

HB75 INTRODUCED



1 HB75
2 ZU3MKRW-1
3 By Representative Clarke
4 RFD: State Government
5 First Read: 04-Feb-25
6 PFD: 06-Jan-25



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SYNOPSIS:

There are no provisions in existing law governing the repair of wheelchairs.

This bill would impose a duty on wheelchair dealers to repair wheelchairs in a timely manner, with explicit disciplinary authority given to the Board of Home Medical Equipment for repeated failure to do so.

This bill would require Medicaid to cover the cost of a customized wheelchair when medically necessary.

This bill would eliminate any requirement for a new prescription or prior authorization for the repair of a wheelchair from Medicaid or private health insurance when the wheelchair is less than seven years old.

This bill would also require wheelchair dealers who contract with Medicaid to submit annual reports to the Medicaid Agency concerning wheelchair repairs.

A BILL
TO BE ENTITLED
AN ACT

Relating to wheelchairs; to add Section 34-14C-3.1 to



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29 the Code of Alabama 1975, and to amend Section 34-14C-6, Code
30 of Alabama 1975, to provide the Board of Home Medical
31 Equipment with authority to discipline licensees who fail to
32 repair wheelchairs in a timely manner; to provide standards
33 for timely repair of wheelchairs; to require Medicaid to cover
34 the cost of customized wheelchairs when medically necessary;
35 to limit the requirement of prior authorization by Medicaid or
36 private health insurance for repair of certain wheelchairs;
37 and to impose a reporting requirement on Medicaid wheelchair
38 contractors.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Section 34-14C-3.1 is added to the Code of
41 Alabama 1975, to read as follows:

42 §34-14C-3.1

43 (a) For the purposes of this section, the following
44 terms have the following meanings:

45 (1) AUTHORIZED WHEELCHAIR DEALER. A home medical
46 equipment services provider that sells or leases wheelchairs,
47 including customized wheelchairs.

48 (2) CONSUMER. The individual who uses a wheelchair,
49 including a customized wheelchair, in his or her place of
50 residence, regardless of whether the purchase or lease of the
51 wheelchair is funded in whole or in part by the consumer or by
52 private or public health insurance.

53 (3) CUSTOMIZED WHEELCHAIR. A medically necessary manual
54 or motorized wheelchair that is individually configured for
55 the consumer with specialized equipment that requires
56 evaluation, configuration, fitting, adjustment, programming,



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57 and long-term maintenance and repair services.

58 (4) TIMELY REPAIR. No later than 10 business days after
59 the date of request for repair is received from a consumer,
60 unless any of the following apply:

61 a. The consumer fails to make the wheelchair available
62 for repair.

63 b. Prior authorization required from private or public
64 health insurance is not received.

65 c. Parts necessary for repair of the wheelchair have
66 not been received.

67 (5) WHEELCHAIR. A manual or motorized wheeled device,
68 including a customized wheelchair, that enhances the mobility
69 or positioning of a consumer.

70 (b)(1) An authorized wheelchair dealer who sells or
71 leases a wheelchair, including a customized wheelchair, shall
72 make timely repair of the wheelchair.

73 (2) Upon request, an authorized wheelchair dealer who
74 sells or leases a customized wheelchair shall make timely
75 repair of the wheelchair at the consumer's residence if it is
76 reasonable under the circumstances.

77 (3) An authorized wheelchair dealer shall do all of the
78 following:

79 a. Maintain and advertise an electronic mail address
80 and a phone number so that a consumer may request a repair.

81 b. Respond to a request for wheelchair repair no later
82 than one business day after the date of the request.

83 c. Order parts for a repair no later than three
84 business days after assessing the need for the repair or after



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85 receiving prior authorization from private or publicly funded
86 health insurance.

87 (c) (1) On and after October 1, 2025, the board shall
88 conspicuously post on its website an electronic mail address
89 and phone number to receive complaints regarding timely repair
90 issues.

91 (2) Upon receiving a complaint pursuant to this
92 section, the board may inspect any authorized wheelchair
93 dealer for cause pursuant to Section 34-14C-4.

94 Section 2. Section 34-14C-6, Code of Alabama 1975, is
95 amended to read as follows:

96 "§34-14C-6

97 (a) The board may deny, suspend, or revoke a license as
98 provided in this section.

99 (b) A license may not be denied, suspended, or revoked
100 except by majority vote of the board and with prior notice and
101 opportunity for hearing in accordance with this chapter and
102 the Alabama Administrative Procedure Act.

103 (c) The board may institute a hearing for denial,
104 suspension, or revocation of a license, or any person may file
105 a written complaint with the board seeking the denial,
106 suspension, or revocation of an application for licensure or
107 license issued by the board or the investigation of any
108 unlicensed person or entity providing home medical equipment
109 services. The complaint shall be in a form prescribed by the
110 board.

