

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Hearing Aid Services

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5 Rules as Adopted

6 9505.0175 DEFINITIONS.

7 [For text of subps 1 to 31, see M.R.]

8 Subp. 32. Performance agreement. "Performance agreement"
9 means a written agreement between the department and a provider
10 that states the provider's contractual obligations for the sale
11 and repair of medical equipment and medical supplies eligible
12 for medical assistance payment. An example of a performance
13 agreement is an agreement between the department and a provider
14 of nondurable medical supplies or durable medical equipment as
15 specified in part 9505.0310, subpart 3, items A and B.

16 [For text of subps 33 to 50, see M.R.]

17 9505.0221 PAYMENT LIMITATION; PARTIES AFFILIATED WITH A PROVIDER.

18 Except as allowed in part 9505.0287, equipment, supplies,
19 or services prescribed or ordered by a physician are not
20 eligible for medical assistance payment if they are provided:

21 A. by a person or entity that provides direct or
22 indirect payment to the physician for the order or prescription
23 for the equipment, supplies, or services; or

24 B. upon or as a result of direct referral by the
25 physician to an affiliate of the physician unless the affiliate
26 is the only provider of the equipment, supplies, or services in
27 the local trade area.

28 For purposes of this part, "affiliate" means a person that
29 directly, or indirectly through one or more intermediaries,
30 controls, or is controlled by, or is under common control with
31 the referring physician.

32 9505.0287 HEARING AID SERVICES.

33 Subpart 1. Definitions. The terms used in this part have
34 the meanings given them.

1 A. "Audiologic evaluation" means an assessment of
2 communication problems caused by hearing loss that is performed
3 by an audiologist or an otolaryngologist.

4 B. "Audiologist" has the meaning given in part
5 9505.0390, subpart 1, item A.

6 C. "Hearing aid" means a monaural hearing aid, a set
7 of binaural hearing aids, or other device worn by the recipient
8 to improve the recipient's access to and use of auditory
9 information.

10 D. "Hearing aid accessory" means chest harnesses,
11 tone and ear hooks, carrying cases, and other accessories that
12 are not included in the cost of the hearing aid but that are
13 necessary to the recipient's use of the hearing aid.

14 E. "Hearing aid services provider" means a person who
15 ~~is-registered-with-the-commissioner-of-health-as-a-hearing~~
16 ~~instrument-dispenser-or-an-audiologist-or-otolaryngologist~~ who
17 has a permit from the commissioner of health as a seller of
18 hearing instruments and, when applicable, meets the specific
19 state licensure and registration requirements of the
20 commissioner of health for the hearing aid services the person
21 provides. A hearing aid services provider who is not an
22 audiologist or an otolaryngologist must not perform an
23 audiologic evaluation.

24 F. "Hearing aid services" means the services provided
25 by a hearing aid services provider that are necessary to
26 dispense hearing aids and provide hearing aid accessories and
27 repairs.

28 G. "Otolaryngologist" means a physician specializing
29 in diseases of the ear and larynx who is board eligible or board
30 certified by the American Board of Otolaryngology.

31 Subp. 2. Covered hearing aid services. To be eligible for
32 medical assistance payment, the hearing aid services must meet
33 the requirements of items A to E and the other requirements of
34 this part.

35 A. A physician's examination must determine that the
36 recipient does not have medical or surgical conditions that

1 contraindicate fitting the recipient with a hearing aid.

2 B. The physician who examines the recipient must
3 refer the recipient for an audiologic evaluation to determine if
4 the recipient has a communication disorder caused by a hearing
5 loss and if a hearing aid is medically necessary for the
6 recipient.

7 C. The audiologist or otolaryngologist who conducts
8 the audiologic evaluation required under item B must order a
9 specific hearing aid based on the findings of the audiologic
10 evaluation.

11 D. The hearing aid services provider must provide the
12 hearing aid that is recommended by the audiologist or
13 otolaryngologist.

14 E. The audiologist or otolaryngologist must inform
15 the recipient of the need to schedule a follow-up visit and must
16 request that the recipient schedule a follow-up visit to
17 determine the effectiveness of the hearing aid within 30 days of
18 providing the aid or within the time period specified in the
19 contract obtained through the competitive bidding process under
20 part 9505.0200, whichever is longer.

21 **Subp. 3. Eligibility for replacement hearing aid.** A
22 recipient is not eligible to receive a replacement hearing aid
23 through medical assistance within five years after a hearing aid
24 was provided to the recipient under subpart 2 unless prior
25 authorization is obtained from the commissioner. The criteria
26 for prior authorization of a replacement hearing aid are listed
27 in items A and B:

28 A. the recipient's present hearing aid is no longer
29 effective because the recipient has had an increase in hearing
30 loss; or

31 B. the recipient's hearing aid has been misplaced,
32 stolen, or damaged due to circumstances beyond the recipient's
33 control so that it cannot be repaired. The recipient's degree
34 of physical and mental impairment must be considered in
35 determining whether the circumstances were beyond the
36 recipient's control. If the recipient's hearing aid was

1 misplaced, stolen, or irreparably damaged more than two times in
2 a five-year period, a recipient must not receive a replacement
3 hearing aid.

4 Subp. 4. Condition for payment; availability of hearing
5 aid through contract purchase. If the department seeks
6 competitive bids under part 9505.0200 for the provision of
7 hearing aids and if at least one of the hearing aids available
8 to a recipient is consistent with the results of the audiologic
9 evaluation, then medical assistance payment for the recipient's
10 hearing aid is limited to a hearing aid available under part
11 9505.0200.

