

HOW TO GET ASSISTIVE TECHNOLOGY IN A NURSING FACILITY

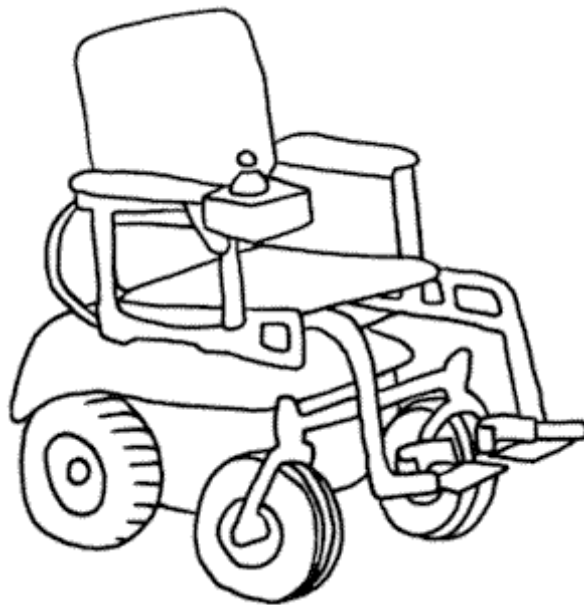


Figure 1: Power wheelchair.

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HOW TO GET ASSISTIVE TECHNOLOGY IN A NURSING FACILITY

INTRODUCTION

This brochure describes the steps that you can take to help a nursing facility resident on Medical Assistance (Medicaid) to get needed assistive technology, including durable medical equipment (DME).

The Assistive Technology Act of 2004 defines an assistive technology device as “any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.” Examples of assistive technology devices are wheelchairs; augmentative communication devices; hearing aids; other durable medical equipment, medical supplies, orthotics, and prosthetics; adapted telephones, and environmental controls.

The Assistive Technology Act of 2004 defines an assistive technology service as “any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.” Examples of assistive technology services are an evaluation, training on the use of a device, and repair of a device.

Regarding assistive technology, this brochure includes information on the rights of a resident on Medical Assistance (Medicaid) and the responsibilities of a nursing facility that is licensed in Pennsylvania and enrolled in Medical Assistance (Medicaid), under both federal law and Pennsylvania law.

The Americans with Disabilities Act and the Rehabilitation Act of 1973 may also require a nursing facility to provide certain types of assistive technology. Discussion of the Americans with Disabilities Act and the Rehabilitation Act of 1973 is beyond the scope of this brochure, however.

PLEASE NOTE: THIS INFORMATION IS NOT INTENDED TO BE LEGAL ADVICE APPLICABLE TO SPECIFIC FACTUAL SITUATIONS.

STEP 1: GET AN EVALUATION AND DOCTOR'S PRESCRIPTION

Under federal law and state law, a nursing facility that is enrolled in Medical Assistance (Medicaid) must provide services and activities to achieve the highest practicable physical, mental, and psychosocial well-being of each resident. Assistive technology, including durable medical equipment (DME), will often help a resident to function better and to perform his or her activities of daily living with as much independence as possible. If so, an assistive technology evaluation and the needed assistive technology device should be prescribed, both included in the resident's care plan, and both provided to the resident, all in a timely manner. The nursing facility also must arrange for training on use of the device as well as timely maintenance and repairs.

The nursing facility must provide all medically necessary assistive technology. The definition of "medically necessary" is: "A service, item, procedure or level of care that is: (i) Compensable under the Medical Assistance Program; (ii) Necessary to the proper treatment or management of an illness, injury or disability; [and], (iii) Prescribed,

provided or ordered by an appropriate licensed practitioner in accordance with accepted standards of practice.”¹

A device or service is “necessary to the proper treatment or management of an illness, injury or disability” if it meets one of the following standards: “(1) Will, or is reasonably expected to, prevent the onset of an illness, condition or disability. (2) Will, or is reasonably expected to, reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability. (3) Will assist the recipient to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.”²

Once a doctor writes a prescription for an assistive technology evaluation and/or device, the evaluation and/or device is considered to be medically necessary, and the nursing facility must include the item in the resident’s care plan and get the item in a timely manner. This includes, for example, locating an appropriate evaluator or vendor and getting all needed paperwork.

