

HB258 INTRODUCED



1 HB258
2 5V1EYMM-1
3 By Representative Clarke
4 RFD: State Government
5 First Read: 15-Jan-26



4 SYNOPSIS:

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

7 This bill would require wheelchair repair
8 providers to make repairs in a timely manner. Repair
9 providers that are also licensed home medical equipment
10 services providers would be subject to discipline by
11 the Board of Home Medical Equipment for repeated
12 failure to make timely repairs.

13 This bill would require Medicaid to cover the
14 cost of a customized wheelchair when medically
15 necessary. This bill would also require wheelchair
16 repair providers that contract with Medicaid to submit
17 annual reports to the Medicaid Agency concerning
18 timeliness of repairs.

19 This bill would eliminate any requirement for a
20 new prescription or prior authorization for the repair
21 of a customized wheelchair from Medicaid or private
22 health insurance, depending on the age of the
23 wheelchair.

24 This bill would further require a manufacturer
25 of customized wheelchairs to provide needed product
26 information, tools, and parts directly to the consumer
27 or a repair provider that is not affiliated with the
28 manufacturer.



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29 This bill would further provide that a
30 manufacturer's failure to comply with the standards for
31 assistance would be an unlawful trade practice, subject
32 to enforcement by the Attorney General or an aggrieved
33 owner under the Deceptive Trade Practices Act.

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38 A BILL
39 TO BE ENTITLED
40 AN ACT

41
42 Relating to wheelchair repair; to amend Section
43 34-14C-6, Code of Alabama 1975, to provide the Board of Home
44 Medical Equipment with authority to discipline licensees who
45 fail to repair customized wheelchairs in a timely manner; to
46 provide standards for timely repair of customized wheelchairs;
47 to require Medicaid to cover the cost of customized
48 wheelchairs when medically necessary; to limit the requirement
49 of prior authorization by Medicaid or private health insurance
50 for repair of certain customized wheelchairs; to impose a
51 reporting requirement on Medicaid repair providers; to require
52 manufacturers to provide the documentation, parts, or tools
53 necessary to repair a motorized wheelchair to independent
54 repair businesses on the same terms as provided to the
55 manufacturer's authorized repair businesses; and to provide
56 that a violation of this requirement is an unlawful trade



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practice under Chapter 19 of Title 8, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, the following terms have the following meanings:

(1) CONSUMER. The individual who uses a a customized wheelchair in his or her residence, regardless of whether the purchase or lease of the wheelchair is funded in whole or in part by the consumer or by private or public health insurance.

(2) CUSTOMIZED WHEELCHAIR. A manual or motorized wheelchair that is individually configured for the consumer with specialized equipment that requires evaluation, configuration, fitting, adjustment, programming, and long-term maintenance and repair services.

(3) REPAIR PROVIDER. An authorized repair provider or an independent repair provider, both as defined in Section 5 of this act, that repairs customized wheelchairs and that may or may not be a home medical services provider subject to Chapter 14C of Title 34, Code of Alabama 1975.

(b) (1) A repair provider shall make timely repair of a customized wheelchair according to the requirements of this subsection.

(2) Upon request, a repair provider shall make timely repair of a customized wheelchair at the consumer's residence if the consumer attests that he or she is unable to have the wheelchair delivered to the repair provider's place of business.

(3) A repair provider shall maintain and advertise an electronic mail address and a phone number so that a consumer



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may request a repair.

(4)a. A repair provider fails to make timely repair of a customized wheelchair for any of the following reasons:

1. Failure to respond to a consumer who requests assessment or repair no later than the end of the first full business day after the consumer makes the request.

2. If the wheelchair is delivered to the repair provider's place of business, failure to assess and identify the repairs necessary no later than the end of the first full business day after delivery.

3. If the consumer is unable to have the wheelchair delivered to the repair provider's place of business, failure to assess and identify the repairs necessary no later than the end of the third full business day after submission of the request for assessment or repair by the consumer.

4. If the repair may be covered by private or public health insurance, failure to submit a request for prior authorization within one business day of identifying the necessary repairs.

5. Failure to order the parts required for repair no later than three business days after: (i) assessing the need for repair; and if required, (ii) receiving prior authorization from private or publicly funded health insurance.

6. Failure to repair the wheelchair no later than three business days after receiving the parts ordered.

b. A repair provider makes timely repair of a customized wheelchair in any of the following circumstances:



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1. The repair provider completes necessary repair of the wheelchair no later than 10 business days after the original request is submitted, even if the repair provided fails to comply with any requirement described in paragraph a.

