Department of Human Services

Adopted Permanent Rules Relating to Medical Assistance; Rehabilitative and Therapeutic Services

9505.0390 REHABILITATIVE AND THERAPEUTIC SERVICES.

Subpart 1. **Definitions.** For purposes of parts 9505.0390 to 9505.0392 and 9505.0410 to 9505.0412, the following terms have the meanings given them in this part.

A. "Audiologist" means a person who maintains state licensure and registration requirements and meets the requirements of Code of Federal Regulations, title 42, chapter IV, subchapter C, part 440, subpart A, section 440.110.

B. "Delegation of duties" means, notwithstanding any other definition of direction in parts 9505.0170 to 9505.0475, the actions of a physical or occupational therapist who delegates to the physical therapist assistant or the occupational therapy assistant ~~in~~ specific duties to be performed, monitors the provision of services as the therapy assistants provide the service, and meets the supervisory requirements of Minnesota Statutes, sections 148.706 and 148.6432, respectively when treatment is provided by a physical therapist assistant or occupational therapy assistant.

C. "Functional status" means the ability of the person to carry out the tasks associated with daily living.

D. "Occupational therapist" means a person who meets the requirements of Code of Federal Regulations, title 42, chapter IV, subchapter C, part 440, subpart A, section 440.110, and maintains applicable state licensure or is in compliance with state regulatory requirements in states that do not license.

E. "Occupational therapy assistant" means a person who has been certified by the National Board for Certification in Occupational Therapy and maintains applicable state licensure or is in compliance with state regulatory requirements in states that do not license an occupational therapy assistant.

F. "Physical therapist" means a person who is a graduate of a program of physical therapy accredited by the Commission on Accreditation in Physical Therapy Education or its equivalent, meets the requirements of Code of Federal Regulations, title 42, chapter IV, subchapter C, part 440, subpart A, section 440.110, and maintains applicable state licensure or is in compliance with state regulatory requirements in states that do not license.

G. "Physical therapist assistant" means a person who has successfully completed all academic and field work requirements of a physical therapist assistant program accredited by the Commission on Accreditation in Physical Therapy Education, and maintains applicable state licensure or is in compliance with state regulatory requirements in states that do not license.

H. "Rehabilitative and therapeutic services" means restorative therapy, specialized maintenance therapy, and rehabilitative nursing services.

I. "Rehabilitative nursing services" means rehabilitative nursing care as specified in part 4658.0525.

J. "Restorative therapy" means a health service that is specified in the recipient's plan of care and certified by a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law that the service is designed to restore the recipient's functional status to a level consistent with the recipient's physical or mental limitations.

K. "Specialized maintenance therapy" means a health service that is specified in the recipient's plan of care and certified by a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law that is necessary for maintaining a recipient's functional status at a level consistent with the recipient's physical or mental limitations, and that may include treatments in addition to rehabilitative nursing services.

L. "Speech-language pathologist" means a person completing the clinical fellowship year required for certification as a speech-language pathologist, or a person who has a certificate of clinical competence in speech-language pathology from the American Speech-Language-Hearing Association and, when it is applicable, maintains state licensure or is in compliance with state regulatory requirements in states that do not license and meets the requirements of Code of Federal Regulations, title 42, chapter IV, subchapter C, part 440, subpart A, section 440.110.

Subp. 2. **Covered service; occupational therapy and physical therapy.** To be eligible for medical assistance payment as a rehabilitative and therapeutic service, occupational therapy and physical therapy must be:

A. prescribed by a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law;

B. provided by a physical or occupational therapist or by a physical therapist assistant or occupational therapy assistant who, as appropriate, is under the supervision of a physical or occupational therapist as defined in part 9505.0390, subpart 1, items D to G;

C. provided to a recipient whose functional status is expected by the physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law to progress toward or achieve the objectives in the recipient's plan of care within a 90-day period; and

D. specified in a plan of care that is reviewed, and revised as medically necessary, by the recipient's attending physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law at least once every 90 days. If the service is provided to a recipient who is also eligible for Medicare and the service is a Medicare covered service, the plan of care must be reviewed in compliance with Code of Federal Regulations, title 42, chapter IV, subchapter G, part 485, subpart H, section 485.711.

