

ASSEMBLY, No. 4213

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Codifies and expands Medicaid coverage for certain school-based services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2020)

1 AN ACT concerning Medicaid coverage for certain school-based
2 services and amending P.L.1968, c.413.

3

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

6

7 1. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read
8 as follows:

9 6. a. Subject to the requirements of Title XIX of the federal
10 Social Security Act, the limitations imposed by this act and by the
11 rules and regulations promulgated pursuant thereto, the department
12 shall provide medical assistance to qualified applicants, including
13 authorized services within each of the following classifications:

14 (1) Inpatient hospital services;

15 (2) Outpatient hospital services;

16 (3) Other laboratory and X-ray services;

17 (4) (a) Skilled nursing or intermediate care facility services;

18 (b) Early and periodic screening and diagnosis of individuals
19 who are eligible under the program and are under age 21, to
20 ascertain their physical or mental health status and the health care,
21 treatment, and other measures to correct or ameliorate defects and
22 chronic conditions discovered thereby, as may be provided in
23 regulations of the Secretary of the federal Department of Health and
24 Human Services and approved by the commissioner;

25 (5) Physician's services furnished in the office, the patient's
26 home, a hospital, a skilled nursing, or intermediate care facility or
27 elsewhere.

28 As used in this subsection, "laboratory and X-ray services"
29 includes HIV drug resistance testing, including, but not limited to,
30 genotype assays that have been cleared or approved by the federal
31 Food and Drug Administration, laboratory developed genotype
32 assays, phenotype assays, and other assays using phenotype
33 prediction with genotype comparison, for persons diagnosed with
34 HIV infection or AIDS.

35 b. Subject to the limitations imposed by federal law, by this
36 act, and by the rules and regulations promulgated pursuant thereto,
37 the medical assistance program may be expanded to include
38 authorized services within each of the following classifications:

39 (1) Medical care not included in subsection a.(5) above, or any
40 other type of remedial care recognized under State law, furnished
41 by licensed practitioners within the scope of their practice, as
42 defined by State law;

43 (2) Home health care services;

44 (3) Clinic services;

45 (4) Dental services;

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (5) Physical therapy and related services;
- 2 (6) Prescribed drugs, dentures, and prosthetic devices; and
- 3 eyeglasses prescribed by a physician skilled in diseases of the eye
- 4 or by an optometrist, whichever the individual may select;
- 5 (7) Optometric services;
- 6 (8) Podiatric services;
- 7 (9) Chiropractic services;
- 8 (10) Psychological services;
- 9 (11) Inpatient psychiatric hospital services for individuals under
- 10 21 years of age, or under age 22 if they are receiving such services
- 11 immediately before attaining age 21;
- 12 (12) Other diagnostic, screening, preventive, and rehabilitative
- 13 services, and other remedial care;
- 14 (13) Inpatient hospital services, nursing facility services, and
- 15 intermediate care facility services for individuals 65 years of age or
- 16 over in an institution for mental diseases;
- 17 (14) Intermediate care facility services;
- 18 (15) Transportation services;
- 19 (16) Services in connection with the inpatient or outpatient
- 20 treatment or care of substance use disorder, when the treatment is
- 21 prescribed by a physician and provided in a licensed hospital or in a
- 22 narcotic and substance use disorder treatment center approved by
- 23 the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21
- 24 et seq.) and whose staff includes a medical director, and limited to
- 25 those services eligible for federal financial participation under Title
- 26 XIX of the federal Social Security Act;
- 27 (17) Any other medical care and any other type of remedial care
- 28 recognized under State law, specified by the Secretary of the federal
- 29 Department of Health and Human Services, and approved by the
- 30 commissioner;
- 31 (18) Comprehensive maternity care, which may include: the
- 32 basic number of prenatal and postpartum visits recommended by the
- 33 American College of Obstetrics and Gynecology; additional
- 34 prenatal and postpartum visits that are medically necessary;
- 35 necessary laboratory, nutritional assessment and counseling, health
- 36 education, personal counseling, managed care, outreach, and
- 37 follow-up services; treatment of conditions which may complicate
- 38 pregnancy; doula care; and physician or certified nurse-midwife
- 39 delivery services. For the purposes of this paragraph, "doula"
- 40 means a trained professional who provides continuous physical,
- 41 emotional, and informational support to a mother before, during,
- 42 and shortly after childbirth, to help her to achieve the healthiest,
- 43 most satisfying experience possible;
- 44 (19) Comprehensive pediatric care, which may include:
- 45 ambulatory, preventive, and primary care health services. The
- 46 preventive services shall include, at a minimum, the basic number
- 47 of preventive visits recommended by the American Academy of
- 48 Pediatrics;