111 (d) A copy of the charges, including notice of the time
112 and place of hearing, shall be served by certified mail,



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113 return receipt requested, at least 21 days before the
114 scheduled hearing date to the most recent address of the
115 applicant or licensee on file with the board, or to the last
116 known address of any unlicensed person or entity providing
117 home medical equipment services. If the notice and opportunity
118 for hearing is refused or the return receipt has not been
119 received by the board within 10 days before the scheduled
120 hearing, the applicant, licensee, or unlicensed person or
121 entity may be served by mailing the charges and notice by
122 first class mail, at least seven days before the hearing date,
123 to the most recent address on file with the board, or to the
124 last known address of the unlicensed person or entity
125 providing home medical equipment services.

126 (e) The board may invoke disciplinary action as
127 outlined in subsection (f) whenever it is established to the
128 satisfaction of the board, after a hearing held in accordance
129 with this chapter and the Alabama Administrative Procedure
130 Act, that any person is guilty of any of the following acts:

131 (1) Violation of this chapter or a rule of the board.

132 (2) Making a material misrepresentation in furnishing
133 information to the board.

134 (3) Making a misrepresentation to obtain licensure or
135 to otherwise violate this chapter.

136 (4) Conviction of or entry of a plea of guilty or nolo
137 contendere to any crime that is a felony under the laws of the
138 United States, or any state or territory of the United States,
139 or to any crime that is a misdemeanor, if an essential element
140 of the crime is dishonesty or is directly related to providing



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141 home medical equipment services.

142 (5) Gross negligence or gross misconduct in providing
143 home medical equipment services.

144 (6) Aiding, assisting, or willingly permitting another
145 person to violate any provision of this chapter or rule of the
146 board.

147 (7) Failing, within 30 days, to provide information in
148 response to a written request of the board.

149 (8) Failing to cooperate with an inspection or with an
150 investigation conducted by the board.

151 (9) Engaging in dishonorable, unethical, or
152 unprofessional conduct of a character likely to deceive,
153 defraud, or harm the public.

154 (10) Denial, revocation, suspension, or restriction of
155 a license in another state or jurisdiction to provide home
156 medical equipment services for a reason other than failure to
157 renew the license.

158 (11) Directly or indirectly giving to or receiving from
159 any person, partnership, corporation, or other legal entity
160 any fee, commission, rebate, or other form of compensation for
161 services not actually or personally rendered.

162 (12) A finding that a licensee on probationary status
163 has violated the terms of the probation.

164 (13) Willfully making or filing false records, reports,
165 or billings in the course of providing home medical equipment
166 services including, but not limited to, false records,
167 reports, or billings filed with state or federal agencies or
168 departments.



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169 (14) The use of any words, abbreviations, figures, or
170 letters with the intention of indicating practice as a home
171 medical equipment services provider without having first
172 obtained a license from the board.

173 (15) Failure to comply with state or federal laws and
174 regulations concerning home medical equipment services
175 providers.

176 (16) Solicitation of home medical equipment services
177 using false or misleading advertising.

178 (17) Failure to display a license in accordance with
179 this chapter.

180 (18) Failure to report a change of name, address,
181 control, ownership, or administration to the board within 30
182 days after the date of change.

183 (19) Repeated failure to make timely repair of a
184 wheelchair as provided in Section 34-14C-3.1.

185 (f) When the board finds any person guilty of any of
186 the grounds set forth in subsection (e), the board may enter
187 an order imposing one or more of the following penalties:

188 (1) A letter of reprimand.

189 (2) Imposition of probation for a period of time and
190 subject to such conditions as may be prescribed by the board.

191 (3) Denial of an application for an initial or renewal
192 license.

193 (4) Suspension of a license for a period of time
194 established by the board, with or without automatic
195 reinstatement.

196 (5) Revocation of a license.



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197 (6) Payment of restitution to each consumer negatively
198 affected by the prohibited act. Proof of such restitution
199 shall be a signed and notarized release executed by the
200 consumer or the estate of the consumer.

201 (7) Assessment of the costs of the disciplinary
202 proceedings.

203 (g) Failure to comply with any final order of the board
204 is also cause for suspension or revocation of a license. The
205 board may suspend or revoke any license which has been issued
206 based on false or fraudulent representations.

207 (h) The board may informally resolve any alleged
208 violation of this chapter or rule of the board by stipulation,
209 agreed settlement, or consent order, in lieu of an
210 administrative hearing.

211 (i) Any entity or person found to be providing home
212 medical equipment services without a license as required by
213 this chapter shall be subject to an administrative fine of up
214 to one thousand dollars (\$1,000) per day that services were
215 provided without a license. Funds collected pursuant to this
216 chapter shall be allocated to the administration of the
217 program.

218 (j) Any entity or person found to be providing home
219 medical equipment services without a license as required by
220 this chapter may be administratively enjoined by the board
221 from providing services until such time as the entity or
222 person complies with this chapter.

223 (k) In addition to any other disciplinary action
224 authorized by this chapter, the board may levy and collect



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225 administrative fines for violations of this chapter or the
226 rules or standards of the board in an amount of up to one
227 thousand dollars (\$1,000) for each violation.

228 (l) Any person or entity violating this chapter, upon
229 conviction, shall be guilty of a Class A misdemeanor, and
230 subject to fine or imprisonment, or both.

