

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of:)
)
 B B) OAH No. 12-0595-MDS
) OHA Case No.
) DSDS Case No.
 _____)

**REVISED DECISION
(FINAL DECISION AFTER REMAND)**

I. Introduction

B B ("B") has participated in the Medicaid Home and Community-Based Waiver Services program since at least 2001.¹ On October 6, 2011 one of B's parents submitted a proposed amendment to her Plan Of Care (POC).² The amendment sought Specialized Medical Equipment (SME) in the form of modifications to a minivan; these modifications included a folding vehicular wheelchair ramp and a vehicular wheelchair tie-down system.³ The make/brand of the minivan modifications originally sought by B was the VMI Northstar conversion.⁴

On November 29, 2011 the Division of Senior and Disabilities Services (Division or DSDS) approved the vehicular wheelchair tie-down system, but denied authorization for the folding vehicular wheelchair ramp.⁵ The Division denied authorization for the vehicular wheelchair ramp on the bases that (1) it was not a "van lift" as described in the Division's SME fee schedule, and (2) the cost of the vehicular wheelchair ramp (which at that time was not segregated from the total cost of the other wheelchair-related van modifications) exceeded the maximum dollar amount (\$8,900.00) specified in the Division's SME fee schedule.⁶

¹ Exs. J1, J4, and E. B hearing testimony. The specific Waiver Services program or category in which B has participated is the Children With Complex Medical Conditions or "CCMC" category (Ex. D1).

² Exs. F1 – F7.

³ Exs. F3 – F5.

⁴ The name of the specific product for which the Bs originally sought Medicaid funding was the VMI Northstar conversion (see Section II, below). However, during the pendency of this case, the distributor with whom the Bs have been dealing sold the VMI Northstar - equipped minivan which the Bs were originally interested in purchasing (Ex. 2 p.1). The minivan conversion which the distributor currently has available is the Eldorado Amerivan conversion, which is "very similar" to the VMI Northstar Conversion. *Id.*

⁵ Exs. D1, D2.

⁶ Exs. D1, D2.

On December 6, 2011 B requested a hearing to contest the Division's partial denial of her Plan of Care amendment request.⁷ B's hearing was held as scheduled on January 19, 2012. After post-hearing briefing, the record closed on February 13, 2012.

This Office's proposed decision was issued on August 13, 2012. That decision concluded that the vehicular wheelchair ramp at issue was functionally equivalent to the "van lift" described in the Division's SME fee schedule, but that the \$8,900.00 limit specified in the Division's SME fee schedule still applied.

Both parties subsequently filed Proposals for Action. On September 26, 2012 the Deputy Commissioner remanded the case back to the administrative law judge with instructions to hold a hearing and take additional evidence on three specific issues. The first issue is whether any discrete portion of the device designed to facilitate the loading of a wheelchair-bound person into a vehicle, (formerly known as a VMI Northstar conversion and now known as an Eldorado Amerivan conversion (EAC)), is functionally equivalent to a "van lift" as listed on the Division's Specialized Medical Equipment Fee Schedule. The second issue is whether any portion of the EAC found to be functionally equivalent to a "van lift" is severable from the rest of the products which together constitute the EAC. The third issue is whether any portion of the EAC found to be functionally equivalent to a "van lift" and severable from the rest of the EAC is within the \$8,900.00 cost limitation specified by the Division's Specialized Medical Equipment Fee Schedule.⁸

The evidentiary hearing on the remanded issues was held and concluded on October 17, 2012. At the post-remand hearing of October 17, 2012 one of the Division's witnesses testified that a specific portion of the Eldorado Amerivan Conversion is functionally equivalent to a "van lift" as listed on the Division's Specialized Medical Equipment Fee Schedule. The same witness also testified that the portion of the EAC which is functionally equivalent to a van lift is severable from the other portions of the EAC, and is within the cost limitation for a van lift specified by the Division's Specialized Medical Equipment Fee Schedule. The witness' testimony on these points was credible and was not contradicted in any way.

