



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE
HEARINGS

To: Office of the Secretary of State via regulations.sots@ct.gov

From: Lara Stauning, Staff Attorney
Department of Social Services

Date: January 29, 2014

RE: Proposed Regulation Number: 13-01, Requirements for Payment for Customized
Wheelchairs

Effective Date: March 1, 2014

In accordance with sections 17b-3, 17b-10, 17b-262, and 17b-278i of the Connecticut General Statutes, as amended by section 85 of Public Act 13-234, the Department of Social Services hereby electronically submits the above-referenced operational policy for posting online.

On and after the above referenced effective date, the Department shall implement and operate under the said policy while it is in the process of adopting it in regulation form pursuant to Chapter 54 of the Connecticut General Statutes.

The Department shall publish the Notice of Intent to adopt regulations in the Connecticut Law Journal on February 11, 2014.

R-39 Rev. 02/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION

Requirements for Payment for Customized Wheelchairs¹

Section 1. The Regulations of Connecticut State Agencies are amended by adding new sections 17b-262-1019 to 17b-262-1039, inclusive, as follows:

(NEW) Sec. 17b-262-1019. Scope

Pursuant to the authority of sections 17b-3, 17b-262 and 17b-278i of the Connecticut General Statutes, as amended by section 85 of Public Act 13-234, sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies set forth the Department of Social Services' requirements for payment to durable medical equipment providers for customized wheelchairs for Medicaid members living in nursing facilities, ICFs/IID or at home.

(NEW) Sec. 17b-262-1020. Definitions

As used in sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Advanced practice registered nurse" or "APRN" means an individual licensed pursuant to section 20-94a of the Connecticut General Statutes and acting with the APRN's scope of practice under state law;
- (2) "Commissioner" means the Commissioner of Social Services or the commissioner's designee;
- (3) "Chronic disease hospital" has the same meaning as provided in section 19a-550 of the Connecticut General Statutes;
- (4) "Customized seating system" means a wheelchair seating system that is individually made for a member and designed to manage one or more of the member's documented medical conditions based on a detailed assessment of the member and uses a plaster or other physical model, a computer generated model or detailed measurements to create:

¹ **NOTE: Draft Regulation / Operational Policy** – To be posted to the DSS website on January 31, 2014 (and notice of which is expected to be published in the Connecticut Law Journal on February 11, 2014). Pursuant to section 17b-278i of the Connecticut General Statutes, as amended by section 85 of Public Act 13-234, effective March 1, 2014, DSS is implementing these draft regulations as binding policies and procedures pending final adoption of the regulations.

- (A) A molded, contoured or carved custom-fabricated seating system that is incorporated into the wheelchair base;
 - (B) A customized seating system made from multiple pre-fabricated components or a combination of custom fabricated materials and pre-fabricated components that have been attached to the wheelchair base or incorporated into a wheelchair seat or back in a manner that makes the wheelchair not easily readapted for use by another user; or
 - (C) A combination of systems described in subparagraphs (A) and (B) of this subdivision;
- (5) “Customized wheelchair” means a wheelchair that (A) is individually constructed for a member and includes a customized seating system and any other specifically-selected seating, mobility and positional components that are medically necessary to manage one or more of the member’s medical condition and (B) is not a standard wheelchair or a standard wheelchair with attached seating components;
 - (6) “Department” means the Department of Social Services or its agent;
 - (7) “Durable medical equipment” or “DME” has the same meaning as provided in section 17b-262-673 of the Regulations of Connecticut State Agencies;
 - (8) “Durable medical equipment provider” or “DME provider” means a vendor or supplier of DME enrolled in Medicaid;
 - (9) “Facilitator” means the member of the IDT who facilitates the IDT’s assessment process and was selected pursuant to section 17b-262-1024(c) of the Regulations of Connecticut State Agencies;
 - (10) “Facility” means the nursing facility or the ICF/IID where a member lives;
 - (11) “Facility’s staff” means an individual employed by or under contract with the facility to provide professional services at the facility within the individual’s scope of practice under state law;
 - (12) “Functional mobility” means moving from one position or place to another;
 - (13) “Home” means the member’s place of residence, including, but not limited to, a house, apartment, boarding house, community living arrangement or residential care home. “Home” does not include an institution such as a hospital, chronic disease hospital, nursing facility, ICF/IID or any other institution that is paid an all-inclusive rate directly by Medicaid for a member’s care;
 - (14) “Hospital” means a “short-term hospital” as defined in section 19-13-D1 of the Regulations of Connecticut State Agencies;
 - (15) “Intermediate care facility for individuals with intellectual disabilities” or “ICF/IID” means a residential facility for individuals with intellectual disabilities licensed pursuant to section 17a-227 of the Connecticut General Statutes and certified and enrolled to participate in Medicaid as an intermediate care facility for individuals with intellectual disabilities pursuant to 42 CFR 442.101, as amended from time to time;

- (16) “Interdisciplinary team” or “IDT” means the team described in section 17b-262-1024 of the Regulations of Connecticut State Agencies that assesses a member who lives in a facility to determine if a customized wheelchair is medically necessary;
- (17) “Licensed practical nurse” means an individual licensed pursuant to sections 20-96 or 20-97 of the Connecticut General Statutes and acting within the licensed practical nurse’s scope of practice under state law;
- (18) “Manage” means: (A) To accommodate, correct or improve a member’s medical condition or (B) to slow down or prevent deterioration of a member’s medical condition;
- (19) “Medicaid” means the program operated by the department pursuant to section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act;
- (20) “Medical necessity” or “medically necessary” has the same meaning as provided in section 17b-259b of the Connecticut General Statutes;
- (21) “Member” means an individual eligible to receive goods and services under Medicaid;
- (22) “Mobility-related activities of daily living” means hygiene, dressing, bowel and bladder management, grooming, eating, feeding, functional mobility, health management and meal preparation;
- (23) “Neurologist” means a physician who specializes in evaluation and treatment of disease or impaired function of the brain, spinal cord, peripheral nerves, muscles and autonomic nervous system and blood vessels relating to such structures and has satisfactorily completed a residency or fellowship in neurology and either (A) is board-certified as a neurologist by the American Board of Psychiatry and Neurology or (B) has training and experience equivalent to such board certification, as determined by the department;
- (24) “Nursing facility” has the same meaning as provided in 42 USC 1396r(a), as amended from time to time, is licensed pursuant to section 19-13-D8t of the Regulations of Connecticut State Agencies as a chronic and convalescent home or rest home with nursing supervision and is enrolled with the department as a nursing facility;
- (25) “Occupational therapist” means an individual licensed as an occupational therapist pursuant to sections 20-74b or 20-74c of the Connecticut General Statutes and acting within the occupational therapist’s scope of practice under state law;
- (26) “Orthopedic surgeon” means a physician who specializes in the preservation, investigation and restoration of the form and function of the extremities, spine and associated structures and has satisfactorily completed a residency or fellowship in orthopedic surgery and either (A) is board-certified by the American Board of Orthopedic Surgery or (B) has training and experience equivalent to such board certification, as determined by the department;
- (27) “Physical therapist” means an individual licensed as a physical therapist pursuant to sections 20-70 or 20-71 of the Connecticut General Statutes and acting within the physical therapist’s scope of practice under state law;

