

810-6-3-.37.03 Exemption for Certain Items Furnished to Medicaid Recipients.

(1) ~~Sales of e~~eyeglasses and, durable medical equipment, prosthetic and orthotic devices, and medical supplies as defined and covered under the Medicare program furnished to Medicaid recipients are exempt from sales ~~or use, or rental and leasing~~ tax when billed directly to and paid for directly by Medicaid. Such sales are sales to the State of Alabama and are specifically exempt from tax pursuant to Sections 40-23-4(a)(11) and 40-23-62(13), Code of Alabama 1975. Payment for these items may be as the result of a contract between Medicaid and a manufacturer who provides the item, bills Medicaid directly under the terms of the contract, and receives payment directly from Medicaid; or, payment may be as the result of contracts with various suppliers, such as home health providers, who furnish the item, bill Medicaid directly pursuant to the terms established by the Medicaid program, and receive payment directly from Medicaid. In both instances payment is made directly by Medicaid; the Medicaid recipient does not make payment and then receive reimbursement from Medicaid. (Sections 40-23-4-(a)(11) and 40-23-62(13))

(2) The sales and use tax exemption outlined in Section (1) above does not apply in instances where an item is sold directly to and paid for by a Medicaid recipient. Should the nature of the present Medicaid program change, the sales and use tax exemption outlined in Section (1) would not apply to eyeglasses or durable medical equipment purchased and paid for by a Medicaid recipient who later receives reimbursement from Medicaid nor would the exemption apply with respect to that portion of a co-pay purchase paid for directly by the Medicaid recipient. (Sections 40-23-2 and 40-23-61)

(3) Drugs as defined in Section 40-23-4.1(a), Code of Alabama 1975, are specifically exempt from sales and use tax; and, sales thereof to Medicaid recipients are exempt regardless of who is billed for the drugs or who makes payment for said drugs.

(4) Hospitals and nursing homes purchasing tangible personal property for use in furnishing services to Medicaid recipients are not exempt from sales or use tax. Hospitals and nursing homes are primarily engaged in the business of rendering services. They are not liable for sales tax with respect to their gross receipts for meals, drugs, or other tangible personal property used in rendering hospital or nursing home services. Hospitals and nursing homes are deemed to be the purchasers for use or consumption of such tangible personal property, and the sellers of these items to hospitals and nursing homes are required to collect ~~the~~ sales or use tax on sales of such property to private hospitals and nursing homes. Provided, however, purchases by private hospitals and nursing homes of drugs as defined in Section 40-23-4.1(a), Code of Alabama 1975, are specifically exempt from sales and use tax. Prescription drugs sold separate and apart from services rendered by a hospital or nursing home are also exempt from sales and use tax pursuant to Section 40-23-4.1, Code of Alabama 1975. See Sales and Use Tax Rules 810-6-3-.47.01 entitled Prescription Drugs, and 810-6-5-.09 entitled Leasing and Rental of Tangible Personal Property.

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