Subp. 3. **Covered service; speech-language service.** To be eligible for medical assistance payment as a rehabilitative and therapeutic service, a speech-language service must be:

A. provided upon written referral by a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law or in the case of a resident of a long-term care facility, on the written order of a physician as specified in Code of Federal Regulations, title 42, section 483.45;

B. provided by a speech-language pathologist as defined in part 9505.0390, subpart 1, item L;

C. provided to a recipient whose functional status is expected by the physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law to progress toward or achieve the objectives in the recipient's plan of care within a 90-day period; and

D. specified in a plan of care that is reviewed, and revised as medically necessary, by the recipient's attending physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law at least once every 90 days unless the service is a Medicare covered service and is to a recipient who also is eligible for Medicare. If the service is to a recipient who also is eligible for Medicare and the service is a Medicare covered service, the plan of care must be reviewed in compliance with Code of Federal Regulations, title 42, chapter IV, subchapter G, part 485, subpart H, section 485.711.

Subp. 4. **Covered service; audiology.** To be eligible for medical assistance payment as a rehabilitative and therapeutic service, an audiology service must be:

A. provided upon written referral by a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law;

B. provided by an audiologist as defined in ~~part 9505.0390,~~ subpart 1, item A;

C. provided to a recipient whose functional status is expected by the physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law to progress toward or achieve the objectives in the recipient's plan of care within a 90-day period; and

D. specified in a plan of care that is reviewed, and revised as medically necessary, by the recipient's attending physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law at least once every 90 days unless the service is a Medicare covered service and is to a recipient who also is eligible for Medicare. If the service is to a recipient who also is eligible for Medicare and the service is a Medicare covered service, the plan of care must be reviewed in compliance with Code of Federal Regulations, title 42, chapter IV, subchapter G, part 485, subpart H, section 485.711.

Subp. 5. **Covered service; specialized maintenance therapy.** To be eligible for medical assistance payment, specialized maintenance therapy must:

A. be provided by a physical therapist, physical therapy assistant, occupational therapist, occupational therapy assistant, or speech-language pathologist;

B. be specified in a plan of care that is reviewed, and revised as medically necessary, by the recipient's physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law at least once every 90 days unless the service is a Medicare covered service and is to a recipient who also is eligible for Medicare. If the service is to a recipient who also is eligible for Medicare and the service is a Medicare covered service, the plan of care must be reviewed at the intervals required by Medicare and the recipient must be visited by the physician or by the physician delegate as required by Medicare;

C. be provided to a recipient whose condition cannot be maintained or treated only through rehabilitative nursing services or services of other care providers, or by the recipient because the recipient's physical, cognitive, or psychological deficits result in:

(1) spasticity or severe contracture that interferes with the recipient's activities of daily living or the completion of routine nursing care, or decreased functional ability compared to the recipient's previous level of function;

(2) a chronic condition that results in physiological deterioration and that requires specialized maintenance therapy services or equipment to maintain strength, range of motion, endurance, movement patterns, activities of daily living, cardiovascular function, integumentary status, or positioning necessary for completion of the recipient's activities of daily living, or decreased abilities relevant to the recipient's current environmental demands; or

(3) health and safety risks for the recipient;

D. have expected outcomes that are functional, realistic, relevant, and transferable to the recipient's current or anticipated environment, such as home, school, community, and work, and be consistent with community standards; and

E. meet at least one of the criteria in subitems (1) to (3):

(1) prevent deterioration and sustain function;

(2) provide interventions, in the case of a chronic or progressive disability, that enable the recipient to live at the recipient's highest level of independence; or

(3) provide treatment interventions for recipients who are progressing but not at a rate comparable to the expectations of restorative care.

Subp. 6. **Payment for rehabilitative nursing service in long-term care facility.** Medical assistance payment for a rehabilitative nursing service in a long-term care facility is subject to the conditions in parts 9549.0010 to 9549.0080 and 9553.0010 to 9553.0080.