- (28) “Physician” means an individual licensed pursuant to section 20-13 of the Connecticut General Statutes and acting within the physician’s scope of practice under state law;
- (29) “Physician assistant” means an individual licensed pursuant to section 20-12b of the Connecticut General Statutes and acting within the physician assistant’s scope of practice under state law;
- (30) “Physiatrist” means a physician who specializes in the field of physical medicine and rehabilitation and has satisfactorily completed a residency or fellowship in physical medicine and rehabilitation and either (A) is board-certified by the American Board of Physical Medicine and Rehabilitation or (B) has training and experience equivalent to such board certification, as determined by the department;
- (31) “Plan of care” means the written plan that describes the member’s needs and the services necessary to meet such needs and complies with all applicable state and federal requirements, including, but not limited to (A) for members living in a nursing facility, 42 USC 1396r(b) and section 19-13-D8t of the Regulations of Connecticut State Agencies or (B) for members living in an ICF/IID, 42 CFR 456.380, as amended from time to time;
- (32) “Primary care provider” means a physician, APRN or physician assistant who is enrolled as a Medicaid provider and provides general pediatric, internal medicine, family practice or geriatric care to a member at the point of first contact and takes continuing responsibility for providing and coordinating the member’s care;
- (33) “Prior authorization” or “PA” means the department’s approval for the provision of a service or the delivery of goods before the provider performs the service or delivers the goods;
- (34) “Refurbished” means repairing, restoring and sanitizing, as needed, a previously used customized wheelchair or a previously used part or component used in, attached to or added to a customized wheelchair in order to be made available for a new user;
- (35) “Registered nurse” means an individual licensed pursuant to sections 20-93 or 20-94 of the Connecticut General Statutes and acting within the registered nurse’s scope of practice under state law;
- (36) “Respiratory care practitioner” means an individual licensed pursuant to section 20-162o of the Connecticut General Statutes and acting within the respiratory care practitioner’s scope of practice under state law;
- (37) “Speech and language pathologist” means an individual licensed pursuant to section 20-411 of the Connecticut General Statutes and acting within the speech and language pathologist’s scope of practice under state law;
- (38) “Standard wheelchair” means a wheelchair that (A) is comprised of commercially available components; (B) is constructed to withstand normal daily use; and (C) has standard wheelchair dimensions and features as determined in writing by the department in a policy guidance document posted on its website or otherwise made available to providers;
- (39) “Standard wheelchair with attached seating components” means a standard wheelchair where commercially available seating, mobility or positional components have been placed, inserted

or attached to the wheelchair frame in any manner that does not result in making a customized wheelchair, as determined by the department; and

- (40) “Usual and customary charge” means the amount that a provider charges for a service or procedure in the majority of non-Medicaid cases, excluding token charges for charity patients and other exceptional charges. If the provider varies the charges so that no one amount is charged in the majority of cases, “usual and customary charge” means the median charge.

(NEW) Sec. 17b-262-1021. Applicability of Regulations

- (a) Sections 17b-262-1019 to 17b-262-1029, inclusive, and sections 17b-262-1032 to 17b-262-1038, inclusive, of the Regulations of Connecticut State Agencies apply to a customized wheelchair requested for a member living in a facility. In considering such request, the department shall consider all services available or required to be available to the member in the facility pursuant to applicable state and federal statutes and regulations.
- (b) Sections 17b-262-1019 to 17b-262-1022, inclusive, section 17b-262-1030 and sections 17b-262-1032 to 17b-262-1038, inclusive, of the Regulations of Connecticut State Agencies apply to a customized wheelchair requested for a member living at home. In considering such request, the department shall consider all services available or required to be available to the member at home pursuant to applicable state and federal statutes and regulations.
- (c) Sections 17b-262-1019 to 17b-262-1022, inclusive; sections 17b-262-1024 to 17b-262-1025, inclusive; subsections (a) and (f) of section 17b-262-1030; and sections 17b-262-1031 to 17b-262-1038, inclusive, of the Regulations of Connecticut State Agencies apply to a customized wheelchair requested for a member who lives in a facility but will soon be discharged home. If the customized wheelchair is delivered before the member is discharged from the facility, section 17b-262-1026 of the Regulations of Connecticut State Agencies also applies to such request. In considering such request, the department shall consider all services available or required to be available to the member at home pursuant to applicable state and federal statutes and regulations.

(NEW) Sec. 17b-262-1022. Need for a Customized Wheelchair – Members Living in a Facility and Members Living at Home

The department shall pay for a customized wheelchair only when all of the following conditions are met and documented:

- (1) The member’s overall medical condition precludes the use of a standard wheelchair or a standard wheelchair with attached seating components because such wheelchairs are unable to manage one or more of the member’s documented medical conditions;
- (2) The customized wheelchair, including all components thereof, is medically necessary to manage one or more of the member’s documented medical conditions and is the most cost effective intervention to achieve equivalent therapeutic results;
- (3) The customized wheelchair or any component thereof is not primarily designed to improve the convenience of the member or health care providers (including the facility, if applicable); and

- (4) The request for a customized wheelchair complies with all applicable requirements, including, but not limited to sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies.

(NEW) Sec. 17b-262-1023. Summary of the Facility’s Responsibilities – Members Living in a Facility

The facility shall:

- (1) Identify each member living in the facility who may need a customized wheelchair based on assessments of the member required by state and federal statutes and regulations, observations by the facility’s staff and any other relevant information;
- (2) When applicable, select and convene the IDT pursuant to section 17b-262-1024 of the Regulations of Connecticut State Agencies, which shall assess a member identified pursuant to subdivision (1) of this section in accordance with section 17b-262-1025 of the Regulations of Connecticut State Agencies;
- (3) Review the IDT’s assessment and, if the IDT recommends a customized wheelchair for a member, arrange for a DME provider to conduct any additional needed assessments and request prior authorization for the customized wheelchair pursuant to section 17b-262-1032 of the Regulations of Connecticut State Agencies;
- (4) Train the facility’s staff regarding the member’s use of the customized wheelchair pursuant to section 17b-262-1026 of the Regulations of Connecticut State Agencies; and
- (5) Develop and implement a monitoring program, including a customized wheelchair positioning plan, quarterly reviews and annual reviews pursuant to sections 17b-262-1027 to 17b-262-1029, inclusive, of the Regulations of Connecticut State Agencies.

(NEW) Sec. 17b-262-1024. Composition of the Interdisciplinary Team – Members Living in a Facility

- (a) The facility shall select the members of the IDT, including, at a minimum:
 - (1) An occupational therapist or physical therapist who is a member of the facility’s staff;
 - (2) The member’s primary care provider; and
 - (3) A registered nurse or licensed practical nurse who is a member of the facility’s staff.
- (b) In addition to the IDT members required by subsection (a) of this section, the facility may also select one or more additional members of the IDT as appropriate to evaluate the member for a customized wheelchair, including:
 - (1) Whenever possible, the member, or if the member is unable to participate in the IDT, the member’s authorized representative or any family members selected by the member;
 - (2) A speech and language pathologist;

- (3) A respiratory care practitioner;
 - (4) Other members of the facility's staff, such as nurses or nurse's aides;
 - (5) An orthopedic surgeon, physiatrist or neurologist; or
 - (6) Any other licensed or certified health care professional with expertise relevant to evaluating a member for a customized wheelchair who is familiar with the member's condition and acts within the professional's scope of practice under state law.
- (c) The facility shall select the facilitator of the IDT, who shall be an occupational therapist or a physical therapist and shall be a member of the facility's staff. The facilitator shall:
- (1) Coordinate the IDT's assessments and determine if any additional evaluations are necessary to assess a member for a customized wheelchair;
 - (2) Coordinate and attend all IDT meetings;
 - (3) Collect and maintain all IDT documents and ensure that the IDT fully documents its assessment of the member for a customized wheelchair;
 - (4) Complete and submit to the DME provider, in consultation with the full IDT, assessment documents necessary for the DME provider to submit a prior authorization request for a customized wheelchair, if applicable;
 - (5) Be the facility's primary contact with the department and any DME provider for a request for a customized wheelchair; and
 - (6) Promptly inform the DME provider and the department in writing, in a manner specified by the department, about any change in the member's medical status or condition that would potentially require a change in specifications or a cancellation of a requested customized wheelchair.
- (d) All members of the IDT shall be fiscally, administratively and contractually independent from the DME provider that requests a customized wheelchair for a member and from the DME provider's affiliates. No member of the IDT may receive any form of compensation, directly or indirectly from such DME provider or its affiliates.

