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State/Territory Name: CA

State Plan Amendment (SPA) #: 22-0073

This file contains the following documents in the order

- listed:
- 1) Approval Letter
 - 2) CMS 179 Form/Summary Form (with 179-like data)
 - 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601



Financial Management Group

March 15, 2023

Jacey Cooper
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

RE: TN 22-0073

Dear Ms. Cooper:

We have reviewed the proposed California State Plan Amendment (SPA) to Attachment 4.19-B, CA-22-0073, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on December 29th, 2022. This SPA establishes ongoing authority for the reimbursement methodology for Durable Medical Equipment (DME) considered to be oxygen and respiratory equipment.

Based upon the information provided by the State, we have approved the amendment with an effective date of January 1st, 2023. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Blake Holt at 303-844-6218 or blake.holt@cms.hhs.gov.

Sincerely,



Todd McMillion
Director
Division of Reimbursement Review

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER _____	2. STATE _____
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI	
4. PROPOSED EFFECTIVE DATE	
6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY _____ \$ _____ b. FFY _____ \$ _____	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

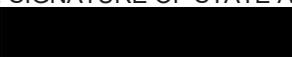
TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. FEDERAL STATUTE/REGULATION CITATION

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

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

11. SIGNATURE OF STATE AGENCY OFFICIAL


12. TYPED NAME

13. TITLE

14. DATE SUBMITTED
December 29, 2022

15. RETURN TO

FOR CMS USE ONLY

16. DATE RECEIVED December 29, 2022	17. DATE APPROVED March 15, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL January 1, 2023	19. SIGNATURE OF APPROVING OFFICIAL 
20. TYPED NAME OF APPROVING OFFICIAL Todd McMillion	21. TITLE OF APPROVING OFFICIAL Director, Division of Reimbursement Review

22. REMARKS

3/08/2023: State concurs with pen and ink change to Box 6: Striking "Title 42 CFR 447 Subpart F", adding "42 CFR 440.70." State concurs with pen and ink change to Box 7, adding: ", 3f-1, and 3f-2" and to Box 8, adding, "3f-1"

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State: California

charges made to the general public, or the net purchase price of the item, (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)

- (1) The actual acquisition cost plus a markup to be established by the State Agency based on rate studies and periodic review to assure adequate reimbursement and access to care. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) The manufacturer's suggested retail purchase price, documented by a printed catalog or a hard copy of an electronic catalog page published on a date defined by Welfare and Institutions Code section 14105.48, reduced by a percentage discount of 20 percent, or by 15 percent if the provider employs or contracts with a qualified rehabilitation professional. (Refer to Reimbursement Methodology at page 3f.)
- (e) Reimbursement for the purchase of all durable medical equipment supplies and accessories without a specified maximum allowable rate (either non-covered by Medicare or Medicare did not establish a reimbursement rate), and which are not described in subparagraphs (a)-(d) above, shall be the lesser of the following;
- (1) The amount billed in accordance with California Code of Regulations, Title 22, section 51008.1 entitled ("Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records) plus no more than 100 percent mark-up. (Refer to Reimbursement Methodology Table at page 3e.)
 - (2) The acquisition cost for the item, plus a 23 percent markup. (Refer to Reimbursement Methodology Table at page 3f.)
- (f) Reimbursement for DME considered to be Oxygen and Respiratory equipment, with a specified maximum allowable rate established by Medicare, shall be the lowest of the following:

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- (1) The amount billed in accordance with California Code of Regulations, Title 22, Section 51008.1 entitled "Upper Billing Limit", that states that bills submitted shall not exceed an amount that is the lesser of the usual charges made to the general public, or the net purchase price of the item (as documented in the provider's books and records), plus no more than 100 percent mark-up.
- (2) The reimbursement rates in effect, as follows:
 - i. Effective for dates of service on or after January 1, 2023, reimbursement rates will be established based upon the rates in effect and approved in the State Plan as of December 31, 2022.
 - ii. Effective for dates of service on or after January 1, 2024, the reimbursement rates will be the rates in effect on the Medi-Cal Fee schedule for the current calendar year, which shall be the lowest of the following:
 1. The rate in effect on the Medi-Cal Fee Schedule as of December 31 of the preceding calendar year; or
 2. 100 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies in the current calendar year
 3. If a Medicare rural rate is not available, 100 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare non-rural fee schedule for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies in the current calendar year will be used.
2. Except as otherwise noted in the State Plan, state-developed fee schedule rates established in accordance with Attachment 4.19-B, beginning on page 3a, are the same for both governmental and private providers of DME and the fee schedule.
3. Except as otherwise noted in the State Plan, state-developed fee schedules are the same for both governmental and private providers of prosthetic and orthotic appliances as described in State Plan Attachment 3.1-A, paragraph 12c, entitled "Prosthetic and Orthotic Appliances."

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Reimbursement Methodology Table

Paragraph	Effective Date	Percentage/Methodology	Authority
4	July 1, 2021	<p>Reimbursement rates for clinical laboratory or laboratory services will be established based on rates in effect for Medi-Cal as of December 31, 2019, effective for dates of service on or after July 1, 2021.</p> <p>For clinical laboratory or laboratory services that do not appear in the December 31, 2019 fee schedule, reimbursement rates shall not exceed the lowest of the following: (1) the amount billed, (2) the charge to the general public, (3) 80% of the lowest maximum allowance established by the federal Medicare Clinical Laboratory fee schedule and Medicare Physician fee schedule on January 1, 2021 for the same or similar service.</p>	California Welfare and Institutions Code sections 14105.22 and 14105.222
1(f)(2)	January 1, 2023	Reimbursement rates will be established based upon the rates in effect and approved in the State Plan as of December 31, 2022.	California Welfare and Institutions Code section 14105.48
1(f)(2)	January 1, 2024	<p>Reimbursement rates will be the rates in effect on the Medi-Cal Fee schedule for the current calendar year, which shall be the lowest of the following:</p> <ul style="list-style-type: none"> i. The rate in effect on the Medi-Cal Fee Schedule as of December 31 of the preceding calendar year; or ii. 100 percent of the allowable rate for California established by the federal Medicare program for the same or similar item or service, as provided under the Medicare rural fee schedule for Durable 	California Welfare and Institutions Code section 14105.48

TN: 22-0073
Supersedes
TN: 21-0052

Approval Date: March 15, 2023 Effective Date: January 1, 2023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: California

		Medical Equipment, Prosthetics, Orthotics, and Supplies in the current calendar year	
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TN: 22-0073
Supersedes
TN: NEW

Approval Date: March 15, 2023 Effective Date: January 1, 2023