Based on these undisputed facts, this decision concludes that one discrete portion of the Eldorado Amerivan Conversion is functionally equivalent to a "van lift" as listed on the Division's Specialized Medical Equipment Fee Schedule; that this portion of the EAC is severable from the

⁷ Ex. C.

⁸ See Deputy Commissioner's remand order dated September 26, 2012.

other portions of the EAC; and that this portion of the EAC is within the \$8,900.00 cost limitation specified by the Division's Specialized Medical Equipment Fee Schedule.

II. Facts

A. Evidence Received Prior to Issuance of Original Proposed Decision

B B is one of a set of triplets who were born prematurely in January 1997.⁹ As a result of her early and difficult birth, B suffers from complex medical conditions.¹⁰ Her primary diagnosis is arthrogryposis.¹¹ In addition, she has global developmental delays.¹² She is non-verbal, non-ambulatory, is continually fed via G-tube, and has airway and positioning concerns.¹³ She has recently begun having episodes of severe reflux with vomiting.¹⁴ During these episodes her body spasms, it is hard for her to breath, she gets frightened, and she is at increased risk for aspiration.¹⁵

B is completely dependent on her wheelchair for mobility.¹⁶ She is transported to and from her high school by a bus equipped with a wheel chair lift.¹⁷ B's treating physician has stated that she "requires a wheelchair 100% of the time for mobility."¹⁸ Her treating physician has further stated that she "requires a wheelchair lift for the family vehicle and a wheelchair tie down system to keep the wheelchair from moving about in the vehicle."¹⁹ Finally, her treating physician has opined that "without a safe means to transport [B], her family would have to institutionalize her in order to get her the services she needs."²⁰

The VMI Northstar conversion is designed to facilitate the loading of a wheelchair-bound person into a vehicle.²¹ It is manufactured by Vantage Mobility International, hence the moniker "VMI."²² The VMI Northstar conversion does not include a traditional van lift.²³ Rather, it

⁹ Exs. E6, E8.

¹⁰ Ex. E8.

¹¹ Ex. E8. Arthrogryposis is a term used to describe a number of rare conditions characterized by stiff joints and abnormally developed muscles. See the Boston Children's Hospital's website at <http://www.childrenshospital.org/az/Site594/mainpageS594P0.html> (date accessed April 9, 2012). It is also referred to as arthrogryposis multiplex congenital or amyoplasia. *Id.*

¹² Exs. E6, E8, and E. B hearing testimony.

¹³ Ex. H7.

¹⁴ Ex. E6.

¹⁵ Ex. E6.

¹⁶ Ex. H1, F B hearing testimony.

¹⁷ Ex. H1, F B hearing testimony.

¹⁸ Ex. H1.

¹⁹ Ex. H1.

²⁰ Ex. H1.

²¹ Exs. I2, I4, I7, J5, and F B hearing testimony. The Eldorado Amerivan Conversion (EAC) is very similar to the VMI Northstar device (Ex. 2 p. 1), and so the description of the VMI Northstar device is presented here to aid in the understanding of the EAC.

²² Exs. H5, H6.

includes a motorized ramp which is mounted on the floor of a van or minivan.²⁴ When activated by a switch located inside the vehicle, the device opens a passenger door and extends a ramp stored in the floor of the vehicle.²⁵ In addition, the side of the vehicle from which the ramp is deployed lowers hydraulically, thereby reducing the angle between the ground and the floor of the vehicle to only eight degrees.²⁶

In 2001 the B family purchased a Chrysler minivan. The VMI Northstar conversion was purchased through Frontier Medical at a cost of \$21,452.00.²⁷ The Division approved and paid for installation of the VMI Northstar conversion on the 2001 minivan.