(NEW) Sec. 17b-262-1025. IDT Assessment Requirements – Members Living in a Facility

- (a) When the facility identifies a member who may need a customized wheelchair, the facility shall refer the member to the IDT for an assessment.
- (b) The IDT's assessment of the member shall include at least the following components, each documented in a form and manner specified by the department:
 - (1) Consideration and evaluation of clinically appropriate interventions and devices other than a customized wheelchair to manage the member's documented medical conditions, including, but not limited to, standard wheelchairs, standard wheelchairs

with attached seating components and other relevant categories of DME;

- (2) An evaluation by the facilitator, in consultation with the facility's nursing staff, completed or updated not more than ninety days before the department receives a prior authorization request for the customized wheelchair;
 - (3) A medical evaluation by the member's primary care provider, completed or updated not more than sixty days before the department receives a prior authorization request for the customized wheelchair, either a specific evaluation for a customized wheelchair or the most recent evaluation, such as the most recent history and physical report and subsequent progress notes; and
 - (4) A nursing evaluation by the facility's nursing staff with a detailed description of the member's condition, completed or updated not more than sixty days before the department receives a prior authorization request for the customized wheelchair.
- (c) The medical and nursing evaluations described in subdivisions (3) and (4) of subsection (b) of this section shall be legible and, when considered together, shall, at a minimum:
- (1) Describe the member's overall condition, including whether the member is stable, improving or deteriorating;
 - (2) Document all of the member's diagnosed medical conditions; and
 - (3) Describe and document all of the member's medical conditions for which a customized wheelchair is medically necessary, including a description of the member's ability to ambulate, sit, stand and transfer.
- (d) The IDT shall complete its initial clinical assessment of the member's potential need for a customized wheelchair pursuant to subsection (b) of this section before the IDT or the facility contacts any DME provider regarding a request for a customized wheelchair for the member. No DME provider may be involved in the IDT's or the facility's initial clinical assessments of a member's potential need for a customized wheelchair.
- (e) If requested by the facilitator, the IDT's assessment may also include additional evaluations necessary for a complete assessment of the member for a customized wheelchair, including, but not limited to, an evaluation by a physiatrist, orthopedic surgeon or neurologist; x-rays; or a quantitative or qualitative evaluation of swallowing.
- (f) Each member of the IDT may complete the assessment at different times than other members of the IDT. The IDT may complete the assessment over a period of time in order to observe the member engaged in various activities throughout the day.
- (g) If the IDT's assessment determines that a customized wheelchair is medically necessary for a member, the IDT shall:
- (1) Establish and document clinical priorities for the requested customized wheelchair to manage the member's documented medical conditions;
 - (2) Explain why each alternative intervention and device other than a customized

wheelchair, including the essential components thereof, is not at least as likely to produce equivalent results in managing the member's documented medical conditions as a customized wheelchair; and

- (3) Work with a DME provider to determine and outline, based on the IDT's assessment, recommended specifications for the requested customized wheelchair.
- (h) The department, where necessary to review a PA request for a customized wheelchair, may:
- (1) Observe any portion of the IDT's assessment or a DME provider's assessment;
 - (2) Obtain copies of any documents related to assessments for a member for a customized wheelchair in the possession of the IDT, the facility or the DME provider; or
 - (3) Require the facility to (A) add one or more components to the IDT's assessment (such as an evaluation described in subsection (e) of this section) or (B) arrange for one or more consultations from an occupational therapist, physical therapist or other licensed health care professional or entity with demonstrated expertise in seating and mobility, as determined by the department in a policy document posted on its website or otherwise made available to providers.

(NEW) Sec. 17b-262-1026. Delivery of the Customized Wheelchair and Training the Facility's Direct Care Staff – Members Living in a Facility

- (a) Upon delivery, included in the cost of the customized wheelchair, the DME provider shall:
 - (1) Together with the facilitator or another occupational therapist or physical therapist who is a member of the facility's staff, fit and adjust the customized wheelchair for the member to meet the member's needs; and
 - (2) Assist in teaching and training the member and the facility's staff on the proper use and care of the customized wheelchair.
- (b) The facility shall ensure that qualified personnel, such as an occupational therapist or physical therapist who is a member of the facility's staff or other licensed therapy staff acting under such therapist's supervision, train the facility's direct care staff, including nurses and nurse's aides, in the proper use and care of the customized wheelchair, beginning as soon as possible and not more than seven days after the DME provider delivers the customized wheelchair.

(NEW) Sec. 17b-262-1027. Facility's Monitoring Program – Members Living in a Facility

The facility shall establish a monitoring program incorporated into the member's plan of care to ensure the customized wheelchair continues to meet the member's medical needs. Such plan shall be signed by the member's primary care provider, the charge nurse in the facility's unit where the member lives and the facilitator or another physical therapist or occupational therapist who is a member of the facility's staff. The monitoring program includes, but is not limited to, the customized wheelchair positioning plan pursuant to section 17b-262-1028 of the Regulations of Connecticut State Agencies and the quarterly and annual reviews pursuant to section 17b-262-1029 of the Regulations of Connecticut State Agencies.

(NEW) Sec. 17b-262-1028. Customized Wheelchair Positioning Plan – Members Living in a Facility

- (a) Not later than fourteen days after the DME provider delivers the customized wheelchair, the facility shall establish and implement a customized wheelchair positioning plan to optimize the use of the customized wheelchair to manage the member's medical conditions and minimize any potential adverse effects. The facility's nursing and therapy staff shall jointly develop and sign the customized wheelchair positioning plan. The charge nurses in the facility's unit where the member lives and the facilitator or another physical therapist or occupational therapist who is a member of the facility's staff shall supervise the facility's compliance with the customized wheelchair positioning plan.
- (b) The customized wheelchair positioning plan shall describe a schedule for the member to be seated, repositioned or removed from the customized wheelchair and positioned on other equipment or surfaces, including:
 - (1) How and when repositioning should occur;
 - (2) When the member should be transferred from bed to the customized wheelchair;
 - (3) When the member should get out of the customized wheelchair; and
 - (4) Any other necessary information on the member's use of the customized wheelchair.
- (c) In consultation with the member's primary care provider, the facility shall implement the customized wheelchair positioning plan and shall modify such plan whenever necessary to meet the member's needs, including incorporating any relevant changes to the member's plan of care into the customized wheelchair positioning plan.

(NEW) Sec. 17b-262-1029. Quarterly and Annual Reviews – Members Living in a Facility

- (a) **Quarterly Review.** A physical therapist or occupational therapist who is a member of the facility's staff shall write a review, which shall be incorporated into or attached to the customized wheelchair positioning plan not less than every three months and whenever the facility identifies a problem with the member's use of the customized wheelchair. Such review shall address:
 - (1) Health issues related to the member's use of the customized wheelchair;
 - (2) The facility's compliance with the customized wheelchair positioning plan;
 - (3) Whether the customized wheelchair continues to meet the member's needs; and
 - (4) Any medically necessary modifications to the customized wheelchair or the customized wheelchair positioning plan.
- (b) **Annual Review.** Not less than once every twelve months, the IDT, including all participants specified in section 17b-262-1024(a) of the Regulations of Connecticut State Agencies, shall reassess the member to determine if the customized wheelchair continues to meet the member's needs. Such review shall also comply with subsection (a) of this section.

