

Article 6 – Durable Medical Equipment/Supplies and Accommodations

3.6.1 Durable Medical Equipment and Medical Supply

(a) Policy

- (1) California Correctional Health Care Services (CCHCS) shall provide Durable Medical Equipment (DME) and medical supplies to California Department of Corrections and Rehabilitation (CDCR) patients at no charge, and as medically necessary to ensure the patients have equal access to prison services, programs, or activities. All patients shall be held financially responsible for damage to DME while in their possession unless the damage is caused by another inmate or employee action.
- (2) Medically necessary implanted medical devices and dental prosthetic appliances are excluded from this policy

(b) Purpose

The purpose of the DME and medical supply policy is to ensure the following:

- (1) Patient DME needs are properly addressed.
- (2) Institution safety and security is maintained by working with and advising custody staff regarding the distribution and maintenance of DME.
- (3) Efficient use of resources.
- (4) Standardized processes and prescribing practices.
- (5) Compliance with appropriate constitutional standards of care.

(c) Responsibility

- (1) The Chief Executive Officer and the Warden at each institution are jointly responsible for the implementation and monitoring of this policy and procedure.
- (2) The Deputy Director, Medical Services, is responsible for the implementation and monitoring of this policy at headquarters.
- (3) The Headquarters DME Committee provides headquarters level oversight and management of functions necessary for the implementation of this policy.
- (4) CCHCS headquarters is responsible for the Headquarters DME Committee.
- (5) Headquarters DME Committee (HDMEC)

(A) The responsibilities of the HDMEC are as follows:

1. Review all approved requests for nonformulary DME from institutions.
2. Review provider appeals of denied nonformulary DME requests.
3. Review and resolve issues pertaining to security concerns versus health care needs.
4. Provide written response to the requestor.
5. Maintain the DME and medical supply formularies.
6. Provide periodic guideline review

(B) Membership

1. The HDMEC shall consist of members designated by the Deputy Director (DD), Medical Services.
2. No fewer than two members shall be physicians.
3. Membership may include executive or managerial representation from Medical Services, Nursing Services, the Mental Health Program, Procurement Services, Utilization Management (UM), Direct Care Contracts, the Health Care Correspondence and Appeals Branch, CDCR Headquarters staff, and institutionally based health care and custody staff.

(C) Reporting Structure

The HDMEC shall report to the DD, Medical Services or designee.

(D) Meeting Frequency

The HDMEC shall meet as directed by the DD, Medical Services, but not less than annually.

(E) Committee Quorum

A quorum shall consist of at least five voting members in attendance, either in person or telephonically, at least two of whom shall be physicians. The committee may not take action on any agenda item without a quorum.

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(F) Confidentiality

The proceedings and records of the HDMEC shall be confidential and protected from discovery to the extent permitted by law.

(6) Institution DME Committee

Each institution shall assign responsibility for the local operation of the DME and medical supply policy and procedure including authorization, review, and procurement of DME.

(d) Procedure Overview

The following procedures have been established to ensure efficient use of resources, statewide standards and processes, and coordination with custody staff.

(e) Procedure

(1) Durable Medical Equipment and Medical Supplies

(A) DME and medical supplies shall be distributed by health care staff based on medical necessity as defined in the Durable Medical Equipment and Medical Supply Formulary then in effect unless approved through the nonformulary request process as outlined in Section (e)(4).

(B) All associated supplies and accessories listed in the Durable Medical Equipment and Medical Supply Formulary shall be provided to patients currently issued the DME (without an additional order) unless the establishment of additional medical necessity is required as described in Section (e)(4).

(2) Hygiene Supplies

(A) Hygiene supplies normally provided by custody, as defined in the CDCR Department Operations Manual (DOM) shall not be considered medical supplies or DME and are not prescribed by health care staff. Hygiene supplies do not need consultation or approval from health care staff. Patients shall request hygiene supplies from custody staff who shall be solely responsible for distribution of requested supplies.

