Title of Rule:	Durable Medical Equipment and Disposable Medical Supplies. Section 8.590
Rule Number:	MSB 10-06-02-A
Division / Contact / Phone:	Medicaid Program Division / Jeanine Draut / x5942

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The rule gives the reimbursement rates for durable medical equipment and supplies. To address the state budget shortfall, the proposed rule change reduces reimbursement rates for durable medical equipment and supplies from the fee schedule, or calculated using invoiced costs or manufacturer suggested retail prices.

2. An emergency rule-making is imperatively necessary

   ☒ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   Social Security Act, Section 1902(a)(30)(A)
   42CFR 440.70

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2009);
   25.5-5-4-416 C.R.S. (2009)

Initial Review		Final Adoption	
Proposed Effective Date	**07/01/2010**	Emergency Adoption	**06/11/2010**

DOCUMENT #04

Title of Rule:	Durable Medical Equipment and Disposable Medical Supplies. Section 8.590
Rule Number:	MSB 10-06-02-A
Division / Contact / Phone:	Medicaid Program Division / Jeanine Draut / x5942

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   Durable medical equipment and disposable medical supply providers will receive a lower reimbursement for services provided.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   Total fund reduction for durable medical equipment and supplies for FY 2010-11 is $940,735.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   None.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The proposed rule change will help offset the projected state budget shortfall and allow the Department to provide benefits without any significant changes in coverage. The cost of this rule change is that providers will receive a lower reimbursement. If the Department does not make this reduction, the durable medical equipment and supply benefit, and other Medicaid benefits, may have to be reduced.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   A targeted reduction of provider reimbursement is one of the most effective ways to reduce expenditures, given the size of the forecasted state budget shortfall and the urgent need to offset it.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   The Department is taking steps to make the Medicaid program more efficient and reduce expenditures by clearly defining the amount, scope, and duration or each benefit and by using other targeted provider rate reductions.

8.590.7 REIMBURSEMENT

8.590.7.A. Invoices received from Related Owners or Related Parties shall not be accepted. Only invoices received from unrelated manufacturers or wholesale distributors shall be recognized as allowable invoices*]*

8.590.7.B. The provider shall not bill the Department for authorized accessory items included by the manufacturer as part of a standard package for an item.

8.590.7.C. The provider shall credit the cost of any accessory or part removed from a standard package to the Department. *]*

8.590.7.D. Charges submitted for modifications that require the provider to provide them from their own inventory or stock shall be supported as to the necessity and actual cost of those modifications.

8.590.7.E. Clients and providers may negotiate in good faith a trade-in amount for DME items no longer suitable for a client because of growth, development or a change in anatomical and or medical condition. Such trade-in allowances shall be used to reduce the cost incurred by the Department for a replacement item.

8.590.7.F. The refund amount due the Department on a returned Wheelchair or Facilitative Device shall be agreed upon by the dealer or manufacture; wherever the item was returned, and the Department.

8.590.7.G. Reimbursement for used equipment shall include

1. A written, signed and dated agreement from the client accepting the equipment

2. Billing the Department, the lesser of 60% of the maximum allowable reimbursement indicated in the most recent Medicaid Bulletin or 60% of the provider's usual submitted charges.

8.590.7.H. Reimbursement for purchased or rented equipment shall include, but is not limited to:

1. All elements of the manufacturer's warranties or express warranties.

2. All adjustments and modification needed by the client to make the item useful and functional.

3. Delivery, set-up and installation of equipment in the home, and if appropriate to a specific room in the home.

4. Training and instruction to the client or caregiver in the safe, sanitary, effective and appropriate use of the item and necessary servicing and maintenance to be done by the client or caregiver.

5. Training and instruction on the manufacturer's instructions, servicing manuals and operating guides.

8.590.7.I. Reimbursement rate for a purchased item shall be as follows:

1. Fee Schedule items, with a HCPC or CPT code, that have a maximum allowable reimbursement rate shall be reimbursed at the lesser of submitted charges or the department fee schedule.

2. Manually priced items that have no maximum allowable reimbursement rate assigned, but have a Manufacture Suggested Retail Price (MSRP) shall be reimbursed the MSRP less ~~21.61~~22.39 percent.

3. Manually priced items that have no maximum allowable reimbursement rate assigned, nor a MSRP shall be reimbursed at the lesser of the submitted charges or the sum of the manufacturers invoice cost, plus ~~14.71~~13.56 percent.