- (c) If a quarterly or annual review described in this section identifies any problems with a member's use of the customized wheelchair, the facility, in consultation with the member's primary care provider, shall arrange for any medically necessary evaluations or services, including recommending modifications or additions to the customized wheelchair.

(NEW) Sec. 17b-262-1030. Requirements for Customized Wheelchairs for Members Living at Home

- (a) A customized wheelchair provided to a member living at home shall (1) comply with section 17b-262-1022 of the Regulations of Connecticut State Agencies, (2) be medically necessary to manage one or more of the member's documented medical conditions and (3) be suitable for use in the member's home. In addition, the customized wheelchair may also be designed to help enable the member to continue living at home, including restoring or facilitating participation in the member's usual mobility-related activities of daily living.
- (b) Before contacting any DME provider regarding a customized wheelchair for a member, a physical therapist or occupational therapist with experience in seating, mobility and customized wheelchairs, in consultation with the member, the member's family and caretakers, shall determine if a customized wheelchair is medically necessary to manage one or more of the member's documented medical conditions. Specifically, such physical therapist or occupational therapist shall:
 - (1) (A) Gather all relevant information and consider and attempt clinically appropriate options other than a customized wheelchair to manage the member's documented medical conditions, including, but not limited to standard wheelchairs and standard wheelchairs with attached seating components and (B) if recommending a customized wheelchair, establish clinical and functional priorities for the customized wheelchair;
 - (2) Together with the therapist's employer, if any, be fiscally, administratively and contractually independent from the DME provider that requests a wheelchair for the member and the DME provider's affiliates and shall not receive any form of compensation, directly or indirectly, from such DME provider or its affiliates; and
 - (3) Recommend to the member or the member's family or caretakers to request any evaluations necessary for a complete assessment of the member for a customized wheelchair, including, but not limited to, an evaluation by a speech and language pathologist, physiatrist, orthopedic surgeon or neurologist; x-rays; or a quantitative or qualitative evaluation of swallowing.
- (c) After making the determination described in subsection (b) of this section, such physical therapist or occupational therapist and a DME provider shall evaluate the member for a customized wheelchair in person and at the same time, completed or updated not more than ninety days before the DME provider submits a PA request for the customized wheelchair to the department. The DME provider's staff performing the evaluation shall have sufficient training, certification or experience in customized wheelchairs or other similar assistive technology devices, as determined by the department in a policy document posted on its website or otherwise made available to providers. Such evaluation shall explain the reasons for the recommended customized wheelchair specifications and shall include:

- (1) An objective evaluation and a comparison of DME options to establish the most clinically effective intervention or device for the member, including trials and simulations of standard wheelchairs, standard wheelchairs with attached seating components, customized wheelchairs and other clinically appropriate DME categories;
 - (2) The physical therapist or occupational therapist's description of (A) the member's medical conditions for which a customized wheelchair is medically necessary and (B) the member's ability to ambulate, sit, stand and transfer; and
 - (3) The DME provider's in-person evaluation of the member's home, in the presence of the member or the member's caretaker, to ensure the home is safe and accessible for full use of the requested customized wheelchair. The home evaluation may occur at a different time than the evaluation pursuant to subdivision (1) of this subsection.
- (d) The DME provider shall attach a copy of a medical evaluation by the member's primary care provider to its PA request for a customized wheelchair, completed or updated not more than 180 days before the DME provider submits such PA request, either a specific evaluation for a customized wheelchair or any other evaluation. Such evaluation shall be legible and shall, at a minimum:
- (1) Describe the member's overall condition, including whether the member is stable, improving or deteriorating; and
 - (2) Document all of the member's diagnosed medical conditions.
- (e) The department, where necessary to review a PA request for a customized wheelchair, may:
- (1) Observe any portion of the determination described in subsection (b) of this section or the evaluation described in subsection (c) of this section or obtain copies of any documents related thereto; or
 - (2) Require additional components of the evaluation described in subsection (c) of this section or require one or more consultations from an occupational therapist, physical therapist or other licensed health care professional.
- (f) Upon delivery, included in the cost of the customized wheelchair, the DME provider shall:
- (1) Together with an occupational therapist or physical therapist, fit and adjust the customized wheelchair for the member to meet the member's needs; and
 - (2) Assist in teaching and training the member, the member's family and other caregivers, on the proper use and care of the customized wheelchair.
- (g) If it is medically necessary, the department may authorize a loaner or a rental wheelchair, for a period not to exceed three months, or longer as determined by the department on a case-by-case basis, pending the delivery of a customized wheelchair to a member who lives at home.

(NEW) Sec. 17b-262-1031. Requirements for Customized Wheelchairs for Members Living in a Facility Who Will Soon Be Discharged Home

- (a) If a member living in a facility will soon be discharged home, the department, in its sole discretion, may categorize a request for a customized wheelchair for such member as being pursuant to this section, provided that such request complies with this section and subsection (c) of section 17b-262-1021 of the Regulations of Connecticut State Agencies.
- (b) The facility shall prepare and approve an active, legible and written discharge plan for the member to return home. The facility shall prepare such plan in compliance with all applicable requirements, including, if applicable, 42 CFR 483.12 and 42 CFR 483.20, each as amended from time to time, that:
 - (1) Is approved by the member's primary care provider;
 - (2) Includes an evaluation of the member's home for accessibility and safety, including, but not limited to, the ability to maneuver the customized wheelchair in and around the home;
 - (3) Provides for the client to return home at a set date not more than 120 days after the department receives the prior authorization request for such customized wheelchair or longer, as determined by the department on a case-by-case basis;
 - (4) Demonstrates that systems and supports will be in place to maintain the member's safety and well-being at home, including the member's ability to perform mobility-related activities of daily living;
 - (5) Includes such additional information as required by the department; and
 - (6) Is submitted with the prior authorization request for the customized wheelchair.
- (c) The DME provider shall deliver a customized wheelchair requested pursuant to this section not more than fourteen days before the member is scheduled to be discharged home in accordance with the discharge plan prepared pursuant to subsection (b) of this section, unless the department approves an earlier delivery date, on a case-by-case basis. The department shall not pay for a customized wheelchair authorized pursuant to this section until the member returns home, unless the member cannot be discharged from the facility due to unforeseen circumstances, as determined by the department, in its sole discretion, on a case-by-case basis.

(NEW) Sec. 17b-262-1032. Prior Authorization – Members Living in a Facility and Members Living at Home

- (a) The DME provider shall complete the PA request together with all required documents and shall send it to the department on forms and in a manner specified by the department (which, at the department's discretion, may be in a single consolidated form), which shall include documentation that:
 - (1) The requested customized wheelchair complies with section 17b-262-1022 of the Regulations of Connecticut State Agencies;
 - (2) Describes all clinically appropriate alternative devices or interventions that have been attempted to manage the member's documented medical conditions other than a customized wheelchair, including, but not limited to standard wheelchairs, standard

wheelchairs with attached seating components and other categories of DME; and

- (3) Includes a detailed written order for the requested customized wheelchair reviewed and signed by (A) the member's primary care provider and (B) the facilitator, for a member living in a facility, or the evaluating occupational therapist or physical therapist, for a member living at home.
- (b) As part of the PA request, the DME provider shall document, in a manner specified by the department, that the requested customized wheelchair includes refurbished parts and components to the maximum extent practicable. The department may adjust the prior authorization as necessary to reflect the use of refurbished parts and components.
- (c) The department, in its sole discretion, determines what information is necessary to review and approve a prior authorization request. Prior authorization does not guarantee payment unless all other requirements for payment are met.