231 (m) Any entity or person subject to the penalties
232 prescribed by subsections (i) and (j) may pursue an appeal
233 through the board according to rules ~~promulgated~~adopted by the
234 board.

235 (n) Any hearings related to matters before the board
236 shall be conducted in Montgomery County.

237 (o) In addition to any other penalty or disciplinary
238 action authorized by this chapter, the board may seek an
239 injunction against any person or entity found in violation of
240 this chapter. In an action for an injunction, the board may
241 demand and recover a civil penalty of fifty dollars (\$50) per
242 day for each violation, reasonable attorney fees, and court
243 costs. No civil penalty shall be awarded to the board if an
244 administrative fine is assessed pursuant to subsection (i).

245 (p) Upon the revocation or suspension of a license, the
246 licensee shall immediately surrender the license to the board,
247 and if the licensee fails to do so, the board may seize the
248 license.

249 (q) Any person aggrieved by an adverse action of the
250 board may appeal the action to the Circuit Court of Montgomery
251 County in accordance with the Alabama Administrative Procedure
252 Act."



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253 Section 3. (a) As used in this section, the following
254 words have the following meanings:

255 (1) AGENCY. The Alabama Medicaid Agency.

256 (2) AUTHORIZED WHEELCHAIR DEALER. As defined in Section
257 34-14C-3.1, Code of Alabama 1975.

258 (3) COMMISSIONER. The Commissioner of the Alabama
259 Medicaid Agency.

260 (4) CUSTOMIZED WHEELCHAIR. As defined in Section
261 34-14C-3.1, Code of Alabama 1975, for a Medicaid recipient
262 with a disability who is unable to achieve maximum mobility
263 with a standard wheelchair.

264 (5) TIMELY REPAIR. As defined in Section 34-14C-3.1,
265 Code of Alabama 1975.

266 (6) WHEELCHAIR. As defined in Section 34-14C-3.1, Code
267 of Alabama 1975.

268 (b) A customized wheelchair shall be covered under
269 Medicaid only if it is medically necessary, and a standard
270 wheelchair does not meet the recipient's needs as determined
271 by the agency.

272 (c) The commissioner shall not require a new
273 prescription or prior authorization for the medically
274 necessary repair of a customized wheelchair unless the
275 original prescription or authorization for the customized
276 wheelchair is more than: (i) five years old in the case of a
277 Medicaid recipient who is under 21 years of age; or (ii) seven
278 years old in the case of a Medicaid recipient who is 21 years
279 of age or older.

280 (d) No later than September 30, 2026, and annually



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281 thereafter, an authorized wheelchair dealer that contracts
282 with the agency to sell or lease wheelchairs to Medicaid
283 recipients shall submit a report concerning timely repair to
284 the commissioner that includes for each repair request all of
285 the following information:

286 (1) The number of days to initially respond to the
287 request.

288 (2) The number of days to conduct a repair assessment.

289 (3) Whether the repair assessment was made at the
290 recipient's residence, the repair facility, remotely, or
291 another location.

292 (4) If prior authorization to make the repair was
293 necessary, the number of days to receive the agency
294 determination.

295 (5) The number of days from the repair assessment to
296 order a replacement part.

297 (6) The number of days from the repair assessment to
298 complete repair of the wheelchair, including the number of
299 days to receive any replacement part ordered.

300 (7) Whether the repair was completed at the recipient's
301 residence, the repair facility, or another location.

302 (e) The commissioner shall seek any federal approval
303 necessary, including amendment of the state Medicaid plan or
304 application for a waiver, to implement this section.

305 (f) The commissioner shall adopt any rules or forms to
306 implement this section.

307 Section 4. (a) As used in this section, the following
308 words have the following meanings:



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309 (1) CUSTOMIZED WHEELCHAIR. As defined in Section
310 34-14C-3.1, Code of Alabama 1975.

311 (2) HEALTH BENEFIT PLAN. a. Any plan, policy, or
312 contract issued, delivered, or renewed in this state that
313 provides health coverage that includes payment for
314 hospitalization, physician care, treatment, surgery, therapy,
315 drugs, equipment, and any other medical expense, regardless of
316 the following:

317 1. Whether the plan, policy, or contract is provided by
318 a health care insurer, health maintenance organization
319 established under Chapter 21A of Title 27, Code of Alabama
320 1975, health care services plan established under Chapter 20
321 of Title 10A, Code of Alabama 1975, or any other entity that
322 pays for, purchases, or reimburses for health care services.

323 2. Whether the plan is for a group or an individual.

324 b. The term does not include accident-only, specified
325 disease, individual hospital indemnity, credit, dental-only,
326 Medicare supplement, long-term care, disability income, or
327 other limited benefit health insurance policies, or coverage
328 issued as supplemental to liability insurance, workers'
329 compensation, or automobile medical payment insurance.

330 (b) Every health benefit plan issued, delivered, or
331 renewed on and after January 1, 2026, may not require a new
332 prescription or prior authorization for the medically
333 necessary repair or replacement of a customized wheelchair
334 unless the original prescription is more than five years old.

335 Section 5. This act shall become effective on October
336 1, 2025.