

Regular Session, 2010

HOUSE BILL NO. 852

BY REPRESENTATIVE PUGH

MEDICAID: Removes the prohibition against nonaccredited facilities receiving payment from a state agency or Medicaid reimbursement for certain services

1 AN ACT

2 To amend and reenact R.S. 39:1659, the heading of Part LXV of Chapter 5 of Title 40 of the  
3 Louisiana Revised Statutes of 1950, and R.S. 40:1300.281(A), (C), and (D) and to  
4 repeal R.S. 40:1300.281(B)(2) and (3), relative to prosthetic and orthotic services;  
5 to remove the requirement that state agencies only purchase orthoses and orthotic  
6 services from an accredited facility; to remove the definition of orthoses and orthotic  
7 services; to remove the prohibition against reimbursement from the state Medicaid  
8 program for certain services; to remove the penalty assessed against nonaccredited  
9 facilities and the required reimbursement to state agencies or the Medicaid program  
10 for the provision of certain services; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 39:1659 is hereby amended and reenacted to read as follows:

13 §1659. Purchase of prostheses, ~~orthoses, and~~ prosthetic services, and ~~orthotic~~  
14 ~~services~~ by a state agency from an accredited facility

15 Notwithstanding any other provision of law to the contrary, regulations  
16 promulgated by the commissioner of administration or other purchasing entity  
17 governing the purchase of prostheses, ~~orthoses, or~~ prosthetic services, or ~~orthotic~~  
18 ~~services~~ shall require that such services shall only be purchased from an accredited  
19 facility as provided in R.S. 40:1300.281. However, nothing in this Section shall  
20 prohibit a licensed occupational therapist or a licensed physical therapist from  
21 practicing within his scope of practice. In addition, the provisions of this Section  
22 shall not apply to a licensed optometrist or ophthalmologist.

1 Section 2. The heading of Part LXV of Chapter 5 of the Title 40 of the Louisiana  
2 Revised Statutes of 1950 and R.S. 40:1300.281(A), (C), and (D) are hereby amended and  
3 reenacted to read as follows:

4 PART LXV. PROSTHETICS ~~AND ORTHOTICS~~  
5 FROM ACCREDITED FACILITIES

6 §1300.281. Purchase of prostheses, ~~orthoses, and~~ prosthetic services, and ~~orthotic~~  
7 ~~services~~ by a state agency from an accredited facility; Medicaid  
8 reimbursement; definitions; penalties

9 A.(1) Any state agencies which utilize funds to pay for prostheses, ~~orthoses,~~  
10 or prosthetic services, ~~or orthotic services~~ shall only purchase such services;  
11 ~~prostheses, or orthoses~~ from an accredited facility.

12 (2) No reimbursements from the state Medicaid program shall be paid for  
13 prostheses, ~~orthoses, or~~ or prosthetic services, ~~or orthotic services~~ except to an  
14 accredited facility.

15 \* \* \*

16 C. Any person who does not provide services from an accredited facility as  
17 defined in Paragraph (1) of Subsection B, or any organization or facility which is not  
18 accredited as defined in Paragraph (1) of Subsection B, and accepts payment from  
19 a state agency for prostheses, ~~orthoses, or~~ or prosthetic services, ~~or orthotic services~~  
20 shall be fined twenty-five hundred dollars per violation and shall reimburse the state  
21 agency for the cost of the prostheses, ~~orthoses,~~ or services.

22 D. Any person who does not provide services from an accredited facility as  
23 defined in Paragraph (1) of Subsection B, or any organization or facility which is not  
24 accredited as defined in Paragraph (1) of Subsection B, and is reimbursed from the  
25 state Medicaid program for prostheses, ~~orthoses, or~~ or prosthetic services, ~~or orthotic~~  
26 ~~services~~ shall be fined twenty-five hundred dollars per violation and shall reimburse  
27 the state Medicaid program for the cost of the prostheses, ~~orthoses,~~ or services.

28 \* \* \*

1 Section 3. R.S. 40:1300.281(B)(2) and (3) are hereby repealed in their entirety.

2 Section 4. This Act shall become effective upon signature by the governor or, if not  
3 signed by the governor, upon expiration of the time for bills to become law without signature  
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
6 effective on the day following such approval.

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Pugh

HB No. 852

**Abstract:** Removes the prohibition against state agency payments and Medicaid reimbursements to nonaccredited facilities for certain services.

Present law (R.S. 39:1659) requires the purchase of prostheses, orthoses, prosthetic services, and orthotic services by a state agency from an accredited facility as defined in present law. However, present law does not prohibit a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice. Additionally, present law does not apply to a licensed optometrist or ophthalmologist.

Proposed law removes the requirement that state agencies only purchase orthoses and orthotic services from an accredited facility.

Present law (R.S. 40:1300.281(A)) requires that state agencies which utilize funds to pay for prostheses, orthoses, prosthetic services, or orthotic services only purchase such services from an accredited facility. Only an accredited facility shall receive reimbursements from the state Medicaid program for prostheses, orthoses, prosthetic services, or orthotic services.

Proposed law removes the requirement that state agencies only purchase orthoses and orthotic services from an accredited facility. Also, removes the prohibition against Medicaid reimbursement applicable to orthoses and orthotic services.

Present law (R.S. 40:1300.281(B)(2) and (3)) defines "orthosis" as a custom fabricated brace or support that is designed based on medical necessity. Specifies that orthoses does not include prefabricated or direct-formed orthotic devices, or any of the following assistive technology devices: commercially available knee orthoses used following injury or surgery, upper extremity adaptive equipment, finger splints, hand splints, wrist gauntlets, face masks used following burns, wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair, fabric or elastic supports, corsets, low-temperature formed plastic splints, trusses, elastic hose, canes, crutches, cervical collars, and dental appliances, such as those commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply facility. Also, defines "orthotic services" as the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing of an external device for the support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. Also, provides that orthotic practice provides continuing patient care in order to assure proper fit and function of the orthotic device by periodic evaluation.

Proposed law repeals present law.

Present law (R.S. 40:1300.281(C)) establishes a penalty of \$2,500 per violation for any facility that is not accredited and accepts payment from a state agency for prostheses, orthoses, prosthetic services, or orthotic services and requires that they reimburse the state agency for the cost of such services.

Proposed law removes the per violation penalty imposed against nonaccredited facilities that accept payments from state agencies for orthoses and orthotic services and removes the requirement that they reimburse the state agency for the cost of such services.

Present law (R.S. 40:1300.281(D)) establishes a penalty of \$2,500 per violation for any facility that is not accredited and is reimbursed from the state Medicaid program for prostheses, orthoses, prosthetic services, or orthotic services and requires that they reimburse the Medicaid program for the cost of such services.

Proposed law removes the per violation penalty imposed against nonaccredited facilities that are reimbursed from Medicaid for orthoses and orthotic services and removes the requirement that they reimburse the Medicaid program for the cost of such services.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 39:1659, the heading of Part LXV of Chapter 5 of Title 40 of the L.R.S. of 1950, and R.S. 40:1300.281(A), (C), and (D); Repeals R.S. 40:1300.281(B)(2) and (3))