(NEW) Sec. 17b-262-1033. Repairs, Modifications and Additions to Customized Wheelchairs – Members Living in a Facility and Members Living at Home

- (a) Minor replacements and repairs to a customized wheelchair, as determined in writing by the department in a policy guidance document posted on its website or otherwise made available to providers, do not require prior authorization. All other replacements and repairs, and all additions and modifications to a customized wheelchair, require prior authorization in accordance with section 17b-262-1032 of the Regulations of Connecticut State Agencies.
- (b) If the cost of requested repairs, modifications or additions to a customized wheelchair exceeds a percentage of its replacement cost, as determined by the department, the item shall be replaced.
- (c) The department shall not pay for servicing, repairs, or replacement of a customized wheelchair or any components thereof unless the DME provider first exhausts all applicable manufacturer's, dealer's and DME provider's warranties.

(NEW) Sec. 17b-262-1034. Provider Participation – Members Living in a Facility and Members Living at Home

- (a) Only a DME provider shall be paid for providing, repairing, modifying or adding to a customized wheelchair for a member. In order to be eligible for payment, each DME provider shall comply with all applicable requirements, including sections 17b-262-522 to 17b-262-533, inclusive, of the Regulations of Connecticut State Agencies and shall remain enrolled as a Medicaid provider pursuant to a valid provider enrollment agreement on file with the department.
- (b) Each DME provider seeking to provide customized wheelchairs to members shall give the department copies of its standard warranties and related documents and shall promptly give the department copies of updated warranty and related documents not later than thirty days after the DME provider makes any changes thereto. Upon request, each DME provider shall give the department copies of applicable manufacturer's warranties for a customized wheelchair and any components thereof that have been requested, ordered or delivered.

(NEW) Sec. 17b-262-1035. Billing Procedures – Members Living in a Facility and Members Living at Home

- (a) DME providers shall submit claims in a form and manner specified by the department that include all information required by the department to process the claims for payment.
- (b) DME providers shall bill at the lowest of:
 - (1) The usual and customary charge;
 - (2) The lowest Medicare rate, unless the department's fee schedule explicitly provides for a fee greater than the applicable Medicare rate;
 - (3) The amount in the applicable fee schedule published by the department;
 - (4) The amount approved in writing by the department as part of a prior authorization; or
 - (5) The lowest price charged or accepted by the provider for the same or substantially similar goods or services, excluding token charges for charity patients, as approved by the department.

(NEW) Sec. 17b-262-1036. Reimbursement for Services – Members Living in a Facility and Members Living at Home

- (a) For members living in a facility, the facility shall provide all services related to the evaluation and use of a customized wheelchair described in section 17b-262-303 (for ICFs/IID) or section 17b-262-705 (for nursing facilities) of the Regulations of Connecticut State Agencies, which are reimbursed through the facility's per diem rate. The department directly pays the applicable provider for medically necessary services related to the evaluation and use of a customized wheelchair only to the extent that the facility is not required to provide the service as part of its Medicaid per diem rate, subject to requirements applicable to such services, including, but not limited to:
 - (1) Services by the member's primary care provider or a consulting physician, other than services provided by a physician acting in the physician's role as a member of the facility's staff;
 - (2) X-ray or other radiology services;
 - (3) A quantitative or qualitative evaluation of swallowing, provided that such evaluation is performed by a practitioner other than a member of the facility's staff; and
 - (4) Medical transportation to services related to the evaluation and use of the customized wheelchair that are paid by the department outside of the facility's per diem rate.
- (b) The DME provider is paid outside the facility's per diem rate for the customized wheelchair, subject to sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies.
- (c) Subject to subsection (f) of this section, payment to a DME provider for a customized

wheelchair or any component thereof includes:

- (1) Initial fittings, evaluations, adjustments and related transportation;
 - (2) Labor, parts, components and materials;
 - (3) Delivery, including all manufacturer's delivery charges, with no additional charges for packing or shipping;
 - (4) Travel to the facility or to the member's home, as applicable, postage and handling, and set-up or installation;
 - (5) Teaching the member, the facility's staff, the member's caregivers and individuals from the member's family, as appropriate, in the proper use and care of the customized wheelchair; and
 - (6) Information given to the facility, IDT or member electronically or over the telephone.
- (d) In a manner specified by the department, each DME provider shall (1) notify the department of returns of customized wheelchairs or any components delivered to a member not later than seven days after receiving the returned item and (2) make all reimbursement adjustments made necessary by such returns not later than thirty days after notifying the department pursuant to subdivision (1) of this subsection, or a longer period as approved by the department.
- (e) Effective March 1, 2014, each customized wheelchair purchased by the department shall remain the department's property after delivery to the member, provided that the member may continue to use the customized wheelchair for as long as it is medically necessary. For wheelchairs purchased by the department and delivered to a member prior to March 1, 2014, a member or the member's authorized representative may donate a customized wheelchair to the department. Each wheelchair donated to the department becomes the department's property, provided that the member may continue to use the customized wheelchair for as long as it is medically necessary. By choosing to use or possess the customized wheelchair, the member is responsible for the use of the customized wheelchair during the entire time that the member uses such wheelchair or keeps such wheelchair in the member's possession, directly or indirectly. The department is not liable for any injuries or damages resulting from the use or possession of a customized wheelchair by any individual or entity other than the department.
- (f) Refurbished customized wheelchairs, including parts and components thereof, shall be used to the maximum extent practicable. The DME provider shall ensure that each customized wheelchair, including any customized wheelchair containing refurbished parts or components, complies with all applicable standards and is in proper condition to meet the member's medical needs. Where necessary to reimburse the DME provider for its costs, as determined by the department on a case-by-case basis, additional labor, travel or delivery fees may be paid to the DME provider for providing customized wheelchairs substantially comprised of refurbished parts or components.

(NEW) Sec. 17b-262-1037. Services Not Covered – Members Living in a Facility and Members Living at Home

(a) The department may pay for a customized wheelchair for a member who, as of the delivery date, is no longer living, is no longer eligible for a customized wheelchair or whose change in medical status or condition makes the customized wheelchair or any components thereof no longer medically necessary for the member, only to the extent that, as determined by the department, on a case-by-case basis:

- (1) The DME provider was not aware of the member's likely or actual death, ineligibility or changed medical status or condition at any time substantially prior to delivery;
- (2) The customized wheelchair, including its parts and components, cannot be reused; and
- (3) On the date the department issued prior authorization, the member was living, eligible for a customized wheelchair and had a medical status and condition that made the requested customized wheelchair medically necessary for the member. The department may void a prior authorization previously granted for a customized wheelchair and take any other action necessary to implement this subsection.

(b) The department shall not pay for:

- (1) The purchase or repair of a customized wheelchair necessitated by the member's inappropriate, willful, or malicious misuse of the customized wheelchair, as determined by the department;
- (2) Repairs and maintenance of a customized wheelchair furnished on a rental basis. The rental fee includes services necessary to maintain the equipment in working order; or
- (3) A customized wheelchair supplied to a member in a hospital or chronic disease hospital, unless the department determines, in its sole discretion, on a case-by-case basis, that the request for the customized wheelchair:
 - (A) Is medically necessary to enable the member to be discharged from the hospital or chronic disease hospital to the member's home or a facility at a set date not later than 120 days after the department receives the prior authorization request for the customized wheelchair;
 - (B) (i) If the member will be discharged to a facility, substantially complies with all requirements contained and referenced in subsection (a) of section 17b-262-1021 of the Regulations of Connecticut State Agencies or (ii) if the member will be discharged home, substantially complies with all requirements contained and referenced in subsection (c) of section 17b-262-1021 of the Regulations of Connecticut State Agencies;
 - (C) If the member will be discharged to a facility, is accompanied by the facility's written acceptance of the member; and
 - (D) Is accompanied by such additional information and documentation as necessary for the department to review the request.