2. The necessary repair is completed more than 10 business days after the original request is submitted because:

(i) The consumer fails to make the wheelchair available for assessment or repair by missing an agreed upon appointment with the repair provider for an assessment or repair at the consumer's home or the repair provider's place of business; or

(ii) Shipment of the parts necessary for repair are ordered but not received, or through no fault of the repair provider, the shipment omits necessary parts or contains the wrong parts; or

(iii) Any other reason that is beyond the control of the repair provider, including a delay in receiving prior authorization from private or public health insurance.

c. If a consumer is required to use a repair provider that is designated by private or publicly funded insurance, the requirements in paragraphs a. and b. shall become operative when the consumer initiates communication with the repair provider designated by the insurer.

(c) (1) On and after October 1, 2026, the Board of Home Medical Equipment shall conspicuously post on its website an electronic mail address and phone number to receive complaints about a repair provider that is also a home medical services provider regarding failure to make timely repair of a customized wheelchair.



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(2) Upon receiving a complaint pursuant to this subsection, the board may investigate a repair provider that is also a home medical services provider for cause pursuant to Section 34-14C-4, Code of Alabama 1975.

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

"§34-14C-6

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

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

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

(d) A copy of the charges, including notice of the time and place of hearing, shall be served by certified mail, return receipt requested, at least 21 days before the scheduled hearing date to the most recent address of the applicant or licensee on file with the board, or to the last known address of any unlicensed ~~person~~individual or entity providing home medical equipment services. If the notice and



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169 opportunity for hearing is refused or the return receipt has
170 not been received by the board within 10 days before the
171 scheduled hearing, the applicant, licensee, or unlicensed
172 ~~person~~individual or entity may be served by mailing the
173 charges and notice by first class mail, at least seven days
174 before the hearing date, to the most recent address on file
175 with the board, or to the last known address of the unlicensed
176 ~~person~~individual or entity providing home medical equipment
177 services.

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

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

184 (2) Making a material misrepresentation in furnishing
185 information to the board.

186 (3) Making a misrepresentation to obtain licensure or
187 to otherwise violate this chapter.

188 (4) Conviction of or entry of a plea of guilty or nolo
189 contendere to any crime that is a felony under the laws of the
190 United States, or any state or territory of the United States,
191 or to any crime that is a misdemeanor, if an essential element
192 of the crime is dishonesty or is directly related to providing
193 home medical equipment services.

194 (5) Gross negligence or gross misconduct in providing
195 home medical equipment services.

196 (6) Aiding, assisting, or willingly permitting another



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person to violate any provision of this chapter or rule of the board.

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

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

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

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

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

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

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

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



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

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

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

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

(19) Repeated failure to make timely repair of a wheelchair as described in Section 1(b) of the act amending this section.

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

(1) A letter of reprimand.

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

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

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

(5) Revocation of a license.

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



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consumer or the estate of the consumer.

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

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

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

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

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

(k) In addition to any other disciplinary action authorized by this chapter, the board may levy and collect administrative fines for violations of this chapter or the rules or standards of the board in an amount of up to one thousand dollars (\$1,000) for each violation.



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

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

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

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

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

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

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



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309 (1) AGENCY. The Alabama Medicaid Agency.

310 (2) COMMISSIONER. The Commissioner of the Alabama
311 Medicaid Agency.

312 (3) CUSTOMIZED WHEELCHAIR. As defined in Section 1 of
313 this act for a Medicaid recipient with a disability who is
314 unable to achieve maximum mobility with a standard wheelchair.

315 (4) REPAIR PROVIDER. As defined in Section 1 of this
316 act.

317 (5) STANDARD WHEELCHAIR. A manual or motorized
318 wheelchair that is not individually configured for a consumer.

319 (6) TIMELY REPAIR. As described in Section 1(b) of this
320 act.

321 (b) A customized wheelchair shall be covered under
322 Medicaid only if it is medically necessary and a standard
323 wheelchair does not meet the recipient's needs as determined
324 by the agency.

325 (c) (1) The commissioner shall not require a new
326 prescription or prior authorization for the repair of a
327 customized wheelchair unless the original prescription or
328 authorization for the customized wheelchair is more than: (i)
329 five years old in the case of a Medicaid recipient who is
330 under 21 years of age; or (ii) seven years old in the case of
331 a Medicaid recipient who is 21 years of age or older.

332 (2) The commissioner shall grant prior authorization to
333 the replacement of a customized wheelchair only upon a
334 determination that repair of the wheelchair would not
335 adequately meet the needs of the recipient.

336 (d) No later than September 30, 2027, and annually



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thereafter, a repair provider that contracts with the agency shall submit a report concerning timely repair to the commissioner that includes for each repair request all of the following information:

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

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

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

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

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

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

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

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

(f) The commissioner shall adopt rules to implement this section.

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

(1) CUSTOMIZED WHEELCHAIR. As defined in Section 1 of



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this act.