In 2002 the VMI Northstar-equipped minivan was involved in an accident and declared a total loss by the Bs' insurer. However, the minivan and the VMI Northstar conversion were replaced by the Bs' insurer; the new minivan was a 2003 model. The 2003 VMI Northstar-equipped minivan served the Bs until August 26, 2011, when it likewise suffered an accident. The Bs requested that their current insurer pay them the value of the VMI Northstar-equipped minivan, but the insurer denied coverage as to the VMI Northstar conversion.²⁸

B. Relevant Procedural History

B has participated in the Medicaid Home and Community-Based Waiver Services program (hereafter "Waiver Services program") since at least 2001.²⁹ On October 12, 2011 one of B's parents completed and signed a proposed Plan of Care (POC) for the period October 6, 2011 – October 5, 2012.³⁰ The Plan of Care was received by the Division on October 13, 2011 and was approved by the Division on October 21, 2011.³¹

On October 6, 2011 one of B's parents completed and signed a proposed amendment to the Plan of Care referenced above.³² The Plan of Care amendment request sought Specialized Medical Equipment (SME) in the form of a new VMI Northstar conversion including a vehicular wheelchair ramp and vehicular wheelchair tie-down system.³³ The Division received the Plan of Care

²³ Ex. H7.

²⁴ Ex. H7.

²⁵ Ex. H7.

²⁶ Exs. H6, H7.

²⁷ All statements in this paragraph are derived from Exs. I1, J1, J7, and E. B hearing testimony.

²⁸ All statements in this paragraph are derived from E. B hearing testimony.

²⁹ Exs. J1, J4, and E. B hearing testimony. The specific Waiver Services program or category in which B has participated is the Children With Complex Medical Conditions or "CCMC" category (Ex. D1).

³⁰ Exs. E5 – E19.

³¹ Exs. E1, E3.

³² Exs. F1 – F7.

³³ Exs. F3 – F5.

amendment request on November 2, 2011.³⁴ In the Plan of Care amendment request B’s need for a VMI Northstar-equipped minivan was stated in relevant part as follows:

[B] uses a . . . wheelchair that is not collapsible or lightweight. It is equipped to be used in conjunction with tie down restraints [B] does not protect her airway or effectively swallow food or liquids; to prevent aspiration she receives all nutrition via continuous G-tube feedings. Being transported in her [wheelchair] supports her particular deficits, with special attention to positioning to maintain optimal airway, head, and trunk control. A vehicle with specific medical equipment is required to safely transport her in her chair.

The Northstar in floor conversion ramp has many benefits The ramp is able to be deployed by interior switches, and the doors and ramp use a safety sensor to prevent injuries. The ramp deploys from under the floor then the passenger side of the van kneels with hydraulics to further reduce the angle of the ramp

. . . .

[B’s parents have] decided to purchase a Honda Odyssey with a VMI Northstar Conversion The total cost of the van is quoted at \$59,995.00 with the conversion portion being \$26,490.00³⁵

Alaska Mobility, LLC is a mobility equipment provider enrolled with Alaska Medicaid since April 1, 2011.³⁶ On November 11, 2011 Alaska Mobility sent a letter to DSDS which described the VMI Northstar device as having “the exact same function as what Medicaid refers to as a ‘van lift for recipient’s personal vehicle.’”³⁷ An undated quote by Alaska Mobility, LLC, prepared at some time prior to January 11, 2012 itemized the costs associated with the VMI Northstar device as follows:³⁸

Installation of van lift / VMI Northstar (in-floor) lowered floor conversion -	\$20,995.00
Installation of wheelchair tie-down / Q-strait 4 point system -	\$2,495.00
Shipping . . . from Arizona to Alaska -	\$3,000.00

This cost estimate was incorporated into B’s Plan of Care amendment request.³⁹

The Division’s Waiver Services regulations were substantially amended and revised between 2002 and 2011.⁴⁰ Since 2002 the Division has adopted a fee schedule for Specialized

³⁴ Ex. F2.

³⁵ Ex. F3.