(NEW) Sec. 17b-278-1038. Documentation – Members Living in a Facility and Members

Living at Home

- (a) The DME provider and the facility, if applicable, shall maintain all required documentation in its original form for at least five years or longer in accordance with applicable statutes or regulations, subject to the department's review. If there is a dispute concerning a service or device provided, the DME provider and the facility, if applicable, shall maintain the documentation until the end of the dispute, five years or the length of time required by statute or regulation, whichever is longest.
- (b) The department may disallow and recover any amounts paid to the DME provider for which required documentation is not maintained and not provided to the department upon request.
- (c) The department may audit all relevant records and documents and may take any other quality assurance measures necessary to assure compliance with all statutory and regulatory requirements.
- (d) Subject to the department's review, the facility shall maintain the IDT's evaluation on file in its original form, together with all supporting documents, revisions and written or electronic communications.
- (e) Each DME provider shall maintain fiscal and medical records that fully document services and goods rendered or delivered to each member. Each DME provider shall maintain all documentation supporting every prior authorization request.
- (f) The DME provider shall obtain a receipt for all deliveries of customized wheelchairs and related items signed by the member. If the member is unable to sign, the member's authorized representative or a representative of the facility, if applicable, may sign the receipt on behalf of the member. Such receipt shall include:
 - (1) The DME provider's name, Medicaid provider number and contact information;
 - (2) The member's name, address and Medicaid identification number;
 - (3) A description of the customized wheelchair;
 - (4) The PA number;
 - (5) The date and location of delivery; and
 - (6) Confirmation that the member or the individual signing on behalf of the member pursuant to this subsection received and read all documentation accompanying the delivery of the customized wheelchair, including documentation that the department may require the DME provider to include with the delivery of each customized wheelchair.

(NEW) Sec. 17b-278-1039. Reserved.

Section 2. Subdivision (1) of subsection (a) of section 17b-262-303 of the Regulations of Connecticut State Agencies is amended to read as follows:

- (1) The department shall pay an all-inclusive per diem rate, computed in accordance with section 17b-340 of the Connecticut General Statutes and sections 17-311-1 to 17-311-120, inclusive, of the Regulations of Connecticut State Agencies, to the [ICF/MR] ICF/IID for each client. This rate represents an inclusive payment for all services and items that are required to be provided by the facility as a condition for participation as an [ICF/MR] ICF/IID, including but not necessarily limited to the following:
- (A) [services] Services provided by qualified staff engaged by the [ICF/MR] ICF/IID, as described in 42 CFR 483.430, as amended from time to time;
 - (B) [active] Active treatment services as described in 42 CFR 483.440, as amended from time to time;
 - (C) [client] Client behavior and facility practice as described in 42 CFR 483.450, as amended from time to time;
 - (D) [health] Health care services as described in 42 CFR 483.460, as amended from time to time;
 - (E) [physical] Physical environment management as described in 42 CFR 483.470, as amended from time to time;
 - (F) [dietetic] Dietetic services as described in 42 CFR 483.480, as amended from time to time;
 - (G) [routine] Routine personal hygiene items as defined in 42 CFR 483.10(c)(8)(i)(E), as amended from time to time;
 - (H) [over] Over the counter medications except insulin;
 - (I) [Durable] durable medical equipment, except for those items listed in section 17b-262-676(a)(2) of the Regulations of Connecticut State Agencies where Medicaid payment is available directly to the supplier of durable medical equipment if the item is medically necessary;
 - (J) [supplies] Supplies used in the routine care of the client that are included on the department's medical and surgical fee schedule including:
 - (i) [antiseptics] Antiseptics and solutions;
 - (ii) [bandages] Bandages and dressing supplies;
 - (iii) [catheters] Catheters and urinary incontinent supplies;
 - (iv) [diabetic] Diabetic supplies;
 - (v) [diapers] Diapers and underpads;
 - (vi) [compression] Compression, burns and specialized medical garments;

- (vii) [ostomy] Ostomy supplies;
 - (viii) [respiratory] Respiratory and tracheotomy supplies;
 - (ix) [enteral] Enteral and parenteral supplies; and
 - (x) [miscellaneous] Miscellaneous supplies;
- (K) [services] Services related to the provision or arrangement for provision of customized wheelchairs that are the responsibility of the [ICF/MR] ICF/IID as described in [subsections 17-134d-46(m) and (n)] sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies; and
- (L) [transportation] Transportation services necessary to transport a client to and from any service included in the per diem rate as described in this section.

Section 3. Section 17b-262-673 of the Regulations of Connecticut State Agencies is amended to read as follows:

[For the purposes of] As used in sections 17b-262-672 [through] to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies[, the following definitions shall apply]:

- (1) “Chronic disease hospital” [means an institution as defined in section 19-13-D1 of the Regulations of Connecticut State Agencies] has the same meaning as provided in section 19a-550 of the Connecticut General Statutes;
- (2) “Client” means a person eligible for goods or services under the Medicaid program;
- (3) “Certificate of Medical Necessity” or “CMN” means an approved Medicare form or a similar form which has been submitted to and approved by the department for use. This form shall contain all the documentation required for DME;
- (4) “Commissioner” means the [commissioner of social services] Commissioner of Social Services or the commissioner’s agent;
- (5) “Customized [equipment] DME” means [devices or equipment] an item of DME prescribed by a licensed practitioner which is specifically manufactured to meet the [special medical, physical, and psychosocial needs of the client] client’s special medical needs. The equipment shall be individualized to preclude its use by any other person except the client for whom it was originally developed;
- (6) “Department” means the [department of social services] Department of Social Services or its agent;
- (7) “Documented in writing” means that the prescription has been handwritten, typed[,] or computer printed;
- (8) “Durable medical equipment” or “DME” means equipment that meets all of the following requirements:

- (A) [can] Can withstand repeated use;
- (B) [is] Is primarily and customarily used to serve a medical purpose;
- (C) [generally] Generally is not useful to a person in the absence of an illness or injury;
and
- (D) [is nondisposable] Is non-disposable;
- (9) “Equipment replacement” means any item that takes the place of original equipment lost, destroyed[,] or no longer medically useable or adequate;
- (10) “Home” means the client’s place of residence which includes a boarding home, community living arrangement[,] or residential care home. “Home” does not include facilities such as hospitals, chronic disease hospitals, nursing facilities, intermediate care facilities for [the mentally retarded (ICFs/MR)] individuals with intellectual disabilities (ICFs/IID), or other facilities that are paid an [all inclusive] all-inclusive rate directly by Medicaid for the care of the client;
- (11) “Hospital” means [an institution] a “short-term hospital” as defined in Section 19-13-D1(b)(1) of the Regulations of Connecticut State Agencies;
- (12) “Intermediate care facility for [the mentally retarded] individuals with intellectual disabilities” or [“ICF/MR”] “ICF/IID” means [an institution licensed by, or operated by, the department of mental retardation (DMR) according to state law, and certified as a Medicaid intermediate care facility for the mentally retarded by the department of public health (DPH) to provide health or rehabilitative services for individuals with mental retardation or related conditions who, because of their mental or physical condition, require care and services, above the level of room and board, which can be made available to them only through a residential facility. Individuals residing in an ICF/MR shall be receiving active treatment pursuant to 42 CFR 483.440(a)] a residential facility for individuals with intellectual disabilities licensed pursuant to section 17a-227 of the Connecticut General Statutes and certified and enrolled to participate in Medicaid as an intermediate care facility for individuals with intellectual disabilities pursuant to 42 CFR 442.101, as amended from time to time;
- (13) “Licensed practitioner” means [any person licensed] an individual who is (A) licensed by the state of Connecticut, any other state, District of Columbia[,] or the Commonwealth of Puerto Rico and authorized to prescribe [treatments] DME within the scope of [his or her] the licensed practitioner’s practice [as defined and limited by] under federal and state law and (B) enrolled with the department as a Medicaid provider;
- (14) “Manufactured” means constructed or assembled;
- (15) “Medical appropriateness” or “medically appropriate” means health care that is provided in a timely manner and meets professionally recognized standards of acceptable medical care; is delivered in the appropriate setting; and is the least costly of multiple, equally-effective, alternative treatments or diagnostic modalities;]
- [(16)] (15) “Medicaid” means the program operated by the department [of social services] pursuant to section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social

