcare Advocate (OHA) to maintain a phone number and email address, beginning July 1, 2024, to receive and record complaints on timely repair issues. OHA must post the phone number and email address on the OHA and DCP websites and maintain them in consultation with DCP. The bill requires OHA to annually report the number of complaints received and recorded to the Human Services, Insurance and Real Estate, and General Law committees, starting by January 1, 2025.

Reporting Requirement

The bill requires dealers that contract with DSS to sell or lease wheelchairs to Medicaid recipients to report on repairs to DSS and the CRT and Wheelchair Repair Advisory Council established under the bill (see below). Authorized wheelchair dealers must submit this report annually starting by December 31, 2024. The bill requires the report to include at least minimum, maximum, and average times from the date and time of a repair request for the dealer to take the following actions:

1. respond;
2. conduct a repair assessment in the home or other community location, remotely, or at a repair facility;
3. request any needed prior authorization from DSS and receive DSS's decision on the request;
4. order any needed parts; and
5. complete repairs in the home or other community location, remotely, or at a repair facility.

§§ 3, 5 & 6 — PRIOR AUTHORIZATION AND PRESCRIPTIONS

Medicaid Requirements

Current law requires Medicaid to cover customized wheelchairs only when a standard wheelchair does not meet a person's needs as determined by DSS. The bill additionally limits this coverage to medically necessary customized wheelchairs (see BACKGROUND), generally conforming to current practice. Current law does not define customized wheelchairs, but, under the bill, these include CRT wheelchairs and any wheelchair built, designed, or outfitted for a Medicaid recipient with a physical disability who is unable to achieve maximum mobility with a standard wheelchair. Existing law, unchanged by the bill, authorizes DSS to subject wheelchair repairs and part replacements to the department's review, and requires refurbished wheelchairs, parts, and components to be used whenever practicable.

Regardless of these provisions, starting July 1, 2024, the bill prohibits

DSS from requiring a new prescription or prior authorization for medically necessary repair of a customized wheelchair unless the original prescription for the wheelchair is more than five years old. The bill requires the DSS commissioner to seek any needed federal approval to implement these provisions, including amending the Medicaid state plan or applying for a Medicaid waiver.

The bill also makes technical and conforming changes (e.g., requiring the DSS commissioner to post notice of her intent to adopt regulations on the eRegulations System rather than in the Connecticut Law Journal).

Private Insurance Requirements

The bill similarly prohibits private health insurance policies from requiring a new prescription or prior authorization for a medically necessary repair or replacement of a CRT wheelchair unless the original prescription is over five years old. This applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut on or after January 1, 2025, that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. In this case, “medically necessary” means a policy holder’s health care provider’s written determination that the repair or replacement is needed to preserve the policy holder’s health.

The bill requires the Insurance Commissioner to adopt regulations to implement these provisions.

§ 4 — CRT AND WHEELCHAIR REPAIR ADVISORY COUNCIL

The bill establishes the CRT and Wheelchair Repair Advisory Council to monitor repairs of wheelchairs and make recommendations on improving repair times. In addition to appointed members described in the table below, the council includes the Department of Aging and Disability Services (ADS), DCP, DSS, and Insurance Department commissioners, or their designees, and the Healthcare Advocate, or his designee.

Table: Advisory Council Appointed Members

<i>Appointing Authority</i>	<i>Member</i>
Human Services Committee chairpersons (2)	<ul style="list-style-type: none"> • One consumer who uses a CRT wheelchair purchased, leased, or repaired under the Medicaid program • One Disability Rights Connecticut representative
Human Services Committee ranking members (2)	<ul style="list-style-type: none"> • One consumer who uses a CRT wheelchair purchased, leased, or repaired under a private insurance policy • One authorized wheelchair dealer
General Law Committee chairpersons (2)	<ul style="list-style-type: none"> • Two physical disability organization representatives
General Law Committee ranking members (2)	<ul style="list-style-type: none"> • Two consumers who privately pay for CRT wheelchairs

The bill requires appointing authorities to make initial appointments by August 1, 2024, and fill any vacancy. Appointed members may be legislators. The bill requires the administrative staff of the Human Services Committee to serve as the advisory council's administrative staff.

The bill requires the advisory council to meet at least monthly. The advisory council has two chairpersons: the ADS commissioner or her designee and one chairperson chosen by a majority of the advisory council's members. The chairpersons must schedule the first meeting by September 1, 2024.

Under the bill, the advisory council must report its findings and recommendations annually, starting by January 1, 2025, to the Aging, General Law, Human Services, and Insurance and Real Estate committees.

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) (CGS § 17b-278j).

Medically Necessary Medicaid Services

By law, for DSS’s medical assistance programs (e.g., Medicaid), “medically necessary” health services are those required to prevent, identify, diagnose, treat, rehabilitate, or ameliorate a person’s medical condition, or its effects, to attain or maintain achievable health and independent functioning. Medically necessary services must be:

1. consistent with generally accepted medical practice standards;
2. clinically appropriate in terms of type, frequency, timing, site, extent, and duration, and considered effective for the person’s illness, injury, or disease;
3. not primarily for the person’s or health care provider’s convenience;
4. not more costly than an alternative service that is at least as likely to produce equivalent therapeutic or diagnostic results for the illness, injury, or disease; and
5. based on an assessment of the person and his or her medical condition (CGS § 17b-259b).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 20 Nay 2 (03/19/2024)