³⁶ Ex. H4.

³⁷ Ex. H3.

³⁸ Exs. H2, I3.

³⁹ Exs. F4 - F5.

⁴⁰ Hearing testimony of M. Rosario and A. Callies.

Medical Equipment (SME) which specifies the particular SME for which Medicaid will pay and which places limits on the dollar amount which Medicaid will pay for covered SME.⁴¹

On November 29, 2011 the Division mailed a notice to the Bs stating that B's Plan of Care amendment request had been granted in part and denied in part. The notice stated in relevant part as follows:⁴²

The following request is approved:

1. Wheelchair tie down / Q-strait 4 point system (\$2,495.00).

The Division denies the following item under the authority of 7 AAC 130.230; 7 AAC 130.305:

1. Specialized Medical Equipment: VMI Northstar Ramp conversion amounting to \$20,995 to include shipping fee of van lift / VMI Conversion from Arizona to Alaska [of] \$3,000.00.

....

There are inconsistencies in the appropriate identification and labeling of the SME item requested. The medical provider has prescribed and justified a medical necessity for a van lift and tie-downs. However, in the amendment description, a letter from Alaska Mobility dated 11-11-2011, the equipment brochure, and a letter from F B, (undated), the item requested is described as a ramp and van conversion, not a van lift as listed on the fee schedule. The ramp van conversion requested for the recipient's vehicle is not in the 2011 SME fee schedule. In addition, the maximum rate to be paid for a van lift if that item had been requested under the current fee schedule is \$8,900.00 per unit. It is for these reasons that this request (with the shipping fee added) is denied.

On December 6, 2011 B timely requested a fair hearing to contest the Division's partial denial of her POC amendment request.⁴³ B's hearing was held as scheduled on January 19, 2012. B (a minor) did not attend, but was represented by Mark Regan of the Disability Law Center of Alaska who attended the hearing in person. B's parents, B and F B, attended the hearing in person and Ms. B testified on her daughter's behalf.

The Division was represented by Assistant Attorney General Kimberly J. Allen; she attended the hearing in person. Maria del Rosario, a Health Program Manager I, and Annette L. Callies, a Health Program Manager II, attended the hearing in person and testified on behalf of the Division. The record closed on February 13, 2012.

⁴¹ Hearing testimony of M. Rosario and A. Callies.

⁴² Exs. D1, D2.

⁴³ Ex. C.

This Office's proposed decision was issued on August 13, 2012. The decision concluded that, while the VMI Northstar device does not operate exactly like a traditional van lift, it is functionally equivalent to a van lift, and that the department therefore could not completely deny Medicaid coverage for it. The decision further concluded, however, that the VMI Northstar device is covered by Medicaid as SME only up to the dollar amount (\$8,900.00) specified in the Division's SME fee schedule. Accordingly, the Division's decision denying B's Plan of Care amendment request was reversed as to the existence of Medicaid coverage for the VMI Northstar conversion, but affirmed as to the maximum dollar amount payable for the item by the Medicaid program.

Both parties subsequently filed Proposals for Action. On September 26, 2012 the Deputy Commissioner issued her decision. She declined to adopt the proposed decision, and instead ordered:

[T]hat the case be returned to the administrative law judge to take additional evidence about severability of the van conversion components, e.g., the ability of Senior and Disabilities Services to identify any portion of the proposed van conversion that is functionally equivalent and within the cost parameters allowable under the current 7 AAC 160.900 Specialized Medical Equipment Fee Schedule and any implications or limitations on the offer of the Bs to co-pay for the Specialized Medical Equipment under Medicaid.