Security Act;

[(17)] (16) “Medical necessity” or “medically necessary” [means health care provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist an individual in attaining or maintaining an optimal level of health; to diagnose a condition; or to prevent a medical condition from occurring] has the same meaning as provided in section 17b-259b of the Connecticut General Statutes;

[(18)] (17) “Nursing facility” or “NF” [means an institution as defined] has the same meaning as provided in 42 USC 1396r(a), is licensed pursuant to section 19-13-D8t of the Regulations of Connecticut State Agencies as a chronic and convalescent home or rest home with nursing supervision and is enrolled with the department as a nursing facility;

[(19)] (18) “Prescription” means an original order issued by a licensed practitioner that is documented in writing and signed by the practitioner issuing the order;

[(20)] (19) “Prior authorization” or “PA” means approval for the service or the delivery of goods from the department before the provider actually provides the service or delivers the goods;

[(21)] (20) “Provider” means the vendor or supplier of durable medical equipment who is enrolled with the department as a medical equipment, devices[,] and supplies supplier; [and]

[(22)] (21) “Provider agreement” means the signed, written, contractual agreement between the department and the provider [of services or goods]; and

(22) “Refurbished” means repairing, restoring and sanitizing, as needed, a previously used item of DME, or a previously used part or component used in, attached to or added to an item of DME in order to be made available for a new user.

Section 4. Subdivision (2) of subsection (a) of section 17b-262-676 of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) DME services are available to all clients who live at home. Additionally, the department shall pay for ventilators, customized wheelchairs, and Group 2 Pressure Reducing Support Surfaces for residents of nursing facilities and [ICFs/MR] ICFs/IID.

Section 5. Subdivision (2) of subsection (b) of section 17b-262-676 of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) Notwithstanding any other provisions of the Regulations of Connecticut State Agencies, the department shall pay for a customized [wheelchairs for clients of nursing facilities and ICFs/MR] wheelchair only when the Department has approved a request for such customized [wheelchairs are medically necessary] wheelchair in accordance with [section 17-134d-46 or section 17-134d-47] sections 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies. [The department shall pay for the purchase, modification or repair of these customized wheelchairs. The customized wheelchair may or may not be motorized. The need for the customized wheelchair shall be documented in accordance with section 17-134d-46 or section 17-134d-47 of the Regulations of Connecticut State Agencies.] Sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies do not apply to customized wheelchairs.

Section 6. Section 17b-262-680 of the Regulations of Connecticut State Agencies is amended to read as follows:

- (a) ~~[Payment shall be made]~~ The department may pay for customized DME for a client who dies, whose change in medical status or condition makes the customized DME or any components thereof no longer appropriate for the client or is not otherwise eligible on the date of delivery ~~[providing the client was eligible]~~ only to the extent that:
- (1) ~~[on the]~~ The client was living, eligible and had a medical status and condition that made the customized DME and all components appropriate for the member on: (A) The date prior authorization was given by the department; or (B) [on] the date the client ordered the item, if the item does not require prior authorization. For purposes of this section, the date the client orders the item means the date on which the written medical order for the item is presented to the provider. The provider shall verify to the department the date the client ordered the item;
 - (2) The DME provider was not aware of the member's likely or actual death, ineligibility or changed medical status or condition at any time substantially prior to delivery; and
 - (3) The customized DME, including each of its parts or components, cannot be reused. The department may void a prior authorization previously granted for customized DME and take any other action necessary to implement this subsection.
- (b) If the cost of repairs to any item exceeds its replacement cost, the item shall be replaced.
- (c) ~~[The]~~ Subject to subsection (f) of this section, the price for any item listed in the fee schedule published by the department shall include:
- (1) ~~[fees]~~ Fees for initial fittings and adjustments and related transportation costs;
 - (2) ~~[labor]~~ Labor charges;
 - (3) ~~[delivery]~~ Delivery costs, fully prepaid by the provider, including any and all manufacturer's delivery charges with no additional charges to be made for packing or shipping;
 - (4) ~~[travel]~~ Travel to the client's home, postage and handling, and set up or installation charges;
 - (5) ~~[technical]~~ Technical assistance to the client to teach the client, or his or her family, the proper use and care of the equipment; and
 - (6) ~~[information]~~ Information furnished by the provider to the client over the telephone.
- (d) ~~[Payment]~~ The department shall not pay for servicing, repairs, or replacement of DME ~~[that are purchased by the department shall be contingent upon the exhaustion of any]~~ unless the provider first exhausts all applicable manufacturer's [or] provider's and dealer's [warranty] warranties. ~~[The supplier shall first utilize existing warranties covering required servicing, repairs, and replacement.]~~

- [(e) The department may pay for the rental of a wheelchair, for a period not to exceed three (3) months, in situations involving the pending delivery of a customized model to a client who resides in his or her own home.]
- [(f)] (e) The department [has the authority to] may determine the maximum rental period for DME, at which time the item [shall be] is considered purchased. [Such] The department shall publish such maximum rental periods [shall be published] on the fee schedule.
- (f) Where necessary to reimburse the provider for its costs, as determined by the department, additional travel fees may be paid to the provider for repairing items of DME.

Section 7. Subsection (a) of section 17b-262-682 of the Regulations of Connecticut State Agencies is amended to read as follows:

- (a) All equipment or devices purchased by the department [shall be new and] shall become the property of the client as of the date of delivery to the client, except as provided in subdivision (1) of this subsection.
- (1) Effective March 1, 2014, the department may designate in writing one or more categories of equipment or devices that shall remain the department's property after delivery to the client, provided that the client may continue to use such equipment or device for as long as it is medically necessary. For such equipment or devices purchased by the department and delivered to a member prior to March 1, 2014, a member or the member's authorized representative may donate a piece of equipment or device designated pursuant to this subdivision to the department. Each such equipment or device donated to the department becomes the department's property, provided that the client may continue to use the equipment or device for as long as it is medically necessary.
- (2) By choosing to use or possess any equipment or device designated pursuant to subdivision (1) of this subsection, the client is responsible for the use of such equipment or device during the entire time that the member uses such equipment or device or keeps such equipment or device in the member's possession, directly or indirectly. The department is not liable for any injuries or damages resulting from the use or possession of any such equipment or device by any individual or entity other than the department. The receipt for such equipment or device required pursuant to subsection (e) of section 17b-262-681 of the Regulations of Connecticut State Agencies, in addition to the elements required by such subsection, shall include confirmation that the client or the client's authorized representative received and read all documentation accompanying the delivery of such equipment or device, including documentation that the department may require the DME provider to include with the delivery of each such equipment or device.
- (2) Refurbished equipment or devices designated pursuant to subdivision (1) of this subsection, including parts and components thereof, shall be used to the maximum extent practicable. As part of the prior authorization or other request for such equipment or devices, the provider shall document, in a manner specified by the department, that the requested equipment or device includes refurbished parts and components to the maximum extent practicable. The department may adjust prior

authorization or other approval as necessary to reflect the use of refurbished parts and components.

- (3) The provider shall ensure that each piece of equipment or device designated pursuant to subdivision (1) of this subsection complies with all applicable standards and is in proper condition to meet the client's medical needs.