An evaluation is an important step to make sure that the right type of assistive technology device and adaptations are prescribed for the resident. The doctor will often write his or her prescription for the specific assistive technology device based on the results of the evaluation. Therefore, the nursing facility must first ensure that an appropriate assistive technology evaluation is arranged for the resident. Some

¹ This is found in Pennsylvania regulation 55 Pa. Code § 1101.21.

² This is found in Pennsylvania regulation 55 Pa. Code § 1101.21a.

examples are an evaluation by an accredited rehabilitation facility for a motorized wheelchair, an evaluation by a licensed speech-language pathologist for an augmentative communication device, and an evaluation by a licensed audiologist for assistive technology for hearing. The nursing facility must, for example, get a doctor's prescription for the evaluation, arrange the evaluation, and provide transportation to and from the evaluation site, if necessary, all in a timely manner.

Sometimes it can be difficult to get the doctor whom the resident usually sees to prescribe the evaluation or item, especially if the doctor is connected to the nursing facility and is concerned about cost to the nursing facility. There are three possible ways around this problem:

1. Share information about Exceptional DME (below) so that the nursing facility or doctor will understand that the nursing facility may be able to get more funding from the Department of Public Welfare for certain durable medical equipment. The nursing facility may contact the Department of Public Welfare Division of Long Term Care Provider Services at 1-877-299-2918 for more information.
2. When the resident is on Medical Assistance, he or she has the right to see any Medical Assistance-enrolled doctor, not just the doctor who comes to the nursing facility. The nursing facility must help arrange an appointment and must provide transportation to and from the appointment (if in the community) at no cost to the resident, all in a timely manner. After a resident gets a doctor's prescription, the nursing

facility must ensure that the evaluation and/or the device/service are included in the care plan and obtained in a timely manner.

3. Any doctor licensed in Pennsylvania, including a family doctor who is not enrolled in Medical Assistance, can write the prescription. After a resident gets a doctor's prescription, the nursing facility must ensure that the evaluation and/or the device/service are included in the care plan and obtained in a timely manner.

STEP 2: CONSIDER AN EXCEPTIONAL DME GRANT

The nursing facility must pay for all medically necessary durable medical equipment, medical supplies, and other assistive technology out of the standard Medical Assistance payment that it receives from the Department of Public Welfare, which is called the per diem rate. If needed durable medical equipment (DME) is expensive, unusual, or otherwise extraordinary, the nursing facility may be able to an Exceptional DME Grant from the Department of Public Welfare to pay for the equipment, in addition to and separate from the per diem rate.

An Exceptional DME Grant is available for the following types of durable medical equipment (DME) if they are medically necessary and cost \$5000 or more: air fluidized beds, powered air flotation beds, ventilators and related supplies, and augmentative communication devices.

An Exceptional DME Grant is also available for durable medical equipment (DME) that is medically necessary, costs \$5000 or more, and is "specially adapted." "Specially

adapted” means “uniquely constructed or substantially adapted or modified in accordance with the written orders of a physician for the particular use of one resident, making its contemporaneous use by another resident unsuitable.”

The nursing facility must maintain, repair, protect, preserve, and insure this Exceptional DME. The resident can become the owner of this Exceptional DME, allowing him or her to take the equipment to the community.

NOTE: If an actual discharge date has been set for the resident, an Exceptional DME Grant is not available. However, in this situation, while the resident is still in the nursing facility, fee-for-service Medical Assistance will pay for medically necessary durable medical equipment and other assistive technology that the resident will need in the community. The resident will own this assistive technology. As a part of its discharge planning responsibilities, the nursing facility must help obtain, before discharge, any assistive technology that the resident will need in the community. The nursing facility is responsible for working with medical professionals, arranging an evaluation, contacting vendors, billing fee-for-service Medical Assistance, providing training, and all other necessary steps before discharge. As an alternative, the nursing facility may allow the resident to take assistive technology with him or her that was paid for through the Medical Assistance per diem rate. Either way, the assistive technology should be a part of the individual's written discharge plan.

STEP 3: ENCOURAGE AN APPLICATION FOR AN EXCEPTIONAL DME GRANT

The nursing facility must prepare forms and documentation in order to get the Department of Public Welfare to approve a request for an Exceptional DME Grant. A bulletin that provides detailed information on how to fill out these forms can be obtained by contacting the Department of Public Welfare's Long Term Care Provider Relations Division at 1-877-299-2918 (voice) or from the Department's website:

<http://www.dpw.state.pa.us/omap/provinf/mabull/010208.asp>.