(B) Items that may be provided by custody depending on job assignment and institution location are as follows:

1. Analgesic balm
2. Burn spray
3. Hydrogen peroxide
4. Insect repellent
5. Lip protection
6. Sunblock

(3) Miscellaneous Supplies

(A) Mobility, hearing, and vision-impaired disability identification vests are a miscellaneous supply that are included as a standard item of DME. Disability identification vests shall be prescribed, purchased, and issued by health care staff.

(B) The following miscellaneous supplies shall not be considered medical supplies or DME and not prescribed by health care staff:

1. Blankets
2. Clothing
 - a. Boxer shorts
 - b. Brassieres
 - c. Hats
 - d. Shoes, including tennis shoes
 - e. Sunglasses
 - f. Thermal underwear
3. State-issued mattresses including foam pads

(4) Durable Medical Equipment and Medical Supply Formulary

(A) The Durable Medical Equipment and Medical Supply Formulary shall address as relevant the following:

1. Item name
2. Reference brands, sources, relative prices
3. Variations
4. Indications and contraindications
5. Establishment of medical necessity including associated supplies
6. Trial period

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7. Prescription requirement versus authorization
8. Security considerations, settings, accountability plan, tagging or marking
9. Review of usage such as CPAP hours
10. Reusable or single-patient use
11. Ability to loan
12. Manufacturer's user manuals/patient education handout (include Website URL)
13. Maintenance
 - a. Service contracts
 - b. Inspections, clinical performance, safety and compliance
14. Expected refresh period
15. Quantity
16. Par levels, if any, at warehouse, clinic, medical supply area
17. Special procurement
18. Anticipated annual usage/cost
19. Clinical references

(B) Process for review and change of formulary

1. The HDMEC will review the formulary annually and shall solicit input from the institutions.
2. Items may be added, deleted, or updated at any time by actions of the HDMEC.
3. Formulary shall be maintained electronically.
4. The formulary shall be made available to patients in prison law libraries.
5. Institutions may request that the HDMEC add, delete, or update items.

(C) Formulary request process

1. The provider must complete an order for the DME or medical supply. The order must include priority and if applicable, type, size, quantity, associated supplies, and frequency of use.
2. Formulary items that require UM authorization shall also have a completed Health Care Services Physician Request for Services.

(D) Nonformulary request process

1. The provider must complete an order for the DME or medical supply. The order must include priority and if applicable, type, size, quantity, associated supplies, and frequency of use.
2. Nonformulary items shall have a completed Health Care Services Physician Request for Services.
3. The Chief Medical Executive (CME), or designee, shall approve or disapprove nonformulary requests.
 - a. The requests shall be approved or disapproved in a timely manner to ensure the DME is provided within the noted delivery timeframes in Section (e)(6).
 - b. The reason for approval or disapproval shall be documented in the health record.
 - c. The requesting provider must be informed of disposition by the CME.
 - d. If a request is disapproved, the provider must document consideration of alternatives and any action taken.
4. If approved, the Health Care Services Physician Request for Services shall be attached to the purchase request and sent to procurement.
5. The institution DME Committee shall receive a copy of the decision and if approved, procurement shall also receive a copy.
6. A provider may appeal a denial to the HDMEC.

(5) Procurement and Purchasing

(A) DME purchases shall be processed in accordance with standard state procurement processes.

(B) Patients shall not be financially responsible for the cost to purchase medically necessary DME. This does not preclude a patient from financial responsibility for damage pursuant to Section (e)(12)(B)2.

(C) Patients shall not have the option to order DME from third party vendors.

(6) Timeframes for Delivery of Prescribed DME and medical supplies are as follows:

(A) Same day

(B) Expedited - Within five calendar days

(C) High Priority - Within 14 calendar days

(D) Routine - Within 90 calendar days

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(E) For patients returning to institutions from hospitals, medically necessary DME shall be available upon arrival at the institution.