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

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

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

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

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

Section 5. (a) For the purposes of this section, the following terms have the following meanings:

(1) AUTHORIZED REPAIR PROVIDER. A person to whom an



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393 original manufacturer grants a license to use a trade name,
394 service mark, or other proprietary identifier for the purpose
395 of maintaining or repairing motorized wheelchairs on behalf of
396 the original manufacturer. If the original manufacturer, in
397 addition to selling, leasing, or supplying motorized
398 wheelchairs, also directly performs maintenance and repair,
399 the original manufacturer is the authorized repair provider.

400 (2) CONSUMER. An individual who owns or leases a
401 motorized wheelchair.

402 (3) DOCUMENTATION. Any manual, diagram, reporting
403 output, service code description, schematic diagram, security
404 code, password, other guidance, or information necessary to
405 maintain or repair a motorized wheelchair.

406 (4) INDEPENDENT REPAIR PROVIDER. A person that is
407 unaffiliated with an original manufacturer and engages in the
408 maintenance or repair of motorized wheelchairs.

409 (5) MAINTENANCE OR REPAIR. Services required to
410 preserve the reliable performance of a motorized wheelchair;
411 prevent malfunction or degradation due to use; correct a
412 malfunction, including the diagnosis of a problem; remedy
413 damage; or perform any other task required to restore a
414 wheelchair to optimal functionality, including any product
415 updates.

416 (6) ORIGINAL MANUFACTURER. A person that sells, leases,
417 or supplies new motorized wheelchairs that are also
418 manufactured by or on behalf of the person.

419 (7) PART. Any replacement part, whether new or used,
420 provided by an original manufacturer for the purpose of



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maintaining or repairing a motorized wheelchair.

(8) TOOLS. Any software, hardware, or other apparatus used for the maintenance or repair of a motorized wheelchair, including software or another mechanism to program a new part, calibrate functionality, or perform any other function required.

(b)(1) An original manufacturer shall make available, directly or through an authorized repair provider and in compliance with the terms required in subsection (c), any documentation, parts, or tools required for the maintenance or repair of a motorized wheelchair to the consumer or an independent repair provider.

(2) The duty described in subdivision (1) includes, with respect to an electronic security lock or other security-related function, the provision of any documentation, tools, or parts required to access and reset the lock or function when disabled during the maintenance or repair of a motorized wheelchair.

(3) The required documentation, parts, or tools may be provided to a consumer or independent repair provider through an appropriate secure release system.

(c) An original manufacturer shall fulfill the duty imposed in subsection (b) in good faith, which means in accordance with the minimum terms required in this subsection.

(1) Documentation shall be provided at no charge except for the actual cost of preparing and sending a physical copy.

(2) Parts shall be provided on the same terms as would apply to an authorized repair provider, including all of the



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following:

a. Costs and terms equivalent to those that apply to an authorized repair provider, including any adjustments due to discount or rebate.

b. Convenient and timely means of delivery.

c. Parts identical to those available to an authorized repair provider to enable maintenance or repair that is at the current level of fully restored or updated functionality, including rights of use or other incentives or preferences given to an authorized repair provider.

d. No obligation or restriction that is not imposed on an authorized repair provider.

e. Without obligation to enter into a standing arrangement or contract with the original equipment manufacturer.

(3) Tools shall be provided subject to the following conditions:

a. At no charge, except for the actual cost of preparing and sending a tool in physical form.

b. No additional authorization required to use or operate the tool.

c. No additional impediment to access or use the tool or to enable full functionality of digital electronic equipment.

d. With sufficient instructions that a reasonable repair provider may use a tool to immediately perform maintenance or repair with little or no independent research on the Internet or other public sources.



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(d) In complying with this section, an original manufacturer shall not be required to divulge any trade secret to a consumer or independent repair provider.

(e) This section shall have no effect on the terms of an arrangement or contract between an original manufacturer and an authorized repair provider which includes, but is not limited to, maintenance or repair work by an authorized repair provider pursuant to a warranty or a recall, except that any term of the arrangement or contract that waives, avoids, restricts, limits, or interferes with the original manufacturer's duty to comply with this section shall be void.

(f) An original manufacturer or authorized repair provider shall not be liable for any damage to, or malfunction of, a motorized wheelchair which results from the use of documentation, parts, or tools provided pursuant to this section to a consumer or an independent repair provider.

(g) A failure to comply with this section shall be an unlawful trade practice under Chapter 19, Title 8, Code of Alabama 1975, subject to enforcement by the Attorney General pursuant to Section 8-19-4, Code of Alabama 1975, or an action by a consumer or independent repair provider pursuant to Section 8-19-10, Code of Alabama 1975.

Section 6. This act shall become effective on October 1, 2026.