The information that needs to be submitted includes a Letter of Medical Necessity written by the doctor explaining why the durable medical equipment was prescribed. An outline of a letter that the doctor can use is attached to this brochure. The doctor can adopt and rely on the recommendations of the evaluating medical professional, such as a physical therapist, occupational therapist, speech-language pathologist, audiologist, ophthalmologist, or other licensed medical professional. Also, the recommendations of the evaluating medical professional should be submitted, in the form of a Letter of Medical Necessity or evaluation report.

STEP 4: APPEAL ANY DENIAL OF AN EXCEPTIONAL DME GRANT

The Department of Public Welfare tries to decide within twenty-one (21) days whether to approve a request for an Exceptional DME Grant. If the Department of Public Welfare decides that the equipment is not medically necessary, or not "exceptional," a denial notice explaining why is sent to the resident, the nursing facility, and resident's authorized representative, if any. It is important to consider an appeal of the denial, especially when the denial is based on a decision that the equipment is not medically

necessary. An appeal must be received within thirty (30) days of the date of the denial notice. Do not delay getting help for the resident. If time is short, send a letter saying that the resident disagrees and requests a fair hearing. Then, contact an advocate or lawyer for help.

STEP 5: HELP GET THE ASSISTIVE TECHNOLOGY EVEN IF AN EXCEPTIONAL DME GRANT IS NOT APPROVED

Any needed assistive technology, including an evaluation, should be promptly prescribed and included in the resident's care plan. The nursing facility must provide medically necessary assistive technology devices and services, whether or not the nursing facility gets an Exceptional DME grant from the Department of Public Welfare. In fact, all needed assistive technology must be provided even if Medical Assistance does not cover it. If a nursing facility resident needs help obtaining an assistive technology evaluation or an assistive technology device/service, please contact one of the following numbers listed below for help.

WHO TO CONTACT FOR HELP

Disability Rights Network of Pennsylvania (DRN)
1-800-692-7443 (voice)
1-877-375-7139 (TTY)
Email address is: drnpa-hbg@drnpa.org.

Pennsylvania Legal Services
1-800-322-7572 (voice)
Or find your local program at http://www.palegalaid.net/legal_help_finder.htm

Department of Public Welfare Division of Long Term Care Provider Services
1-877-299-2918 (voice)

Department of Health Nursing Facility Complaint Hotline
1-800-254-5164

Department of Aging Long Term Care Ombudsman Program
717-783-7247 (voice)

Or find your local ombudsman number at

<http://www.aging.state.pa.us/aging/cwp/view.asp?A=283&Q=230793>

The mission of the Disability Rights Network is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities.

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Attachment: Outline of Letter of Medical Necessity for Doctor Prescribing Assistive Technology for Nursing Facility Resident

1. Identify yourself and your credentials.
2. Describe your relationship with the Medical Assistance recipient. Be sure to note that you examined the patient.
3. Describe the diagnosis(es) and limitations/needs caused by the diagnosis(es).
4. Explain why the equipment, device, or services that you prescribed are medically necessary to address the limitations/needs described above. Focus on why the equipment, device, or services are “necessary to the proper treatment or management of an illness, injury or disability,” which is the Department of Public Welfare’s definition of medically necessary. Also, discuss how the assistive technology will help the resident “to attain or maintain [his or her] highest practicable physical, mental, and psychosocial well-being,” which is the facility’s legal responsibility for each resident. Quote these standards and explicitly state that your patient’s needs meet them.
5. Describe as specifically as possible how the assistive technology will help the resident to function better and to accomplish his or her activities of daily living with as much independence as possible.
6. Carefully describe the equipment or device prescribed and attach any information that you may have on it, especially if it is unusual. If applicable, it is very important to discuss how the equipment or device is specially adapted or limited in usefulness only for the resident. When equipment or a device is “specially adapted” and costs \$5000 or more, the nursing facility is eligible for additional payments from Department of Public Welfare to purchase it for the resident.
7. Give information about and credentials of any other professionals whom you consulted in deciding what equipment, device, or services were best suited to your patient’s needs (such as physical therapists, occupational therapists, or speech-language pathologists). Attach their reports or letter to your letter.
8. Describe any less expensive alternatives that you considered and why they are not appropriate. For example, a manual wheelchair might be much cheaper but would not provide independent and functional mobility for a resident who did not have the strength to operate it.
9. Describe other more expensive alternatives that were rejected in favor of the less expensive, adequate, and medically necessary equipment that you prescribed.