(7) Patient Arrival to CDCR with DME from outside of CDCR

(A) All DME arriving with a patient to an institution shall be subject to inspection, review, and acceptance by custody for safety and security concerns and health care staff for medical necessity.

(B) If custody staff determines a safety or security concern with a particular item of DME either generally or in the possession of a particular patient, the CME or designee shall be consulted immediately to determine appropriate action to accommodate the patient's needs.

1. Accommodation may include modifying the DME or providing a suitable formulary replacement item at CDCR's expense when medically necessary.

2. Only under exceptional circumstances will a medically necessary approved DME be removed and an alternate means provided. A subsequent written report memorializing the removal action shall be provided by custody personnel. All such circumstances shall be appropriately documented in the health record.

3. The patient shall be examined by a provider to determine medical necessity of DME arriving with the patient.

a. If medically necessary, the provider shall place the appropriate DME order in the Electronic Health Record System (EHRS).

b. Documentation in EHRS indicating the disposition of the DME, per the Primary Care Provider (PCP) order, shall occur by entering the CDCR 7536, Durable Medical Equipment and Medical Supply Receipt.

(8) Patient Transfer with DME within CDCR

(A) Patients transferred from one CDCR institution to another shall be allowed to maintain possession of DME and/or medical supplies if it does not pose a threat to safety and security as determined by custody staff and as supported by documented evidence.

(B) At the receiving institution, all previously prescribed DME and medical supplies shall continue to be provided unless a PCP at the receiving institution re-evaluates the patient and determines the DME or medical supplies are no longer medically necessary to ensure patients have equal access to prison services, programs, or activities.

(C) At the receiving institution, the Receiving and Release Registered Nurse shall be responsible for ensuring that patients are provided with prescribed DME and/or medical supplies upon arrival.

(D) Health care staff shall review the patient's current CDCR 7536 to ensure accuracy and update if necessary to reflect all DME in the patient's possession and document in the health record. A new CDCR 7536 shall be generated if not documented in the health record.

(9) Inspection and Inventory

(A) Patient property, including DME, is subject to search and inspection.

(B) The Durable Medical Equipment and Medical Supply Formulary includes information regarding special circumstances for the inspection of DME.

(C) All DME shall be inspected by custody staff according to current CDCR DOM guidelines. These inspections shall be conducted, minimally, during required cell inspections. DME will be inspected for the following:

1. Misuse

2. Security issues

3. Cleanliness

4. Worn, broken, or missing parts

(D) The Primary Care Team shall reassess patients with DME at least annually.

(E) Custody staff shall conduct and log safety and security inspections on all wheelchairs on at least a monthly basis.

(F) All DME shall be tagged with an identification number. Identifiers may include:

1. CDCR property tag or patient CDCR number.

2. Permanent inscription or engraving of the property number on metal or wood.

3. Property number written in indelible marker on soft materials.

(G) DME issued to patients shall be entered on the patient's property card.

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(10) Temporary Loans of DME

- (A) Patients may receive a temporary loan of DME when:
 - 1. The permanent DME is not yet available for use (e.g., ordered and not delivered; requiring time for preparation, construction, or fabrication) and an interim accommodation with DME is required.
 - 2. The need for DME is time-limited due to the nature of the condition requiring the need for DME (e.g., crutches during a healing fracture of the leg).
 - 3. Permanent DME is being repaired or maintained.
- (B) When the indication for temporary DME on loan no longer exists, the DME shall be returned to CDCR in good working condition with reasonable, expected wear and tear.
- (C) Patients shall not be required to pay for temporary DME but shall be held financially responsible for damage to loaned DME that is intentionally caused by the patient.