C. Proceedings Held and Evidence Received Following Remand

The evidentiary hearing on the remanded issues was held on October 17, 2012. At hearing, a letter and invoice from Alaska Mobility, LLC to the Bs was admitted into evidence.⁴⁴ The letter states in relevant part as follows:

The van that you were originally quoted to purchase . . . in September 2011, has been sold and is no longer available. We have placed another similar van on hold for you The Eldorado Amerivan Conversion quoted here is very similar to the VMI Northstar conversion you were previously quoted. The conversions are built as a complete package and [then] added to the vehicle. They include . . . [a] lowered floor for added interior height, [a] lowered door for added height while entering the van, [an] extended door track allowing a wider door entrance, power door opener, power folding wheelchair ramp, ECM allowing all mobility features of the van to operate with the simple push of a button on the factory key fob, power kneeling system allowing for less ramp angle, [and] wheelchair tie downs to secure [the] wheelchair inside the van Unlike installing a platform lift into a full size van I can't simply sell you the ramp system to install in a minivan because there are other, multiple modifications that have to be done to the van in order to make the ramp system functional. I have however broken down the cost for you into different categories showing the cost of the van, cost of the lowered floor conversion, cost of the power

⁴⁴ Ex. 2.

folding ramp system, [and] the cost of the wheelchair tie down system . . . [and have also provided] the corresponding procedure codes for the items that I believe should be covered under the Medicaid waiver.⁴⁵

The invoice which accompanies the above letter breaks down the total cost of the Eldorado Amerivan conversion (\$51,900) into four separate items. These items are (1) the minivan itself (\$27,905); (2) a lowered stainless steel floor with non-slip covering and quick-release seats (\$12,600); (3) installation of van lift / Eldorado Amerivan power folding ramp system (\$8,900); and (4) installation of wheelchair tie-down system with mounts (\$2,495).⁴⁶ The third item is the item whose functional equivalency and severability are at issue in this case.

Annette L. Callies, a Health Program Manager II employed by DSDS, is one of the two witnesses who testified for the Division at the remand hearing. As part of her work to fulfill the Deputy Commissioner's directives on remand, Ms. Callies performed internet research concerning van lifts and van conversions, and spoke with personnel from Alaska Mobility, LLC.⁴⁷ Ms. Callies testified that normally a request for SME must match an item on the approved SME list or it will be denied; the Division does not examine functional equivalency when reviewing a request for SME.⁴⁸ However, in this case the Deputy Commissioner specifically directed the Division to examine functional equivalency, so she did.⁴⁹ Based on her research, she found the vehicle wheelchair ramp system identified as the third line item on the most recent invoice from Alaska Mobility, LLC⁵⁰ to be functionally equivalent to the van lifts authorized by the Division's SME Fee Schedule.⁵¹ She consulted with other experts employed by the Division on this issue, and they concurred.⁵²

Ms. Callies reviewed both the invoice submitted with the Bs' original POC amendment request,⁵³ and the most recent invoice.⁵⁴ She testified that the invoice submitted with the Bs' original POC amendment request did not break-down the cost of the VMI

⁴⁵ Ex. 2 p.1.

⁴⁶ Ex. 2 p.3.

⁴⁷ Annette Callies testimony, hearing of October 17, 2012 at 44:20 - 45:20.

⁴⁸ Annette Callies testimony, hearing of October 17, 2012 at 53:14 - 53:54.

⁴⁹ Annette Callies testimony, hearing of October 17, 2012 at 53:54 - 54:04.

⁵⁰ Ex. 2 p.3.

⁵¹ Annette Callies testimony, hearing of October 17, 2012 at 45:20 - 45:50 and 59:25 - 59:50.

⁵² Annette Callies testimony, hearing of October 17, 2012 at 59:25 - 59:59.

⁵³ Exs. H2, I3.

⁵⁴ Ex. 2 p.3.

