

The Project approved moving this issue paper to Implementing States at its April 12, 2002 meeting.

Streamlined Sales Tax Project

Medical Equipment Issue Paper

Revision Date: March 18, 2002

Issue:

How should “prosthetic device,” “durable medical equipment” and “mobility enhancing equipment” be defined?

Background:

The Tax Base Workgroup of the Streamlined Sales Tax Project has the goal of uniformly defining specific terms. The Workgroup’s objective is to ease the burden on sellers involved in interstate commerce. The Workgroup will develop uniform definitions without making determinations about the taxability of items. The Workgroup will attempt to provide flexibility to states and minimize revenue impacts.

Recommendation:

- Uniformly define “prosthetic device” for those states that may choose to exempt same with or without prescription.

Prosthetic device means a replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body to --

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction; or
- (3) Support a weak or deformed portion of the body.

A state may include any or all of the following in drafting of a prosthetic device exemption: corrective eyeglasses, contact lenses, hearing aids and dental prosthesis.

- Define “durable medical equipment” for those states that choose to exempt same.

Durable medical equipment shall mean equipment including repair and replacement parts for same which:

- (1) Can withstand repeated use; and
- (2) Is primarily and customarily used to serve a medical purpose; and
- (3) Generally is not useful to a person in the absence of illness or injury; and
- (4) Is not worn in or on the body.

A state can limit the definition by requiring 'for home use' in the drafting of an exemption.

- Define “mobility enhancing equipment” for those states that may choose to exempt same.

Mobility enhancing equipment shall mean equipment including repair and replacement parts to same but does not include durable medical equipment which:

- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- (2) Is not generally used by persons with normal mobility; and
- (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

Discussion:

For prosthetics, most states use an exemption without a precise definition with no uniformity in the few states with definitions.

With competing concerns of industry and the states, a broad based definition based on the Medicare definition at 42CFR440.120 was utilized but carve outs were created for the four main items that cause the concerns of the states.

No state provides a definition solely for “durable medical equipment” although some states have within an exemption a definition for “durable medical equipment for home use”. The definition was broadened by removing the home use restriction thus allowing for more flexibility but an exemption could be drafted with said restriction.

A definition of mobility aids was added as a result of concerns that this group of products is not represented under definitions for prosthetics and durable medical equipment.

Exemptions can be drafted by utilizing these definitions with the option of including limitations based on Medicare or Medicaid payments or reimbursement. States may also opt for further limitation by requiring a prescription, as defined in the drug issue paper.

Examples:

Nonexclusive lists of items for these three definitions are as follows:

Prosthetic device includes artificial arms and legs, artificial eyes, braces, heart valves, pace makes.

Durable medical equipment includes bath & shower chairs, commode chair, dialysis treatment equipment, drug infusion device, feeding pumps, hospital beds, MRI's, oxygen equipment, resuscitators, X-ray machines.

Mobility enhancing equipment includes canes, crutches, motorized carts, stair lifts, walkers, wheelchairs, lift and controls specifically added to motor vehicles.

Alternatives:

The Medicare definition at 42CFR440.120 was used as the starting point for drafting the "prosthetic device" definition.

Prosthetic device means a replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law to --

- (1) Artificially replace a missing portion of the body;
- (2) Correct physical deformity or malfunction; or
- (3) Support a weak or deformed portion of the body.

There are no alternatives for “durable medical equipment” and “mobility enhancing equipment” beyond the definitions proposed in the recommendation area.