

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3334

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 16, 2023

The Assembly Education Committee reports favorably Assembly Bill No 3334 with committee amendments.

As amended, 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.

Under the amended 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 amended bill directs a local education agency to utilize Medicaid reimbursement payments issued under the bill to provide behavioral health services for students and their families.

The amended bill clarifies that the provisions of the bill shall not be construed to: 1) prohibit a Medicaid beneficiary from receiving behavioral health services covered under Medicaid from a Medicaid

provider who is not a local education agency, provided that the services provided comply with all State and federal laws and regulations; and 2) require Medicaid reimbursement for behavioral health services covered under Medicaid provided to a Medicaid beneficiary by a local education agency in tandem with duplicative behavioral health services provided by another approved Medicaid provider located in the community to the same beneficiary, to the extent that State or federal law or regulation prohibit the provision of such duplicative services.

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 agency may enter into an agreement with one or more other local education agencies 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 amended bill directs the Commissioner of Human Services to apply for any 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.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- remove language from the bill that specifies possible types of behavioral health care services a local education authority may support using Medicaid reimbursements provided under the bill.
- add language to clarify that the provisions of the bill are not to be construed to: (1) prohibit a Medicaid beneficiary from receiving behavioral health services covered under Medicaid from a Medicaid provider who is not a local education agency, provided that the services provided comply with all State and federal laws and regulations; and (2) require Medicaid reimbursement for behavioral health services covered under Medicaid provided to a Medicaid beneficiary by a local education agency in tandem with duplicative behavioral health services provided by another approved Medicaid provider located in the community to the same beneficiary, to the extent that State or federal law or regulation prohibit the provision of such duplicative services.

- when assisting a local education agency in implementing a plan to submit Medicaid claims for covered behavioral health services and obtain Medicaid reimbursements under the bill, require, to the extent possible, the division, in conjunction with DOE and the Department of Treasury to utilize a system that overlaps with the claims, reimbursement, and administrative procedures associated with SEMI, as a means to streamline all school-based Medicaid claims.
- make technical amendments to conform the terms used throughout the bill.