1 (20) Services provided by a hospice which is participating in
2 the Medicare program established pursuant to Title XVIII of the
3 Social Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.).
4 Hospice services shall be provided subject to approval of the
5 Secretary of the federal Department of Health and Human Services
6 for federal reimbursement;

7 (21) Mammograms, subject to approval of the Secretary of the
8 federal Department of Health and Human Services for federal
9 reimbursement, including one baseline mammogram for women
10 who are at least 35 but less than 40 years of age; one mammogram
11 examination every two years or more frequently, if recommended
12 by a physician, for women who are at least 40 but less than 50 years
13 of age; and one mammogram examination every year for women
14 age 50 and over;

15 (22) Upon referral by a physician, advanced practice nurse, or
16 physician assistant of a person who has been diagnosed with
17 diabetes, gestational diabetes, or pre-diabetes, in accordance with
18 standards adopted by the American Diabetes Association:

19 (a) Expenses for diabetes self-management education or training
20 to ensure that a person with diabetes, gestational diabetes, or pre-
21 diabetes can optimize metabolic control, prevent and manage
22 complications, and maximize quality of life. Diabetes self-
23 management education shall be provided by an in-State provider
24 who is:

25 (i) a licensed, registered, or certified health care professional
26 who is certified by the National Certification Board of Diabetes
27 Educators as a Certified Diabetes Educator, or certified by the
28 American Association of Diabetes Educators with a Board
29 Certified-Advanced Diabetes Management credential, including, but
30 not limited to: a physician, an advanced practice or registered nurse,
31 a physician assistant, a pharmacist, a chiropractor, a dietitian
32 registered by a nationally recognized professional association of
33 dietitians, or a nutritionist holding a certified nutritionist specialist
34 (CNS) credential from the Board for Certification of Nutrition
35 Specialists; or

36 (ii) an entity meeting the National Standards for Diabetes Self-
37 Management Education and Support, as evidenced by a recognition
38 by the American Diabetes Association or accreditation by the
39 American Association of Diabetes Educators;

40 (b) Expenses for medical nutrition therapy as an effective
41 component of the person's overall treatment plan upon a: diagnosis
42 of diabetes, gestational diabetes, or pre-diabetes; change in the
43 beneficiary's medical condition, treatment, or diagnosis; or
44 determination of a physician, advanced practice nurse, or physician
45 assistant that reeducation or refresher education is necessary.
46 Medical nutrition therapy shall be provided by an in-State provider
47 who is a dietitian registered by a nationally-recognized professional
48 association of dietitians, or a nutritionist holding a certified

1 nutritionist specialist (CNS) credential from the Board for
2 Certification of Nutrition Specialists, who is familiar with the
3 components of diabetes medical nutrition therapy;

4 (c) For a person diagnosed with pre-diabetes, items and services
5 furnished under an in-State diabetes prevention program that meets
6 the standards of the National Diabetes Prevention Program, as
7 established by the federal Centers for Disease Control and
8 Prevention; and

9 (d) Expenses for any medically appropriate and necessary
10 supplies and equipment recommended or prescribed by a physician,
11 advanced practice nurse, or physician assistant for the management
12 and treatment of diabetes, gestational diabetes, or pre-diabetes,
13 including, but not limited to: equipment and supplies for self-
14 management of blood glucose; insulin pens; insulin pumps and
15 related supplies; and other insulin delivery devices; **[and]**

16 (23) Expenses incurred for the provision of group prenatal care
17 services to a pregnant woman, provided that:

18 (a) the provider of such services, which shall include, but not be
19 limited to, a federally qualified health center or a community health
20 center operating in the State :

21 (i) is a site accredited by the Centering Healthcare Institute, or
22 is a site engaged in an active implementation contract with the
23 Centering Healthcare Institute, that utilizes the Centering Pregnancy
24 model; and

25 (ii) incorporates the applicable information outlined in any best
26 practices manual for prenatal and postpartum maternal care
27 developed by the Department of Health into the curriculum for each
28 group prenatal visit;

29 (b) each group prenatal care visit is at least 1.5 hours in
30 duration, with a minimum of two women and a maximum of 20
31 women in participation; and

32 (c) no more than 10 group prenatal care visits occur per
33 pregnancy.