Northstar conversion sufficiently to allow her to determine the functional equivalency or severability of any individual component parts.⁵⁵ However, the Bs' new invoice for the Eldorado Amerivan conversion "met [her] need to fulfill what the Commissioner directed [the Division] to do, to look at functional equivalency."⁵⁶ The Bs' new invoice has line-item billing, which allowed Ms. Callies to confirm (1) which portion of the Eldorado Amerivan conversion is functionally equivalent to a van lift; (2) that the functionally equivalent portion is severable from the other portions; and (3) that the cost of the functionally equivalent portion is within the cost parameters allowable under the current Specialized Medical Equipment Fee Schedule.⁵⁷ This in turn ensures that there will be no violation of the Medicaid regulations which prohibit "balance billing" (42 C.F.R. § 447.15 and/or 42 C.F.R. § 447.20(a)(1)).⁵⁸ Ms. Callies also confirmed that Alaska Mobility, LLC is a qualified Medicaid provider.⁵⁹

III. Discussion

The Deputy Commissioner's remand order of September 26, 2012 indicates that the Bs' request for the folding vehicle ramp system should be approved if it "is functionally equivalent" to the listed van lift, if it is severable from other components of the minivan conversion, and if it is "within the cost parameters allowable under the current . . . [SME] Fee Schedule." Those three issues are addressed below.

A. *The Relevant Specialized Medical Equipment (SME) Regulations.*

Regulation 7 AAC § 130.305(b) incorporates the Department of Health and Social Services' "Specialized Medical Equipment Fee Schedule – 2011".⁶⁰ That schedule sets forth the types of SME authorized by the Division, and the maximum amount for which a Medicaid SME provider can charge for the specific SME. Schedule A of this document, titled "Vehicle Modifications and Repairs," provides in relevant part that a "van lift, for recipient's personal vehicle," is a covered item up to a maximum cost of \$8,900.00, and up to a maximum frequency of once every seven years.⁶¹ The schedule also provides that "installation of [a] wheelchair tie down on recipient's

⁵⁵ Annette Callies testimony, hearing of October 17, 2012 at 46:50 - 47:20.

⁵⁶ Annette Callies testimony, hearing of October 17, 2012 at 51:57 - 52:07.

⁵⁷ Annette Callies testimony, hearing of October 17, 2012 at 54:10 - 56:40.

⁵⁸ *Id.*

⁵⁹ Annette Callies testimony, hearing of October 17, 2012 at 51:20 - 51:30.

⁶⁰ Exs. G1 – G-2. The *Specialized Medical Equipment Fee Schedule* has been incorporated into the Division's regulations. See 7 AAC § 160.900(d)(18).

⁶¹ Ex. G1.

personal vehicle” is a covered item, up to a maximum cost of “as approved,” and up to a maximum frequency of once every seven (7) years.⁶² The Division has not yet defined the terms “van lift” or “internal van lift” either by regulation or by written policy.

B. The “Folding Ramp System” is Functionally Equivalent to a “Van Lift.”

The primary issue on which the parties originally disagreed was whether the VMI Northstar conversion (now the Eldorado Amerivan conversion) is a “van lift” (and thus a covered item up to the dollar limit stated in the Division’s fee schedule), or whether it is something else. The Division originally asserted that the VMI Northstar conversion is not a covered item under the SME fee schedule because it is neither a portable ramp nor a wheelchair lift with tie-downs.⁶³

Prior to the Commissioner's remand of this case, it was not clear whether an item would pass muster under the SME fee schedule based solely on its functional equivalence with a listed item. However, the remand order answered this question in the affirmative and instructed the undersigned to take evidence as to the functional equivalency between the "folding ramp system" portion of the minivan conversion sought by the Bs, and the "Van Lift" listed on the SME fee schedule.

The testimony of Annette Callies at the remand hearing was unequivocal: the "folding ramp system" sought by the Bs, and identified on Alaska Mobility, LLC's latest invoice as comprising part of the Eldorado Amerivan conversion, is functionally equivalent to the "Van Lift" listed on the SME fee schedule. This testimony was credible and was uncontested. Accordingly, the Eldorado Amerivan conversion's folding ramp system qualifies as a "van lift" or "internal van lift" for purposes of the Division's Specialized Medical Equipment fee schedule.