Subp. 7. **Payment limitation; therapy assistants and aides.** To be eligible for medical assistance payment on a fee-for-service basis, delegated health services provided by therapy assistants must be provided under the supervision of a physical or occupational therapist. Services of a therapy aide in a long-term care facility are not separately reimbursable on a fee for service basis. Services of a therapy aide in a setting other than a long-term care facility are not reimbursable.

Subp. 8. **Excluded restorative and specialized maintenance therapy services.** Restorative and specialized maintenance therapy services in items A to K are not eligible for medical assistance payment:

A. physical or occupational therapy that is provided without a prescription of a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law;

B. speech-language or audiology service that is provided without a written referral from a physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law;

C. services provided by a long-term care facility that are included in the costs covered by the per diem payment under parts 9549.0010 to 9549.0080 and 9553.0010 to 9553.0080 including:

(1) services for contractures that are not severe and do not interfere with the recipient's functional status or the completion of nursing care as required for licensure of the long-term care facility;

(2) ambulation of a recipient who has an established functional gait pattern;

(3) services for conditions of chronic pain that does not interfere with the recipient's functional status and that can be managed by routine nursing measures;

(4) services for activities of daily living when performed by the therapist, therapist assistant, or therapy aide; and

(5) bowel and bladder retraining programs;

D. arts and crafts activities for the purpose of recreation;

E. service that is not medically necessary;

F. service that is not documented in the recipient's health care record;

G. service specified in a plan of care that is not reviewed, and revised as medically necessary, by the recipient's attending physician or other licensed practitioner of the healing arts within the practitioner's scope of practice under state law as required in subparts 2 to 5;

H. service that is not designed to improve or maintain the functional status of a recipient with a physical impairment or a cognitive or psychological deficit;

I. service that is not part of the recipient's plan of care;

J. service by more than one provider of the same type of rehabilitative and therapeutic services, for the same diagnosis unless the service is provided by a school district as specified in the recipient's individualized education program under Minnesota Statutes, section 256B.0625, subdivision 26; and

K. service that is provided by a rehabilitation agency as defined in part 9505.0385, subpart 1, item B, and that takes place in a sheltered workshop, in a developmental achievement center as defined in part 9525.1210, subpart 8, or service at a residential or group home which is an affiliate of the rehabilitation agency.

9505.0391 THERAPISTS ELIGIBLE TO ENROLL AS PROVIDERS.

A physical therapist, an occupational therapist, an audiologist, or a speech-language pathologist is eligible to enroll as a provider if the therapist complies with the requirements

of part 9505.0195. Additionally, a physical therapist, occupational therapist, audiologist, or speech-language pathologist must be enrolled by Medicare.

9505.0412 REQUIRED DOCUMENTATION OF REHABILITATIVE AND THERAPEUTIC SERVICES.

A rehabilitative or therapeutic service provided under parts 9505.0385, 9505.0386, 9505.0390, 9505.0391, 9505.0395, 9505.0410, and 9505.0411 must be documented as specified in items A to D.

A. The service must be specified in the recipient's plan of care that is reviewed and revised as medically necessary by the recipient's physician at least once every 90 days. If the service is to a recipient who is also eligible for Medicare and the service is a Medicare covered service, the plan of care must be reviewed in compliance with Code of Federal Regulations, title 42, chapter IV, subchapter G, part 485, subpart H, section 485.711.

B. The recipient's plan of care must state:

(1) the recipient's medical and treatment diagnosis and any contraindications to treatment;

(2) a description of the recipient's functional status;

(3) the objectives of the rehabilitative and therapeutic service; and

(4) a description of the recipient's progress toward the objectives in subitem (3).

C. The recipient's plan of care must be signed by the recipient's physician or other licensed practitioner of the healing arts.

D. The record of the recipient's service must show:

(1) the date, type, length, and scope of each rehabilitative and therapeutic service provided to the recipient;

(2) the name or names and titles of the persons providing each rehabilitative and therapeutic service;

(3) the name or names and titles of the persons supervising or directing the provision of each rehabilitative and therapeutic service; and

(4) documented evidence of progress at least every 30 days, by the therapist providing or supervising the services, other than an initial evaluation, that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient in accordance with Minnesota Statutes, section 256B.433, subdivision 2.