(11) Patient Receipt/Refusal/Rescinding of Medical Supplies and DME

- (A) The CEO shall designate a staff person at his/her respective institution who shall be responsible for tracking DME issuance on the CDCR 7535, DME Order and Delivery Log.
- (B) Receipt, refusal, or rescinding of DME and medical supplies shall be documented on a CDCR 7536 and shall be included in the health record.
- (C) A separate copy of a CDCR 7536 shall be provided to the patient for each DME or medical supply provided.
- (D) If a patient refuses DME, the staff that delivers the DME shall make a referral to the requesting provider for the patient to be seen to determine and provide an appropriate interim accommodation if needed.
- (E) Refusal of DME or medical supplies shall also be documented on a CDC 7225, Refusal of Examination and/or Treatment, at the time of the clinical encounter. The CDC 7225 shall reference the CDCR 7536 and shall be included in the health record.
- (F) All patients that have been issued DME or medical supplies shall be advised to submit a CDCR 7362, Health Care Services Request Form, to discuss issues regarding the DME or medical supply.

(12) Damage To DME

- (A) New DME received from a manufacturer that is found to be defective shall be returned to the manufacturer for replacement or repair in accordance with the manufacturer's warranty. If necessary, DME shall be issued on loan to the patient for the duration of the repair.
- (B) Damage caused by the patient to DME
 - 1. CCHCS staff shall determine whether DME should be repaired or replaced.
 - 2. All patients shall be financially responsible for damage caused by personal neglect, misuse, or intentional destruction.
 - 3. Repeated deliberate actions resulting in damage to the patient's DME will be treated as a refusal of that DME.
- (C) Damage to DME by another inmate shall be the responsibility of the inmate who caused the damage according to established processes regarding destruction of property.
- (D) CDCR shall accept liability for the loss or destruction of DME resulting from employee action as established in departmental policy and procedure.

(13) Maintenance of DME

- (A) It is the joint responsibility of CDCR/CCHCS and the patient to maintain all DME in good repair and operation.
- (B) When DME is in need of repair or replacement, the patient shall utilize approved CDCR procedures for notifying health care staff of health care needs. Health care staff shall direct the patient for an appointment and evaluate the condition of the DME.
- (C) Once the need for repair or replacement is verified and it is determined that neither staff nor in-prison, staff-supervised workers can appropriately repair the DME immediately, staff shall:
 - 1. Arrange for the DME to be repaired while the patient retains possession, or
 - 2. Issue appropriate replacement DME, or
 - 3. Issue appropriate loaned DME while the patient's owned DME is being repaired, or
 - 4. Provide another adequate accommodation.
- (D) The patient shall not be financially responsible for necessary repair and replacement of DME and parts resulting from non-destructive treatment of this item.

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- (E) CCHCS shall maintain the appropriate service contracts for DME maintenance including wheelchairs.
- (F) The CEO shall designate a staff person at his/her respective institution who shall be responsible to log each required wheelchair maintenance and repair request on the CDCR 7534, Wheelchair Maintenance Log.

(14) Change In Security Setting, Patient Misuse and/or Diversion

- (A) Patients transferred or assigned to higher levels of security within the institution (Administrative Segregation, Security Housing Unit, Psychiatric Services Unit) shall be allowed to maintain possession of DME if it does not pose a threat to safety and security as determined by custody staff in accordance with applicable rules and regulations.
- (B) Any confiscation of DME by custody staff will require notification and approval by the Warden and CEO via the chain of command. The decision to confiscate an item of DME shall be documented in the health record and the Central File.
- (C) Custody staff shall inform health care staff of any patients with medically prescribed DME being placed in higher levels of security if there is a security risk with the DME.
- (D) DME shall be removed from a patient only to ensure the safety of persons, the security of the institution, or to assist in an investigation and only when supported by documented evidence.
 - 1. DME shall only be removed for as long as the DME continues to pose a direct threat to safety and security.
 - 2. DME shall not be removed from a patient because of the acts of another inmate.
- (E) If the DME presents a direct and immediate threat to safety and security, the DME may be removed from a patient immediately by any custody staff.
 - 1. DME shall only be removed for as long as the DME continues to pose a direct threat to safety and security.
 - 2. The decision to remove DME from a patient admitted to the Mental Health Crisis Bed shall include the mental health clinician in accordance with Mental Health Program policy.
- (F) When DME is taken away from a patient for reasons of safety and security:
 - 1. The senior custody officer in charge shall immediately consult the CME or designee regarding the patient's need for the DME and reasonable alternative in-cell accommodations.
 - 2. Health care staff shall review the health record to determine if there is a temporary alternative to the DME and shall advise custody staff of any contraindications to removing the DME.
 - 3. The senior custody officer in charge shall inform the Warden or designee of the determination and the alternative means to accommodate the patient.
 - 4. The Warden, or designee, shall decide what course to take regarding the removal of the patient's DME and shall provide alternative in-cell accommodation.
- (G) If custody staff decides to retain the DME, it will be stored in a designated location in the unit and provided to the patient if needed when released from his or her cell for yard, escorts, visits, etc.
 - 1. During the period of alternative in-cell accommodation, health care staff shall regularly observe the patient's health condition and document observed changes in the health record.
 - 2. If evidence of deteriorating health condition is observed, health care staff shall immediately advise custody staff of a need for medically necessary changes to the in-cell care.
 - 3. Alternative DME or removal of DME shall be documented in the health record.

