

February 25, 1993

Our Reference: ME-12-0-5

Ms. **DeAnn** Friedholm  
State Medicaid Director  
Texas Health and Human Services Commission  
Post Office Box 13247  
Austin, Texas 78711

Dear Ms. Friedholm:

We are responding to your letter of February 8, 1993, concerning the provision of Medicaid services to children in nursing facilities.

Section 6403 of OBRA '89 (Public Law 100-239) amended Section 1905(r) of the Social Security Act to require that States provide such other necessary health care, diagnostic services, treatment, and other measures described in Section 1905(a) of the Act to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan. Therefore, if the State Medicaid agency determines that a particular service addressed in Section 1905(a) is medically necessary **for a** child, including children residing in a NF, it would be required by Section 1905(r) to provide the service, regardless of whether the service is or is not addressed in the NF plan of care.

With this in mind, we will address your specific questions:

1. QUESTION: Under the **OBRA '89** mandate, may Medicaid reimburse for customized durable medical equipment and specialized communication equipment to meet the children's needs, outside of the nursing facility's vendor rate?

RESPONSE: We are assuming that you are asking this question in the context that the needed equipment is not addressed in the NF plan of care and, therefore, the equipment would not have the identity of NF services. Even so, Section 1905(r) provisions would require that, if you determine that the services are medically necessary, that they are addressed in

Section 1905(a), and that the program requirements -- applicable to those services are met, you must provide them.

2. QUESTION: Would reimbursement for these items be allowed, even if the items were listed in the children's NF plan of care? .

RESPONSE: If the items are listed in the NF plan of care, they would assume the identity of NF services. However, the fact that the services are listed in the NF plan of care does not require that you reimburse for the services through the NF vendor rate. States have long had the flexibility of paying for certain NF services outside the vendor rate. For example, Texas currently pays for physical therapy services required by NF patients outside the vendor rate. Of course, with this service your payment is still to the NF who in turn pays the physical therapy provider. But, you could also use the approach that Texas currently uses to pay for prescription drugs required by NF patients. The payment for the drugs is outside the vendor rate and, in fact, is paid directly to the pharmacy provider.

As you can see, there are various billing mechanisms that are open to you. When you determine which mechanism you will use, you should assure that your State Plan clearly reflects your practices in this area. We will be glad to discuss with you the best ways to reflect such practices in your State Plan once you have decided which approach you will use.

If you have any other questions, please call Shirley Duncan on (214) 767-6431.

Sincerely,

Steve McAdoo, Chief  
 Program Operations Branch  
 Division of Medicaid

bec::

Pat Lawton

OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
ME-23-0-5				Steve McAdoo	2/25/93
Official & Reading Files					
POB/SDuncan/sjd	2-25-93/T-NF				
	Duncan	2/25/93			
	Friedholm	2/25/93			
	POB-Medicaid	2/25/93			

File  
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TEXAS HEALTH AND HUMAN SERVICES COMMISSION

February 8, 1993

RICHARD C. LADD  
COMMISSIONER

Mr. Steve McAdoo, Chief  
Program Operations Branch - Medicaid  
Health Care Financing Administration  
Department of Health and Human Services  
1200 Main Tower Building  
Dallas, Texas 75202

Dear Mr. McAdoo:

We are requesting clarification concerning the provision of Medicaid services to children in nursing facilities under OBRA '89. While we understand that the nursing facility must meet the needs of Medicaid patients, the Department of Human Services has identified several instances in which Medicaid-eligible children in nursing facilities need customized wheelchairs, contoured seating systems, orthopedic shoes and specialized communication equipment, which may not be specified in the nursing facility's plan of care. Under the OBRA '89 mandate, may Medicaid reimburse for customized durable medical equipment and specialized communication equipment to meet the children's needs, outside of the nursing facility's vendor rate?

Would reimbursement for these items be allowed, even if the items were listed in the children's nursing facility plan of care? Medicaid does provide for payment for hearing aids to residents in nursing homes, if ordered by the attending physician, and thus in the plan of care.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "DeAnn Friedholm", written over a horizontal line.

DeAnn Friedholm  
State Medicaid Director

DF: rpw

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DHHS/HCFA/POB  
DIVISION OF MEDICAID