12 Subp. 5. Hearing aid services provider payment. A hearing
13 aid services provider must receive one payment for fitting a new
14 hearing aid for a recipient plus providing at least three
15 batteries of the type necessary to operate the hearing aid. A
16 hearing aid services provider must not request payment until
17 after the hearing aid is dispensed. The payment also covers the
18 following hearing aid services during the hearing aid warranty
19 period:

20 A. instructing and counseling the recipient on the
21 use and care of the hearing aid;

22 B. providing the recipient a copy of the
23 manufacturer's warranty applicable to the recipient's hearing
24 aid; and

25 C. returning the hearing aid to the manufacturer for
26 repair.

27 Subp. 6. Replacement batteries. Medical assistance
28 payment is available to pay for replacement batteries only in
29 the quantity necessary to operate the hearing aid for a period
30 of not more than 90 days, beginning with the date the hearing
31 aid is provided to the recipient.

32 Subp. 7. Hearing aid services to resident of long-term
33 care facility. For a resident of a long-term care facility to
34 be eligible for medical assistance payment, the resident's
35 hearing aid services must result from:

36 A. a request by the recipient;

1 B. a referral by a registered nurse ~~or~~, licensed
2 practical nurse, or consulting nurse who is employed by the
3 long-term care facility~~7~~; or

4 C. a referral by the recipient's family, guardian, or
5 attending physician.

6 For purposes of this subpart, "long-term care facility"
7 means a residential facility certified by the Department of
8 Health as a nursing facility or an intermediate care facility
9 for the mentally retarded.

10 Subp. 8. **Other covered hearing aid services.** Medical
11 assistance payment is also available to pay for the hearing aid
12 services in items A and B:

13 A. ear molds if the ear molds are not provided by the
14 manufacturer as part of the hearing aid under the contract with
15 the state, or if the earmolds are not customarily provided with
16 the hearing aid; and

17 B. hearing aid accessories.

18 Subp. 9. **Trial period for audiologist's or
19 otolaryngologist's evaluation of hearing aid.**

20 A. A hearing aid services provider must allow a
21 recipient at least a 30-day trial or the period required by the
22 contract between the state and the hearing aid manufacturer,
23 whichever is longer, to allow an audiologist or otolaryngologist
24 to determine whether the hearing aid meets the recipient's
25 needs. The trial period consists of consecutive days beginning
26 with the date the hearing aid is provided to the recipient. The
27 hearing aid services provider must tell the recipient of the
28 beginning and ending dates of the trial period.

29 B. If the audiologist or otolaryngologist determines
30 that the hearing aid does not meet the recipient's needs, the
31 audiologist or otolaryngologist must tell the recipient of the
32 availability of further audiologic services as set forth in part
33 9505.0390, subpart 4, and order any necessary changes during the
34 trial period.

35 Subp. 10. **Hearing aid services not covered.** Medical
36 assistance payment is not available to pay for the following

1 hearing aid services:

2 A. a hearing aid that is not medically necessary for
3 the recipient;

4 B. replacement batteries, other than as specified in
5 subpart 6, provided regardless of the recipient's need;

6 C. charges for picking up and delivering a hearing
7 aid that are billed on a separate claim for payment;

8 D. repairs to a hearing aid during the warranty
9 period and other hearing aid services that the contract between
10 the state and the hearing aid manufacturer specifies must be
11 provided within the contract price;

12 E. purchase without prior authorization of a hearing
13 aid not covered by a contract obtained through the competitive
14 bidding process under part 9505.0200;

15 F. hearing aid services billed on a separate claim
16 for payment when the payment for the service is included in the
17 dispensing fee for the hearing aid;

18 G. hearing aid drying kits, battery chargers, swim
19 molds, or adapters for telephones, television, or radio;

20 H. canal hearing aids;

21 I. routine cleaning, checking, and other maintenance
22 of hearing aids without request or referral from the recipient,
23 the recipient's family, guardian, or attending physician; and

24 J. hearing aids prescribed or hearing aid services
25 ordered by a physician if the hearing aids or the hearing aid
26 services are provided by a person or entity that commits a
27 felony listed in United States Code, title 42, section 1320a-7b,
28 subject to the exceptions listed in Code of Federal Regulations,
29 title 42, part 1001, section 952.

30 9505.0365 PROSTHETIC AND ORTHOTIC DEVICES.

31 Subpart 1. Definitions. The terms used in this part have
32 the meanings given them.

33 A. "Ambulatory aid" means a prosthetic or orthotic
34 device that assists a person to move from place to place.

35 B. "Prosthetic or orthotic device" means an

1 artificial device as defined by Medicare to replace a missing or
2 nonfunctional body part, to prevent or correct a physical
3 deformity or malfunction, or to support a deformed or weak body
4 part.

5 C. "Physiatrist" means a physician who specializes in
6 physical medicine or physical therapy and who is board certified
7 by the American Board of Physical Medicine and Rehabilitation.

8 [For text of subps 2 and 3, see M.R.]

9 Subp. 4. [See repealer.]

10 [For text of subp 5, see M.R.]

11 Subp. 6. **Excluded prosthetic and orthotic devices.** The
12 prosthetic and orthotic devices in items A to J are not eligible
13 for medical assistance payment:

14 [For text of items A to H, see M.R.]

15 I. a device that is supplied to the recipient by the
16 physician who prescribed the device or by the consultant to the
17 physician in subpart 3; and

18 J. a device that is supplied to the recipient by a
19 provider who is an affiliate of the physician who prescribes the
20 device for the recipient or of the consultant to the physician
21 as in subpart 3. For purposes of this item, "affiliate" means a
22 person that directly, or indirectly through one or more
23 intermediaries, controls, or is controlled by, or is under
24 common control with the referring physician.

25 REPEALER. Minnesota Rules, part 9505.0365, subpart 4, is
26 repealed.