(15) Patient Release or Parole

- (A) The CCHCS shall provide 30 days of prescribed medical supplies upon release or parole. Prescribed medical supplies include, but are not limited to:
 - 1. Glucometer supplies
 - 2. Tracheostomy supplies
 - 3. Colostomy supplies
 - 4. Urinary catheters
 - 5. Material for dressing changes
- (B) When DME is patient owned property, it shall accompany the patient upon release or parole.
- (C) DME that is loaned or issued to the patient shall accompany the patient upon release or parole, unless a PCP determines at the time of the release or parole that the DME is no longer medically necessary.

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(D) Pre-ordered DME received by the institution after the patient is paroled shall be forwarded to the parole unit supervising the parolee. CDCR shall make every reasonable attempt to deliver pre-ordered DME to patients who have been released from CDCR custody.

(16) Transfer to County Facilities or Other Outside Facilities

Medically necessary DME shall accompany patients when transferred to any outside facility for any reason and must accompany the patients upon return.

(f) Institution Local Operating Procedure

Institutions shall establish local operating procedures (LOPs) to implement the statewide procedure. Recommended elements of LOPs are provided in Appendix 1.

Appendices

- Appendix 1: Elements of Local Operating Procedure

References

- Code of Federal Regulations, Title 42, Chapter 7, Subchapter XVIII, Part E, Section 1395 x(n), Durable Medical Equipment
- Code of Federal Regulations, Title 45, Parts 160 and 164, Health Insurance Portability and Accountability Act
- California Civil Code, Division 1, Part 2.6, Section 56, *et seq.*, Confidentiality of Medical Information Act
- California Evidence Code, Division 9, Chapter 3, Section 1157
- California Code of Regulations, Title 15, Subchapter 2, Article 6, Section 3162, Legal Forms and Duplicating Services
- California Code of Regulations, Title 15, Chapter 2, Subchapter 2, Article 1, Section 3999.200, Provisions of Care and Treatment Exclusions
- California Code of Regulations, Title 15, Chapter 2, Article 1, Section 3999.98, Definitions
- California Code of Regulations, Title 15, Chapter 2, Subchapter 3, Article 9, Section 3999.395, Artificial Appliances
- California Code of Regulations, Title 22, Section 51160, Durable Medical Equipment
- California Code of Regulations, Title 22, Section 51161, Prosthetic and Orthotic Appliances
- California Code of Regulations, Title 22, Section 51162, Eyeglasses, Prosthetic Eyes, and Other Eye Appliances
- Armstrong Remedial Plan, *Armstrong vs. Newsom*, U.S. District Court of Northern California, Case No. C94-2307 CW, Amended January 3, 2001
- California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 5, Article 41, Section 54010.5, Paper, Envelopes, and Stamps for Indigent Inmates
- California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 5, Article 43, Inmate Property
- California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 5, Article 43, Section 54030.6, Liability
- California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 5, Article 43, Section 54030.13.1, Transfers