Section 8. Section 17b-262-705 of the Regulations of Connecticut State Agencies is amended to read as follows:

The department shall pay an all-inclusive per diem rate, computed in accordance with section 17b-340 of the Connecticut General Statutes and sections 17-311-1 to 17-311-120, inclusive, and sections 17-311-200 to 17-311-209, inclusive, of the Regulations of Connecticut State Agencies, to the provider for each Medicaid resident. This rate represents payment for the following goods and services:

- (a) [all] All services as required by section 19-13-D8t of the Regulations of Connecticut State Agencies and 42 CFR Part 483, subpart B, as amended from time to time, including, but not limited to:
- (1) [medical] Medical direction in accordance with sections 19-13-D8t(h) and (i) of the Regulations of Connecticut State Agencies;
 - (2) [nursing] Nursing service in accordance with 42 CFR 483.30, as amended from time to time, and sections 19-13-D8t(j),(k),(m) and (n) of the Regulations of Connecticut State Agencies;
 - (3) [social] Social services in accordance with 42 CFR 483.15(g), as amended from time to time, and section 19-13-D8t(s) of the Regulations of Connecticut State Agencies;
 - (4) [therapeutic] Therapeutic recreation in accordance with 42 CFR 483.15(f), as amended from time to time, and section 19-13-D8t(r) of the Regulations of Connecticut State Agencies;
 - (5) [specialized] Specialized rehabilitative services in accordance with 42 CFR 483.45, as amended from time to time;
 - (6) [room] Room and board in accordance with 42 CFR 483.10(c)(8)(i)(D), 42 CFR 483.35, and 42 CFR 483.70, as amended from time to time, and sections 19-13-D8t(q) and 19-13-D8t(v) of the Regulations of Connecticut State Agencies;
 - (7) [consultation] Consultation and assistance to residents in obtaining other needed services including:
 - (A) [vision] Vision and hearing services in accordance with 42 CFR 483.25(b), as amended from time to time;
 - (B) [services] Services to address mental and psychosocial functioning in accordance with 42 CFR 483.25(f), as amended from time to time;

- (C) [dental] Dental services in accordance with 42 CFR 483.55, as amended from time to time; and
 - (D) [pharmacy] Pharmacy services in accordance with 42 CFR 483.60(b) and (c), as amended from time to time;
- (b) [routine] Routine personal hygiene items as defined in 42 CFR 483.10(c)(8)(i)(E), as amended from time to time;
 - (c) [over] Over the counter medications except insulin;
 - (e) [durable] Durable medical equipment except those items listed in section 17b-262-676(a)(2) of the Regulations of Connecticut State Agencies that are payable separately for nursing facility clients;
 - (e) [supplies] Supplies used in the routine care of the Medicaid resident that are included on the department's medical and surgical fee schedule including:
 - (1) [antiseptics] Antiseptics and solutions;
 - (2) [bandages] Bandages and dressing supplies;
 - (3) [catheters] Catheters and urinary incontinent supplies;
 - (4) [diabetic] Diabetic supplies;
 - (5) [diapers] Diapers and underpads;
 - (6) [compression] Compression, burns and specialized medical garments;
 - (7) [ostomy] Ostomy supplies;
 - (8) [respiratory] Respiratory and tracheotomy supplies;
 - (9) [enteral] Enteral and parenteral supplies; and
 - (10) [miscellaneous] Miscellaneous supplies;

Some of these supplies are covered by and should be billed to Part B of the Medicare program. Such supplies are not included in the per diem rate as per section 17b-340(f)(1) of the Connecticut General Statutes.

- (f) [services] Services related to the provision or arrangement for provision of customized wheelchairs that are the responsibility of the nursing facility as described in sections [17-134d-46(m) and (n)] 17b-262-1019 to 17b-262-1039, inclusive, of the Regulations of Connecticut State Agencies;
- (g) [oxygen] Oxygen concentrators as described in section 17b-281 of the Connecticut General Statutes and the regulations promulgated thereunder;

- (h) [prescription] Prescription drugs for those providers that have approval from the department to include prescription drug costs in the per diem rate; and
- (i) [transportation] Transportation services necessary to transport a client to and from any service included in the per diem rate as described in this section. Transportation to services listed in subdivision (a)(7) of this section, which the nursing facility shall help obtain but not provide directly, is not included in the per diem rate. Nursing facilities shall follow the customary authorization procedure in arranging for such transportation.

Section 9. Section 17-134d-46 of the Regulations of Connecticut State Agencies is repealed.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

The purpose of the regulation is to: (1) Update and clarify rules for customized wheelchairs for Medicaid members living in a nursing facility or ICF/IID; (2) establish and clarify such rules for members who live at home; and (3) require that refurbished customized wheelchairs and other designated equipment and devices, including parts and components, are used whenever practicable.

(A) The problems, issues or circumstances that the regulation proposes to address: Section 17b-278i of the Connecticut General Statutes, as amended by section 85 of Public Act 13-234, requires the department to ensure that: (1) Customized wheelchairs are only provided when a standard wheelchair cannot meet the member's medical needs and (2) refurbished customized wheelchair parts and components and other designated equipment and devices are used whenever practicable. This regulation is also necessary to adapt to changes in policy, technology and clinical practice, including increased varieties of wheelchairs, seating, positional and other components; greater clinical experience with members who use or may need customized wheelchairs; and improved methods to refurbish customized wheelchairs, other DME and their parts and components.

(B) The main provisions of the regulation: (1) Describe standards to determine if a member may be eligible for a customized wheelchair; (2) describe the nursing facility or ICF/IID's responsibilities, which include: (i) identifying members who may need a customized wheelchair, (ii) selecting and convening an interdisciplinary team to assess a member for a customized wheelchair, (iii) if the interdisciplinary team recommends a customized wheelchair, arranging for a DME provider to conduct any additional necessary evaluations and request prior authorization for the customized wheelchair, (iv) training the facility's staff in the member's use of the customized wheelchair and (v) developing and implementing a monitoring program for the member's use of the customized wheelchair; (3) establish and clarify requirements for customized wheelchairs for members who live at home; (4) establish requirements for customized wheelchairs for members who live in a facility but will soon be discharged home; (5) describe prior authorization requirements; (6) consolidate and update billing and reimbursement requirements, including requiring refurbished customized wheelchairs to be used whenever practicable. In order to implement that requirement, customized wheelchairs are now the department's property after delivery, provided that a member may continue to use a customized wheelchair for as long as it is medically necessary; (7) establish and clarify requirements for repairs, modifications and additions to customized wheelchairs; (8) update documentation requirements; and (9) amend the DME regulations to require refurbished designated devices or equipment to be used whenever practicable. In order to implement that requirement, such devices or equipment are now the department's property after delivery, provided that a member may continue to use the equipment or device for as long as it is medically necessary.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws: This regulation replaces and repeals the previous customized wheelchair regulation in section 17-134d-46 of the Regulations of Connecticut State Agencies. This regulation consolidates requirements for customized wheelchairs and amends the existing DME regulations accordingly, in addition to other amendments described in (B) above. This regulation also updates cross-references to the customized wheelchair regulations in the existing ICF/IID, nursing facility and DME regulations, in addition to other technical changes.

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed **by this agency pursuant to the following authority(ies):** (complete all that apply)
- a. *Connecticut General Statutes* section(s) 17b-278i, 17b-3 and 17b-262.
- b. Public Act Number(s) 13-234, section 85.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) **And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the Connecticut Law Journal on February 11, 2014;**
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) **And that a public hearing regarding the proposed regulations was held on March 21, 2014;**
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) **And that said regulations are EFFECTIVE** (check one, and complete as applicable)
- When filed with the Secretary of the State
- OR on (insert date) _____

DATE [TBD]	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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Proposed regulations are DEEMED APPROVED by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/> .
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.