

ASSEMBLY, No. 2665

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes Medicaid Managed Care Organization Oversight Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/7/2020)

1 AN ACT concerning Medicaid and NJ FamilyCare and
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. The Legislature finds and declares that:

8 a. In 2011, the administration of health care benefits for a
9 majority of individuals who receive health care through the
10 Medicaid and NJ FamilyCare programs was shifted from the
11 Department of Human Services to managed care organizations
12 (MCOs) contracted with the Department of Human Services.

13 b. The Department of Human Services currently contracts with
14 five MCOs to provide quality health care and needed medical
15 services to individuals who are eligible for publicly subsidized
16 health insurance through the Medicaid and NJ FamilyCare
17 programs.

18 c. The contracts to provide this care include multiple
19 provisions to ensure that the care received is of high quality,
20 providers of care are accessible throughout the State, and the MCOs
21 are held accountable for meeting the terms of the contracts.

22 d. The Office of the State Auditor conducted an audit of the
23 Department of Human Services, Division of Medical Assistance and
24 Health Services, Medicaid Provider Networks for the period July 1,
25 2013 to May 31, 2016 and determined that the MCOs did not
26 provide adequate access to: general acute care hospital service
27 networks; dental providers; and accurate online provider directories.
28 Additionally, the MCOs were not adequately reporting providers'
29 claims inactivity to the department and had provider panel sizes
30 which exceeded the eligible limits.

31 e. The audit recommended that the department take certain
32 actions to ensure that the MCOs are meeting the contractual
33 obligations regarding access to care and network adequacy.

34 f. It is essential that the Legislature act to ensure that the
35 department takes action to provide oversight of the MCOs to
36 improve provision of care and network adequacy to Medicaid and
37 NJ FamilyCare enrollees.

38

39 2. As used in this act:

40 "Beneficiary" means an individual who has been determined
41 eligible by the State for health benefits in the Medicaid program
42 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) or the NJ
43 FamilyCare program pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

44 "Health benefits plan" means a plan which pays or provides
45 hospital and medical expense benefits for covered services as
46 defined by the MCO contractor.

1 “MCO contractor” means an insurance company, health service
2 corporation, hospital service corporation, or health maintenance
3 organization authorized to issue health benefits plans in this State
4 which has entered into a contract with the Department of Human
5 Services to provide health benefits for eligible persons under the
6 Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.)
7 or the NJ FamilyCare program pursuant to P.L.2005, c.156
8 (C.30:4J-8 et al.).

9 “Provider” means an individual or entity which, acting within the
10 scope of its licensure or certification, provides a covered service
11 defined by the MCO contractor’s health benefits plan.

12
13 3. The Division of Medical Assistance and Health Services in
14 the Department of Human Services shall establish a Medicaid
15 Managed Care Organization (MCO) Oversight Program to ensure
16 the availability of accessible, quality, health care for individuals
17 who are enrolled in the NJ FamilyCare and Medicaid programs.

18 The Medicaid MCO Oversight Program shall coordinate its
19 efforts with the Medicaid Fraud Division, established by the
20 “Medicaid Program Integrity and Protection Act,” P.L.2007, c.58
21 (C.30:4D-53 et seq.).

22
23 4. a. Each MCO contractor shall submit updated provider data
24 and beneficiary data on a quarterly basis to the Medicaid MCO
25 Oversight Program in a format designated by the Medicaid MCO
26 Oversight Program. The format in which the data is submitted to the
27 Medicaid MCO Oversight Program shall be consistent for each
28 MCO contractor. The data submitted shall include updated contact
29 and location information for every provider and every beneficiary.

30 b. The Medicaid MCO Oversight Program shall share any
31 updated beneficiary information with county welfare offices, or any
32 other entity which is responsible for the enrollment or re-enrollment
33 of beneficiaries in the Medicaid or NJ FamilyCare program, to
34 ensure that these county welfare offices and other entities have the
35 most current beneficiary contact information.

36 c. The Medicaid MCO Oversight Program shall establish an
37 independent verification system to verify, on an annual basis, the
38 accuracy of the information provided to the program from the MCO
39 contractors, as follows:

40 (1) the Medicaid MCO Oversight Program shall verify, at a
41 minimum, that 20 percent of the provider contact and location
42 information provided pursuant to subsection a. of this section is
43 accurate; and

44 (2) the Medicaid MCO Oversight Program shall verify, at a
45 minimum, that 20 percent of the provider contact and location
46 information included in the MCOs’ online directories is accurate.

1 d. The Medicaid MCO Oversight Program shall require, on an
2 annual basis, the MCO contractors verify that 100 percent of the
3 providers listed in the MCOs' public directories are eligible
4 Medicaid providers.

5 e. The Medicaid MCO Oversight Program shall require, on an
6 annual basis, the MCO contractors to submit claims inactivity
7 reports for all providers that meet the claims inactivity criteria
8 established by the Medicaid MCO Oversight Program for that MCO
9 contractor. The Medicaid MCO Oversight program shall require
10 MCO contractors to establish inactivity criteria for each provider
11 specialty.

12 f. The Medicaid MCO Oversight Program shall require, on an
13 annual basis, the MCO contractors to verify that the participating
14 providers' panel sizes do not exceed criteria established by the
15 Medicaid MCO Oversight Program for that MCO contractor. The
16 Medicaid MCO Oversight Program shall require panel size criteria
17 for each provider specialty to include all patients of the provider,
18 notwithstanding the patient's health insurance carrier.

