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BILL ANALYSIS

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Senate Bills 449 and 450 (as introduced 6-28-23)

Sponsor: Senator Kevin Daley (S.B. 449)  
Senator Jeff Irwin (S.B. 450)

*(Senate-passed version)*  
*(Senate-passed version)*

Committee: Health Policy

Date Completed: 10-10-23

## **CONTENT**

**Senate Bill 449 would add Section 108b to the Social Welfare Act to require the Department of Health and Human Services (DHHS) to establish focused policies and promulgate focused rules that met certain requirements for complex rehabilitation technology (CRT) products and services.**

**Senate Bill 450 would add Section 108a to the Social Welfare Act and define terms as used in Section 108b proposed in Senate Bill 449.**

The bills are tie-barred.

### **Senate Bill 449**

Under proposed Section 108b, the DHHS would have to establish focused policies and promulgate focused rules for CRT products and services. The policies and rules would have to take into consideration the individually configured nature of CRT and the broad range of services necessary to meet unique medical and functional needs of an individual with complex medical needs by doing all the following:

- Designating specific healthcare common procedure coding system (HCPCS) billing codes for CRT and any new codes in the future as appropriate.
- Establishing specific supplier standards for a company or entity that provided CRT and restricting providing CRT to only a qualified CRT supplier or an individual, company, or entity approved by the DHHS, but only if a qualified CRT supplier were unavailable.
- Requiring a complex needs patient receiving a complex rehabilitation manual wheelchair, power wheelchair, or seating component to be evaluated by a qualified health care professional and a qualified CRT professional.
- Exempting the related CRT HCPCS billing codes from inclusion in bidding, selective contracting, or similar initiative.
- Requiring that managed care Medicaid plans adopt the regulations and policies outlined in the bill and include these regulations and policies in their contracts with qualified CRT suppliers.
- Making other changes as needed to protect access to CRT for complex needs patients.

In addition, the focused policies and rules would have to take into consideration the individually configured nature of CRT and the broad range of services necessary to meet unique medical and functional needs of an individual with complex medical needs by maintaining payment policies and rates for CRT to ensure payment amounts were adequate to provide complex needs patients with access to those items. These policies and rates would have to consider the significant resources, infrastructure, and staff needed to appropriately provide CRT to meet the unique needs of a complex needs patient.

## **Senate Bill 450**

Under proposed Section 108a, "complex needs patient" would mean an individual with a diagnosis of a medical condition that results in significant physical impairment or functional limitation. Complex needs patient includes an individual with spinal cord injury, traumatic brain injury, cerebral palsy, muscular dystrophy, spina bifida, osteogenesis imperfecta, arthrogryposis, amyotrophic lateral sclerosis, multiple sclerosis, demyelinating disease, cell disease, post-polio syndrome, cerebellar degeneration, dystonia, Huntington's disease, spinocerebellar disease, and certain types of amputation, paralysis, or paresis that result in significant physical impairment or functional limitation. A complex needs patient would have to meet medical necessity requirements to qualify for receiving complex rehabilitation technology.

"Complex rehabilitation technology" would mean an item classified within the Medicare program as of January 1, 2020, as durable medical equipment that is individually configured for an individual to meet his or her specific and unique medical, physical, and functional needs and capacity for basic activities of daily living and instrumental activities of daily living identified as medically necessary. The term would include complex rehabilitation manual and power wheelchairs and options or accessories, and other specialized equipment such as standing frames and gait trainers and options or accessories.

"Employee" means that term as defined in Section 3401(c) of the Internal Revenue Code. (Under that section, "employee" includes an officer, employee, or elected official of the United States, a state, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term also includes an officer of a corporation.) Any person from whom an employer is required to withhold for Federal income tax purposes would be prima facie an employee. The term does not include a contract employee.

"Health care common procedure coding system" would mean the billing codes used by Medicare and overseen by the Federal Centers for Medicare and Medicaid Services that are based on the current procedural technology codes developed by the American Medical Association.

"Individually configured" would mean a device that has a combination of sizes, features, adjustments, or modifications that a qualified CRT supplier can alter or apply to a specific individual by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the individual by a qualified health care professional and consistent with the individual's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

"Qualified complex rehabilitation technology professional" would mean an individual who is certified as an assistive technology professional by the Rehabilitation Engineering and Assistive Technology Society of North America or as a certified complex rehabilitation technology supplier by the National Registry of Rehabilitation Technology Suppliers, or an individual who is approved by the Department of Health and Human Services, but only if a qualified complex rehabilitation technology supplier is unavailable.

"Qualified complex rehabilitation technology supplier" would mean a company or entity that is or does all of the following or a company or entity approved by the DHHS, but only if a qualified CRT supplier is unavailable:

-- Is accredited by a recognized accrediting organization as a supplier of CRT.

- Is an enrolled Medicare supplier and meets the supplier and quality standards established for durable medical equipment suppliers, including the standards for CRT, under the Medicare program.
- Requires a qualified complex rehabilitation technology professional be physically present for the evaluation and determination of appropriate CRT.
- Has the capability to provide service and repair by a qualified technician for all CRT it sells.
- Provides written information at the time of delivery of CRT regarding how the complex needs patient may receive service and repair.

In addition to the requirements above, a qualified CRT supplier would have to employ a qualified CRT professional for each location to do the following: 1) analyze the needs and capacities of the complex needs patient in consultation with qualified health care professionals; 2) participate in the selection of appropriate CRT or the needs and capacities of the complex needs patient; and 3) provide technology-related training in the proper use of CRT.

"Qualified health care professional" would mean a health care professional licensed by the Department of Licensing and Regulatory Affairs under Article 15 (Occupations) of the Public Health Code who has no financial relationship with a qualified complex rehabilitation supplier. If a qualified complex rehabilitation technology supplier was owned by a hospital, the health care professional could be employed by the hospital and work in an inpatient or outpatient setting. The term would include a licensed physician, a licensed physical therapist, a licensed occupational therapist, or other licensed health care professional who performed specialty evaluations within the professional's scope of practice.

Proposed MCL 400.108b (S.B. 450)  
MCL 400.108a (S.B. 449)

Legislative Analyst: Alex Krabill

### **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

Senate Bills 449 and 450 are similar to Senate Bills 500 and 499, respectively, from the 2021-2022 Legislative Session. Senate Bills 499 and 500 passed the Senate but received no further action.

### **FISCAL IMPACT**

#### **Senate Bill 449**

The bill would have a minimal fiscal impact. The bill would create recognition of what is commonly referred to as CRT as a separate category in the State's Medicaid program. This new category would include specialized, often individualized (to meet individual needs) equipment for a subset of disabled Medicaid clients whose equipment needs presently are provided through the durable medical equipment benefit in Medicaid. There could be greater specific equipment costs for this relatively small segment, but these costs could be more than offset by reduced costs due to improved health outcomes for individuals whose needs were served better by more appropriate equipment. Because of the relatively narrow coverage group, any costs or savings would be minor relative to overall Medicaid costs.

#### **Senate Bill 450**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.