



JENNIFER KENT  
Director

State of California—Health and Human Services Agency  
Department of Health Care Services



EDMUND G. BROWN JR.  
Governor

September 30, 2016

Ms. Henrietta Sam-Louie  
Associate Regional Administrator  
Division of Medicaid and Children's Health Operations  
Centers for Medicare and Medicaid Services  
San Francisco Regional Office  
90 Seventh Street, Suite 5-300 (5W)  
San Francisco, CA 94103-6706

STATE PLAN AMENDMENT 16-018 HOME HEALTH SERVICES UPDATE

Dear Ms. Sam-Louie:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 16-018 for your review and approval. SPA 16-018 will provide updates to the Home Health Services section of the State Plan to align with revisions to Title 42 of the Code of Federal Regulations, Section 440.70. The effective date is July 1, 2016.

SPA 16-018 adds language to the provisions set forth in the following sections of the State Plan:

- Limitations on Attachment 3.1-A, Page 12b
- Limitations on Attachment 3.1-B, Page 12b
- Limitations on Attachment 3.1-A, Page 14
- Limitations on Attachment 3.1-B, Page 14

Centers for Medicare and Medicaid Services (CMS) notified us on August 1, 2016 that SPA 16-018 does not require a tribal notice. A public notice is not required as this update does not involve a rate change.

The reimbursement methodology for durable medical equipment is listed in Attachment 4.19-B on pages 3a through 3f, for hearing aids on 3i through 3i.2, and enteral nutrition on 3j. Since the revisions do not expand or modify the home health benefit, there is no fiscal impact.

Ms. Henrietta Sam-Louie

Page 2

September 30, 2016

If you have any questions regarding the information provided, please contact Cynthia Owens, Chief, Benefits Division, by phone at (916) 552-9619 or by email at [Cynthia.Owens@dhcs.ca.gov](mailto:Cynthia.Owens@dhcs.ca.gov).

Sincerely,

ORIGINAL SIGNED

Mari Cantwell  
Chief Deputy Director  
Health Care Programs  
State Medicaid Director

cc: Cynthia Nanes  
Division of Medicaid and Children's Health Operations  
Centers for Medicare and Medicaid Services  
San Francisco Regional Office  
90 Seventh Street, Suite 5-300(5W)  
San Francisco, CA 94103-6706

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>	1. TRANSMITTAL NUMBER: <b>SPA 16-018</b>	2. STATE CA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION		4. PROPOSED EFFECTIVE DATE July 1, 2016
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN                       AMENDMENT TO BE CONSIDERED AS NEW PLAN                       AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: SSA Section 1905(a) (7); 42 CFR 440.70	7. FEDERAL BUDGET IMPACT: a. FFY 2016 \$0 b. FFY 2017 \$0
---	---

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Limitations on Attachment 3.1-A, Page 12b Limitations on Attachment 3.1-B, Page 12b Limitations on Attachment 3.1-A, Page 14 Limitations on Attachment 3.1-B, Page 14	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):
---	---

10. SUBJECT OF AMENDMENT:  
Adds the face-to-face requirement to durable medical equipment (DME) in accordance with Title 42 CFR 440.70.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT                       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED                      The Governor's Office does not  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL                      wish to review the State Plan Amendment.

ORIGINAL SIGNED

**Mari Cantwell**

14. TITLE:  
**Chief Deputy Director  
Health Care Programs  
State Medicaid Director**

15. DATE SUBMITTED:  
**SEP 30 2016**

16. RETURN TO:

**Department of Health Care Services  
Attn: State Plan Coordinator  
1501 Capitol Avenue, MS 4506  
P.O. Box 997417  
Sacramento, CA 95899-7417**

<b>FOR REGIONAL OFFICE USE ONLY</b>	
17. DATE RECEIVED:	18. DATE APPROVED:

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

## **Explanation for SPA 16-018**

SPA 16-018 updates the Home Health Services description in Limitations on Attachment 3.1-A and 3.1-B, pages 12b, 14 to comply with federal regulatory changes to Title 42 of the Code of Federal Regulations, section 440.70. The final rule for the regulation has an effective date of July 1, 2016, and SPA 16-018 is being submitted this quarter to retain that effective date.

New regulation requirements:

- Durable medical equipment prescriptions require a face-to-face encounter by a physician, nurse practitioner, clinical nurse specialist, or physician assistant. SPA 16-018 lists the face-to-face requirement and the practitioners who can satisfy the requirement.
- The definition of DME was changed from “suitable for use in the home” to “suitable for use in settings in which normal life activities take place ...” SPA 16-018 uses this new language.
- SPA 16-018 says that DME is prescribed “in accordance with 42 CFR 440.70” to cover other requirements, matching CMS’ direction that it provide an assurance the State complies with the regulation. These requirements include:
  - The timing of the face-to-face encounter within the 90 days before or within the 30 days after the start of the services.
  - Allowing the use of telehealth for the face-to-face encounter.
  - State’s must have a process and criteria for requesting medical equipment that is made available to individuals to request items not on the State’s list (Medi-Cal uses the State Fair Hearing process for denied claims).

