

# SENATE BILL NO. 855

April 16, 2020, Introduced by Senators DALEY, LUCIDO, MCCANN, MACGREGOR, VANDERWALL, SCHMIDT and HOLLIER and referred to the Committee on Health Policy and Human Services.

A bill to ensure access to quality complex rehabilitation technology in the Medicaid program for people with complex medical needs; and to prescribe the powers and duties of certain state departments.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "complex needs patient act".

3           Sec. 3. As used in this act:

4           (a) "Complex needs patient" means an individual with a

1 diagnosis of a medical condition that results in significant  
2 physical impairment or functional limitation. Complex needs patient  
3 includes, but is not limited to, an individual with spinal cord  
4 injury, traumatic brain injury, cerebral palsy, muscular dystrophy,  
5 spina bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic  
6 lateral sclerosis, multiple sclerosis, demyelinating disease,  
7 myelopathy, myopathy, progressive muscular atrophy, anterior horn  
8 cell disease, post-polio syndrome, cerebellar degeneration,  
9 dystonia, Huntington's disease, spinocerebellar disease, and  
10 certain types of amputation, paralysis, or paresis that result in  
11 significant physical impairment or functional limitation. A complex  
12 needs patient must meet medical necessity requirements in order to  
13 qualify for receiving complex rehabilitation technology.

14 (b) "Complex rehabilitation technology" means an item  
15 classified within the Medicare program as of January 1, 2019, as  
16 durable medical equipment that is individually configured for an  
17 individual to meet his or her specific and unique medical,  
18 physical, and functional needs and capacity for basic activities of  
19 daily living and instrumental activities of daily living identified  
20 as medically necessary. Complex rehabilitation technology includes,  
21 but is not limited to, complex rehabilitation manual and power  
22 wheelchairs and options or accessories, adaptive seating and  
23 positioning items and options or accessories, and other specialized  
24 equipment such as standing frames and gait trainers and options or  
25 accessories.

26 (c) "Department" means the department of health and human  
27 services.

28 (d) "Employee" means a person whose taxes are withheld by a  
29 qualified complex rehabilitation technology supplier and reported

1 to the Internal Revenue Service. Employee does not include a  
2 contract employee.

3 (e) "Healthcare common procedure coding system" or "HCPCS"  
4 means the billing codes used by Medicare and overseen by the  
5 federal Centers for Medicare and Medicaid Services that are based  
6 on the current procedural technology codes developed by the  
7 American Medical Association.

8 (f) "Individually configured" means a device has a combination  
9 of sizes, features, adjustments, or modifications that a qualified  
10 complex rehabilitation technology supplier can customize to a  
11 specific individual by measuring, fitting, programming, adjusting,  
12 or adapting the device as appropriate so that the device is  
13 consistent with an assessment or evaluation of the individual by a  
14 qualified health care professional and consistent with the  
15 individual's medical condition, physical and functional needs and  
16 capacities, body size, period of need, and intended use.

17 (g) "Qualified complex rehabilitation technology professional"  
18 means an individual who is certified as an assistive technology  
19 professional by the Rehabilitation Engineering and Assistive  
20 Technology Society of North America or as a certified complex  
21 rehabilitation technology supplier by the National Registry of  
22 Rehabilitation Technology Suppliers.

23 (h) "Qualified complex rehabilitation technology supplier"  
24 means a company or entity that is or does all of the following:

25 (i) Is accredited by a recognized accrediting organization as a  
26 supplier of complex rehabilitation technology.

27 (ii) Is an enrolled Medicare supplier and meets the supplier  
28 and quality standards established for durable medical equipment  
29 suppliers, including the standards for complex rehabilitation

1 technology, under the Medicare program.

2 (iii) Employs as a W-2 employee, at least, 1 qualified complex  
3 rehabilitation technology professional for each location to do the  
4 following:

5 (A) Analyze the needs and capacities of the complex needs  
6 patient in consultation with qualified health care professionals.

7 (B) Participate in the selection of appropriate complex  
8 rehabilitation technology for the needs and capacities of the  
9 complex needs patient.

10 (C) Provide technology-related training in the proper use of  
11 the complex rehabilitation technology.

12 (iv) Requires a qualified complex rehabilitation technology  
13 professional be physically present for the evaluation and  
14 determination of appropriate complex rehabilitation technology.

15 (v) Has the capability to provide service and repair by a  
16 qualified technician for all complex rehabilitation technology it  
17 sells.

18 (vi) Provides written information at the time of delivery of  
19 complex rehabilitation technology regarding how the complex needs  
20 patient may receive service and repair.

21 (i) "Qualified health care professional" means a health care  
22 professional licensed by the department of licensing and regulatory  
23 affairs who has no financial relationship with a qualified complex  
24 rehabilitation technology supplier. If a qualified complex  
25 rehabilitation technology supplier is owned by a hospital, the  
26 health care professional may be employed by the hospital and work  
27 in an inpatient or outpatient setting. Qualified health care  
28 professional includes, but is not limited to, a licensed physician,  
29 a licensed physical therapist, a licensed occupational therapist,

1 or other licensed health care professional who performs specialty  
2 evaluations within the professional's scope of practice.

3       Sec. 5. The department shall establish focused policies and  
4 promulgate focused rules for complex rehabilitation technology  
5 products and services. The focused policies and rules must take  
6 into consideration the individually configured nature of complex  
7 rehabilitation technology and the broad range of services necessary  
8 to meet the unique medical and functional needs of an individual  
9 with complex medical needs by doing all of the following:

10       (a) Designating specific HCPCS billing codes for complex  
11 rehabilitation technology and any new codes in the future as  
12 appropriate.

13       (b) Establishing specific supplier standards for a company or  
14 entity that provides complex rehabilitation technology and  
15 restricting providing complex rehabilitation technology to only a  
16 qualified complex rehabilitation technology supplier.

17       (c) Requiring a complex needs patient receiving a complex  
18 rehabilitation manual wheelchair, power wheelchair, or seating  
19 component to be evaluated by both of the following:

20           (i) A qualified health care professional.

21           (ii) A qualified complex rehabilitation technology  
22 professional.

23       (d) Maintaining payment policies and rates for complex  
24 rehabilitation technology to ensure payment amounts are adequate to  
25 provide complex needs patients with access to those items. These  
26 policies and rates must take into account the significant  
27 resources, infrastructure, and staff needed to appropriately  
28 provide complex rehabilitation technology to meet the unique needs  
29 of a complex needs patient.

1           (e) Exempting the related complex rehabilitation technology  
2 HCPCS billing codes from inclusion in bidding, selective  
3 contracting, or similar initiative.

4           (f) Requiring that managed care Medicaid plans adopt the  
5 regulations and policies outlined in this act and contract with a  
6 willing, qualified complex rehabilitation technology supplier.

7           (g) Making other changes as needed to protect access to  
8 complex rehabilitation technology for complex needs patients.