19
20 5. a. The Medicaid MCO Oversight Program shall subject an
21 MCO contractor who fails to submit information as required
22 pursuant to section 4 of P.L. c. (C.) (pending before the
23 Legislature as this bill) to a fine of no less than \$50,000 for each
24 failure to submit information. The commissioner shall promulgate a
25 schedule of penalties to be applied pursuant to this section.

26 b. If, after notice and a hearing pursuant to the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an MCO
28 contractor is found by the commissioner to have failed to pay the
29 fine pursuant to subsection a. of this section, the commissioner may
30 bar that MCO contractor from participating as an MCO contractor
31 for a period not to exceed five years.

32
33 6. a. The Medicaid MCO Oversight Program shall prepare an
34 annual report, which shall be submitted to the Legislature pursuant
35 to section 2 of P.L.1991, c.164 (C.52:14-19.1) no later than April 1
36 of each calendar year. The report shall contain the information
37 provided to the program by the MCO contractors pursuant to
38 section 4 of P.L. c. (C.) (pending before the Legislature as
39 this bill), and any fines imposed on, and fines collected from, the
40 MCO contractors pursuant to section 5 of P.L. c. (C.)
41 (pending before the Legislature as this bill).

42 b. Three years from the enactment of P.L. c. (C.)
43 (pending before the Legislature as this bill), the Office of State
44 Auditor shall conduct a follow-up audit on MCO provider networks.

45
46 7. The Commissioner of Human Services, pursuant to the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-

1 et seq.), shall adopt rules and regulations as the commissioner determines necessary to effectuate the purposes of this act.

8. This act shall take effect 180 days after the date of enactment, except the Commissioner of Human Services may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

STATEMENT

This bill would require the Division of Medical Assistance and Health Services in the Department of Human Services to establish a Medicaid Managed Care Organization (MCO) Oversight Program to ensure the availability of accessible health care for individuals who are enrolled in the NJ FamilyCare and Medicaid programs.

The Office of the State Auditor conducted an audit of the Department of Human Services, Division of Medical Assistance and Health Services, Medicaid Provider Networks for the period July 1, 2013 to May 31, 2016. Information from the audit indicated that managed care organizations (MCOs) which are contracted with the State to provide health benefits to Medicaid and NJ FamilyCare beneficiaries did not provide adequate access to: general acute care hospital service networks; dental providers; and accurate online provider directories. Additionally, the MCOs were not adequately reporting claims inactivity for providers and had provider panel sizes which exceeded the eligible limits. Furthermore, the audit recommended that the department take certain actions to ensure that the MCOs are meeting the contractual obligations regarding access to quality care and provider availability.

This bill requires each MCO contractor to submit updated provider data and beneficiary data on a quarterly basis to the Medicaid MCO Oversight Program in a format designated by the Medicaid MCO Oversight Program. The submitted data will allow the Medicaid MCO Oversight Program to accurately determine if the MCOs are providing adequate network adequacy to the enrolled beneficiaries.

Additionally, the audit disclosed that the MCOs are collecting updated beneficiary information but there is no currently implemented mechanism to share this data with the department. Without updated beneficiary information, the department is not able to ensure network adequacy.

The updated beneficiary information collected by the MCOs could also streamline the work of entities, such as county welfare offices, which enroll individuals in Medicaid and NJ FamilyCare. To ensure the sharing of information, this bill requires the Medicaid MCO Oversight Program to share any updated beneficiary

1 information with county welfare offices, or any other entity which
2 is responsible for the enrollment or re-enrollment of beneficiaries in
3 the Medicaid or NJ FamilyCare program.

4 The audit also determined that the information in the MCOs' on-
5 line directories containing eligible providers, and these providers'
6 locations, was not always accurate. Therefore, this bill requires the
7 Medicaid MCO Oversight Program to establish an independent
8 verification system to annually verify that at least 20 percent of the
9 information provided to the program from the MCO contractors is
10 accurate and that 100 percent of the providers listed are eligible
11 Medicaid providers.

12 The audit also revealed that there was a need for the MCOs to
13 identify inactive providers. To rectify this situation, the bill requires
14 the MCO contractors to submit claims inactivity reports for all
15 providers that meet the claims inactivity criteria established by the
16 Medicaid MCO Oversight Program for that MCO contractor.

17 Additionally, the audit disclosed that a small number of MCO
18 contractors were listing providers as "eligible" who had patient
19 panel sizes that exceeded acceptable numbers. This bill would
20 require MCO contractors to verify that all of the participating
21 providers' panel sizes do not exceed criteria established by the
22 Medicaid MCO Oversight program for that MCO contractor. The
23 bill also requires the panel size criteria for each provider specialty
24 to include all patients of the provider, notwithstanding the patient's
25 health insurance carrier.

26 It is unclear what sanctions are currently being brought against
27 MCO contractors that do not comply with the current contracts.
28 Consequences for not meeting the requirements of this bill will be a
29 minimum \$50,000 fine for each failure to submit information as
30 required pursuant to the bill. If, after an administrative hearing, the
31 MCO fails to pay the fine, the MCO may be barred from contracting
32 with the department for five years.

33 Lastly, the bill requires an annual report containing the
34 information provided to the program from the MCOs no later than
35 90 days from the first day of the calendar year. To evaluate longer
36 term changes, the bill requires the Office of State Auditor to
37 conduct a follow up audit on MCO provider networks three years
38 after enactment.