**Note:** The regulations are ambiguous if the limitation that only physicians can prescribe DME also applies to medical supplies. Since the State Plan allows licensed practitioners to prescribe medical supplies, DHCS asked CMS on September 7, 2016 if the new regulations limit prescriptions for medical supplies to physicians to know if an additional page should be included in SPA 16-018. As of COB September 21, 2016, CMS has not answered this question, so Benefits is submitting SPA 16-018 without the State Plan page for medical supplies. CMS has historically left scope of practice issues to states, and Business and Professions Code section 4014 lists the practitioners who can prescribe medical supplies. Benefits has supplied this reference and list of practitioners to CMS, and can add the page for medical supplies to the SPA after the SPA is submitted if requested by CMS.

**STATE PLAN CHART**

TYPE OF SERVICES	PROGRAM COVERAGE**	PRIOR AUTHORIZATION OR OTHER REQUIREMENTS*
<p>7. Home Health Services</p> <p>Home health agency services including nursing services which may be provided by a registered nurse when no home health agency exists in the area, home health aide services, medical supplies and equipment, and therapies.</p>	<p>Home health services are covered if furnished by a home health agency that meets the conditions of participation for Medicare. Services are ordered by a physician as part of a written plan of care that the physician reviews every 60 days. Home health services include the following services:</p> <ol style="list-style-type: none"> <li>1. Skilled nursing services as provided by a nurse licensed by the state.</li> <li>2. Physical therapy services as provided by a physical therapist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>3. Occupational therapy services as provided by an occupational therapist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>4. Speech therapy services as provided by a speech therapist or speech pathologist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>5. Home health aide services provided by a Home Health Agency.</li> </ol> <p>Medical supplies, equipment, and appliances suitable for use in any setting in which normal life activities take place.</p>	
<p>7a. Home health nursing and 7b. Home health aide services</p>	<p>Services are provided at a participant's residence which does not include a hospital, nursing facility or ICF/MR. Services must be medically necessary.</p>	<p>One visit in a six-month period for initial case evaluation is covered without prior authorization. Monthly reevaluations are covered without prior authorization. Additional services require prior authorization.</p>

\*Prior authorization is not required for emergency services.

\*\*Coverage is limited to medically necessary services.

**STATE PLAN CHART**

TYPE OF SERVICES	PROGRAM COVERAGE**	PRIOR AUTHORIZATION OR OTHER REQUIREMENTS*
7c.2 Durable medical equipment	<p>Covered after a face-to-face encounter with a physician, nurse practitioner, clinical nurse specialist or a physician assistant when prescribed by a licensed physician and reviewed annually, in accordance with 42 CFR 440.70.</p> <p>DME commonly used in providing SNF and ICF level of care is not separately billable.</p> <p>Common household items are not covered.</p>	<p>Prior authorization is required when the purchase exceeds \$100. Prior authorization is required when price, repairs, maintenance, or cumulative rental of listed items exceeds \$25, except that the provision of more than two "H" oxygen tanks in any one month requires prior authorization. Purchase or rental of "By Report" (unlisted) items are subject to prior authorization regardless of purchase price. Authorization shall be granted only for the lowest cost item that meets medical needs of the patient.</p>
7c.3 Hearing aids	<p>Refer to Type of Service "12c Prosthetic and orthotic appliances, and hearing aids."</p>	<p>Refer to Type of Service "12c Prosthetic and orthotic appliances, and hearing aids."</p>
7c.4 Enteral Formulae	<p>Covered only when supplied by a pharmacy provider upon the prescription of a licensed physician within the scope of his or her practice.</p> <p>Enteral Formulae commonly used in providing SNF and ICF level of care is not separately billable.</p> <p>Common household items (food) are not covered.</p>	<p>Prior authorization is required for all products. Authorization is given when the enteral formulae is used as a therapeutic regimen to prevent serious disability or death in patients with medically diagnosed conditions that preclude the full use of regular food.</p> <p>Dietary supplements or products that cannot be used as a complete source of nutrition are considered non-benefits, except that the program may deem such a product a benefit when it determines that the use of the product is neither investigational nor experimental when used as a therapeutic regimen to prevent serious disability or death in patients with medically diagnosed conditions.</p>

\*Prior authorization is not required for emergency services.

\*\*Coverage is limited to medically necessary services.