C. The Folding Ramp System is Severable From the Rest of the Minivan Conversion.

The testimony of Annette Callies at the remand hearing was clear that the "folding ramp system" part of the Eldorado Amerivan conversion, identified as the third item on Alaska Mobility, LLC's latest invoice, is severable from the other three components of the Eldorado Amerivan conversion. Again, Ms. Callies' testimony was credible and was uncontested. Accordingly, the Eldorado Amerivan conversion's folding ramp system, priced by the invoice at \$8,900.00 (and thus within the SME fee schedule cap), can be paid for by Medicaid as a single, discrete item.

D. The \$8,900.00 Limit Set Forth in the DHSS Fee Schedule Applies Here.

The Division originally asserted that, even were the folding ramp system at issue a covered item under the Division's SME fee schedule, the fee schedule limits the amount payable to the

⁶² *Id.*

⁶³ DSDS’ Initial Post-Hearing Brief at pp. 4, 5; DSDS’ Responsive Post-Hearing Brief at p. 1.

provider to \$8,900.00.⁶⁴ The proposed decision issued in this case on August 13, 2012 concluded that the Division's SME fee schedule does limit the amount payable for the folding ramp system to \$8,900.00, and the Deputy Commissioner's remand order did not disturb that conclusion.

Accordingly, the Division's SME fee schedule limits the amount payable for the folding ramp system at issue to \$8,900.00. However, because the folding ramp system at issue has been invoiced at \$8,900.00, it is within the cost parameters allowable under the Division's SME fee schedule.

E. The Bs May Themselves Pay for Other Discrete Items Comprising the Eldorado Amerivan Conversion

Medicaid generally disallows providers from accepting additional payments from recipients; under federal Medicaid regulations 42 C.F.R. § 447.15 and 42 C.F.R. § 447.20(a)(1), a provider must accept the Medicaid-approved payment and may not bill the recipient for any remaining balance.

Based on Alaska Mobility, LLC's *original invoice* for the VMI Northstar conversion, the above prohibition was problematic because (a) the VMI Northstar conversion was billed as a single item; the cost was not allocated among individual components; and (b) the total cost of the VMI Northstar conversion significantly exceeded the \$8,900.00 limitation set by the SME fee schedule. However, Alaska Mobility, LLC's *new invoice* for the Eldorado Amerivan conversion allocates the total cost of the conversion between four discrete items, one of which is the folding ramp system at issue. As discussed above, the folding ramp system has been invoiced at \$8,900.00 and is therefore within the cost parameters allowable under the Division's SME fee schedule. Accordingly, the prohibitions against balance billing for the folding ramp system are no longer implicated. Finally, because the other items comprising the conversion are severable, the Bs may pay for those separate, discrete items not covered by Medicaid without violating the regulations prohibiting balance billing.

IV. Conclusion

While the folding ramp system portion of the Eldorado Amerivan conversion does not operate exactly like a traditional van lift, it is functionally equivalent to a van lift. It is also severable from the other items which together comprise the Eldorado Amerivan conversion. Finally, the invoiced price of the folding ramp system portion of the Eldorado Amerivan conversion is within the cost parameters allowable under the Division's Specialized Medical Equipment fee schedule. Accordingly, the Department should authorize Medicaid coverage for the \$8,900.00 cost of the folding ramp system portion of the Eldorado Amerivan conversion. The Division's decision

⁶⁴ DSDS' Initial Post-Hearing Brief at p. 5.

denying B's Plan of Care amendment request is therefore reversed as to the existence of Medicaid coverage for the folding ramp system, but affirmed as to the maximum dollar amount payable for that item by the Medicaid program.

Dated this 5th day of November, 2012.

Signed _____
Jay Durych
Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 6th day of November, 2012.

By: *Signed* _____
Name: Kimberli Poppe-Smart
Title: Deputy Commissioner
Agency: DHSS

[This document has been modified to conform to the technical standards for publication.]