Revision History

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Appendix 1

Elements of Local Operating Procedure

Each institution shall develop and implement a Local Operating Procedure to incorporate the following sections of this procedure:

1. Section (c)(6), Institution Durable Medical Equipment (DME) Committee
 - a. Define the membership of the Committee.
 - b. Determine meeting frequency.
 - c. Develop a local authorization process.
 - d. Define the review process.
 - e. Develop a process to forward the approved request to procurement.
2. Section (e)(1), Medical Supplies
 - a. Define how medical supplies are requested.
 - b. Designate who will distribute the supplies.
 - c. Develop a timeframe for distribution of supplies - see Section (e)(6).
3. Section (e)(4), Durable Medical Equipment and Medical Supply Formulary
 - a. Develop a local nonformulary request process.
 - b. Develop a process for the provider to request nonformulary DME.
 - c. Designate reviewers for approval.
 - d. Develop an appeal process to the Headquarters DME Committee.
4. Section (e)(5), Procurement and Purchasing and Section (e)(6), Timeframes for Delivery of Prescribed DME and Medical Supplies
 - a. Develop a process for ordering, procuring, and furnishing DME to patients.
 - b. Determine the method of delivery for prescribed DME for patients returning from hospitals.
5. Section (e)(9), Inspection and Inventory
 - a. Develop a schedule for custody to inspect DME on a regular basis.
 - b. Custody to inspect wheelchairs monthly.
 - c. Define a process for record keeping, including entering DME on patient's property card.
 - d. Develop a system for tagging/identifying DME.
6. Section (e)(10), Temporary Loans of DME
 - a. Develop a process to ensure loaned DME is returned to California Department of Corrections and Rehabilitation (CDCR) after the indication for the DME no longer exists.
 - b. Determine an inspection process for return of loaned DME.
Develop a process to determine the amount to charge for intentional damages, if any, and a method to convey this information to the inmate trust office.
7. Section (e)(11), Patient Receipt/Refusal/Rescinding of Medical Supplies and DME
 - a. CEO to identify staff responsible to deliver DME and medical supplies, complete the CDCR 7536, Durable Medical Equipment and Medical Supply Receipt, and distribute copies appropriately.
 - b. Define record keeping processes for the dates DME is issued to, rescinded from, returned by, or refused by patients.
 - c. CEO to ensure the CDCR 7535, DME Order and Delivery Log, is maintained.

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8. Section (e)(12), Damage to DME
 - a. Determine if new DME is returned or replaced when under warranty.
 - b. Develop a process to loan DME during repair or replacement.
 - c. Develop a process to replace DME if loaned DME is found to be defective.
9. Section (e)(13), Maintenance of DME
 - a. Develop a multi-disciplinary process including California Correctional Health Care Services (CCHCS), CDCR, and the patient to maintain DME.
 - b. CCHCS to provide the contract for repair of DME or providing services at the institution.
 - c. Custody to maintain a ducating system for DME repair.
 - d. Develop a process for loaning wheelchairs during repair.
 - e. CCHCS to provide the contract for repair and maintenance of wheelchairs.
 - f. Custody to maintain a ducating system for wheelchair maintenance and repair.
 - g. CEO to ensure the CDCR 7534, Wheelchair Maintenance Log, is maintained.
10. Section (e)(14), Change in Security Setting, Patient Misuse and/or Diversion
 - a. Develop a process for custody staff to inform health care of the removal of DME.
 - b. Define a procedure for providing alternative DME to the patient, if medically necessary.
11. Section (e)(15), Patient Release or Parole
 - a. Develop a system to release patient-owned DME and/or 30 days' worth of prescribed medical supplies with a patient who is released or paroled.
12. Section (e)(16), Transfer to County Facilities or Other Outside Facilities
 - a. Develop a system of inventorying and transferring DME with a patient to a county or other outside facility.
 - b. Determine the process to ensure the DME returns with the patient to the institution.