**STATE PLAN CHART**

TYPE OF SERVICES	PROGRAM COVERAGE**	PRIOR AUTHORIZATION OR OTHER REQUIREMENTS*
<p>7. Home Health Services</p> <p>Home health agency services including nursing services which may be provided by a registered nurse when no home health agency exists in the area, home health aide services, medical supplies and equipment, and therapies.</p>	<p>Home health services are covered if furnished by a home health agency that meets the conditions of participation for Medicare. Services are ordered by a physician as part of a written plan of care that the physician reviews every 60 days. Home health services include the following services:</p> <ol style="list-style-type: none"> <li>1. Skilled nursing services as provided by a nurse licensed by the state.</li> <li>2. Physical therapy services as provided by a physical therapist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>3. Occupational therapy services as provided by an occupational therapist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>4. Speech therapy services as provided by a speech therapist or speech pathologist licensed by the state and in accordance with 42 CFR 440.110.</li> <li>5. Home health aide services provided by a Home Health Agency.</li> </ol> <p>Medical supplies, equipment, and appliances suitable for use in any setting in which normal life activities take place.</p>	
<p>7a. Home health nursing and 7b. Home health aide services</p>	<p>Services are provided at a participant's residence which does not include a hospital, nursing facility or ICF/MR. Services must be medically necessary.</p>	<p>One visit in a six-month period for initial case evaluation is covered without prior authorization. Monthly reevaluations are covered without prior authorization. Additional services require prior authorization.</p>

\*Prior authorization is not required for emergency services.

\*\*Coverage is limited to medically necessary services.

**STATE PLAN CHART**

TYPE OF SERVICES	PROGRAM COVERAGE**	PRIOR AUTHORIZATION OR OTHER REQUIREMENTS*
7c.2 Durable medical equipment	<p>Covered after a face-to-face encounter with a physician, nurse practitioner, clinical nurse specialist or a physician assistant when prescribed by a licensed physician and reviewed annually, in accordance with 42 CFR 440.70.</p> <p>DME commonly used in providing SNF and ICF level of care is not separately billable.</p> <p>Common household items are not covered.</p>	<p>Prior authorization is required when the purchase exceeds \$100. Prior authorization is required when price, repairs, maintenance, or cumulative rental of listed items exceeds \$25, except that the provision of more than two "H" oxygen tanks in any one month requires prior authorization. Purchase or rental of "By Report" (unlisted) items are subject to prior authorization regardless of purchase price. Authorization shall be granted only for the lowest cost item that meets medical needs of the patient.</p>
7c.3 Hearing aids	<p>Refer to Type of Service "12c Prosthetic and orthotic appliances, and hearing aids."</p>	<p>Refer to Type of Service "12c Prosthetic and orthotic appliances, and hearing aids."</p>
7c.4 Enteral Formulae	<p>Covered only when supplied by a pharmacy provider upon the prescription of a licensed physician within the scope of his or her practice.</p> <p>Enteral Formulae commonly used in providing SNF and ICF level of care is not separately billable.</p> <p>Common household items (food) are not covered.</p>	<p>Prior authorization is required for all products. Authorization is given when the enteral formulae is used as a therapeutic regimen to prevent serious disability or death in patients with medically diagnosed conditions that preclude the full use of regular food.</p> <p>Dietary supplements or products that cannot be used as a complete source of nutrition are considered non-benefits, except that the program may deem such a product a benefit when it determines that the use of the product is neither investigational nor experimental when used as a therapeutic regimen to prevent serious disability or death in patients with medically diagnosed conditions.</p>

\*Prior authorization is not required for emergency services.

\*\*Coverage is limited to medically necessary services.

## SPA 16-018 Impact Form

**State/Title/Plan Number:**

Home Health Services/SPA 16-018

**Federal Fiscal Impact:**

None.

**Number of People Affected by Enhanced Coverage, Benefits or Retained Eligibility:** All beneficiaries with full-scope or pregnancy only coverage.

**Number of Potential Newly Eligible People:** None.

or

**Eligibility Simplification:** None.

**Number of People Losing Medicaid Eligibility:** None.

**Reduces Benefits:** No.

**Provider Payment Increase:** Not applicable.

**Delivery System Innovation:** Not applicable.

**Does DHCS need to submit a Public Notice?**

Commented [ST(1)]: OLS edit.

Does DHCS need to submit a Tribal Notice? No.

**Comments/Remarks:** Updated home health section to match updates for 42 CFR 440.70, particularly for face-to-face requirements for DME.

**DHS Contact:** Raquel Sanchez

**Date:** September 30, 2016

## SPA 16-018 Impact Form

**State/Title/Plan Number:**

Home Health Services/SPA 16-018

**Federal Fiscal Impact:**

None.

**Number of People Affected by Enhanced Coverage, Benefits or Retained Eligibility:** All beneficiaries with full-scope or pregnancy only coverage.

**Number of Potential Newly Eligible People:** None.  
or

**Eligibility Simplification:** None.

**Number of People Losing Medicaid Eligibility:** None.

**Reduces Benefits:** No.

**Provider Payment Increase:** Not applicable.

**Delivery System Innovation:** Not applicable.

**Does DHCS need to submit a Public Notice?** No.

Does DHCS need to submit a Tribal Notice? No.

**Comments/Remarks:** Updated home health section to match updates for 42 CFR 440.70, particularly for face-to-face requirements for DME.

**DHS Contact:** Raquel Sanchez

**Date:** September 30, 2016