

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3334

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2022

The Assembly Human Services Committee reports favorably Assembly Bill No. 3334.

This bill requires the Division of Medical Assistance and Health Services in the Department of Human Services (DHS), or a managed care organization contracted with the division to provide benefits to Medicaid beneficiaries, to reimburse a local education agency for behavioral health services covered under Medicaid, delivered in-person or via telehealth, and provided to a student who is an eligible Medicaid beneficiary. Services provided under the bill are to be reimbursable by Medicaid regardless of the following: whether the student participates in an Individualized Education program (IEP), 504 Accommodation Plan, Individualized Health Care Plan, or Individualized Family Service Plan (IFSP); or whether the covered services are provided at no charge to the student. Furthermore, all services are required to be provided by a licensed medical practitioner approved as a Medicaid provider or a local education agency approved as a Medicaid provider. Under the bill, a “local education agency” means a public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

This bill is in response to the reversal of a federal Medicaid policy which prohibited Medicaid reimbursement for school health services if the same services were provided free of charge to the general student population unless the services were specifically included in a student’s IEP, IFSP, or other similar educational plan. Currently, Medicaid reimbursement is only available in New Jersey for those services provided to students who qualify under the rule exception through the Special Education Medicaid Initiative (SEMI) program. SEMI is jointly operated by the Department of Education (DOE), the DHS, and the Department of the Treasury along with participating local education agencies, and allows for recovery of a portion of costs for Medicaid-covered services provided to Medicaid-eligible special education students. However, the federal policy shift allows New Jersey to expand its school-based Medicaid program by providing schools with the authority to seek reimbursement for covered services provided to all children

enrolled in Medicaid, regardless of whether the services are provided at no cost to other students.

Under the bill, any local education agency claiming Medicaid reimbursement is required to take all reasonable measures to ascertain and pursue any claims for reimbursement against legally liable third parties. If there is no response to a claim submitted by a local educational agency to a legally liable third party within 45 days, the local educational agency may bill Medicaid; however the local educational agency is required to retain a copy of the claim submitted to the legally liable third party for a period of three years.

The bill directs a local education authority to utilize Medicaid reimbursement payments issued under the bill to provide behavioral health services for students and their families, which may include behavioral health assessment, case management, health education, and social emotional learning.

The division, in conjunction with the DOE and the Department of the Treasury, is required to assist a local education agency in implementing a plan to submit Medicaid claims for covered behavioral health services and obtain Medicaid reimbursements under the bill. To the extent possible, this system is to overlap with the claims and reimbursement procedures associated with SEMI, as a means to streamline all school-based Medicaid claims. A local education authority may enter into an agreement with one or more other local education authorities in the State for the purposes of contracting with a third party entity to process and submit Medicaid claims for covered behavioral health services provided under this section.

Finally, the bill directs the Commissioner of Human Services to apply for such State plan amendments or waivers as may be necessary to implement the provisions of this bill and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program. This bill is to take effect on the first day of the sixth month next following the federal approval of any such State plan amendments or waivers, except that the Commissioner of Human Services may take any administrative action in advance thereof as is necessary to implement the provisions of the bill.