34 As used in this paragraph, "group prenatal care services" means a
35 series of prenatal care visits provided in a group setting which are
36 based upon the Centering Pregnancy model developed by the
37 Centering Healthcare Institute and which include health
38 assessments, social and clinical support, and educational activities;
39 and

40 (24) School-based services listed in a recipient student's
41 Individualized Education program (IEP), 504 accommodation plan,
42 Individualized Health Care Plan, Individualized Family Service Plan,
43 or that are otherwise medically necessary as determined by a licensed
44 medical practitioner, and that are coverable under the Medicaid
45 program, pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). School-
46 based services shall be provided:

47 (a) by a licensed medical practitioner approved as a Medicaid
48 provider or a local education agency approved as a Medicaid provider;

1 **(b) to a student who is an eligible beneficiary of the Medicaid**
2 **program; and**

3 **(c) within the recipient student's school setting, or in the recipient**
4 **student's home or in a community setting if deemed medically**
5 **necessary by a licensed medical practitioner or if specified in the**
6 **recipient student's IEP.**

7 c. Payments for the foregoing services, goods, and supplies
8 furnished pursuant to this act shall be made to the extent authorized
9 by this act, the rules and regulations promulgated pursuant thereto
10 and, where applicable, subject to the agreement of insurance
11 provided for under this act. The payments shall constitute payment
12 in full to the provider on behalf of the recipient. Every provider
13 making a claim for payment pursuant to this act shall certify in
14 writing on the claim submitted that no additional amount will be
15 charged to the recipient, the recipient's family, the recipient's
16 representative or others on the recipient's behalf for the services,
17 goods, and supplies furnished pursuant to this act.

18 No provider whose claim for payment pursuant to this act has
19 been denied because the services, goods, or supplies were
20 determined to be medically unnecessary shall seek reimbursement
21 from the recipient, his family, his representative or others on his
22 behalf for such services, goods, and supplies provided pursuant to
23 this act; provided, however, a provider may seek reimbursement
24 from a recipient for services, goods, or supplies not authorized by
25 this act, if the recipient elected to receive the services, goods or
26 supplies with the knowledge that they were not authorized.

27 d. Any individual eligible for medical assistance (including
28 drugs) may obtain such assistance from any person qualified to
29 perform the service or services required (including an organization
30 which provides such services, or arranges for their availability on a
31 prepayment basis), who undertakes to provide the individual such
32 services.

33 No copayment or other form of cost-sharing shall be imposed on
34 any individual eligible for medical assistance, except as mandated
35 by federal law as a condition of federal financial participation.

36 e. Anything in this act to the contrary notwithstanding, no
37 payments for medical assistance shall be made under this act with
38 respect to care or services for any individual who:

39 (1) Is an inmate of a public institution (except as a patient in a
40 medical institution); provided, however, that an individual who is
41 otherwise eligible may continue to receive services for the month in
42 which he becomes an inmate, should the commissioner determine to
43 expand the scope of Medicaid eligibility to include such an
44 individual, subject to the limitations imposed by federal law and
45 regulations, or

46 (2) Has not attained 65 years of age and who is a patient in an
47 institution for mental diseases, or

1 (3) Is over 21 years of age and who is receiving inpatient
2 psychiatric hospital services in a psychiatric facility; provided,
3 however, that an individual who was receiving such services
4 immediately prior to attaining age 21 may continue to receive such
5 services until the individual reaches age 22. Nothing in this
6 subsection shall prohibit the commissioner from extending medical
7 assistance to all eligible persons receiving inpatient psychiatric
8 services; provided that there is federal financial participation
9 available.

10 f. (1) A third party as defined in section 3 of P.L.1968, c.413
11 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
12 this or another state when determining the person's eligibility for
13 enrollment or the provision of benefits by that third party.

14 (2) In addition, any provision in a contract of insurance, health
15 benefits plan, or other health care coverage document, will, trust,
16 agreement, court order, or other instrument which reduces or
17 excludes coverage or payment for health care-related goods and
18 services to or for an individual because of that individual's actual or
19 potential eligibility for or receipt of Medicaid benefits shall be null
20 and void, and no payments shall be made under this act as a result
21 of any such provision.

22 (3) Notwithstanding any provision of law to the contrary, the
23 provisions of paragraph (2) of this subsection shall not apply to a
24 trust agreement that is established pursuant to 42 U.S.C.
25 s.1396p(d)(4)(A) or (C) to supplement and augment assistance
26 provided by government entities to a person who is disabled as
27 defined in section 1614(a)(3) of the federal Social Security Act (42
28 U.S.C. s.1382c (a)(3)).

29 g. The following services shall be provided to eligible
30 medically needy individuals as follows:

31 (1) Pregnant women shall be provided prenatal care and delivery
32 services and postpartum care, including the services cited in
33 subsections a.(1), (3), and (5) of this section and subsections b.(1)-
34 (10), (12), (15), and (17) of this section, and nursing facility
35 services cited in subsection b.(13) of this section.

36 (2) Dependent children shall be provided with services cited in
37 subsections a.(3) and (5) of this section and subsections b.(1), (2),
38 (3), (4), (5), (6), (7), (10), (12), (15), and (17) of this section, and
39 nursing facility services cited in subsection b.(13) of this section.

40 (3) Individuals who are 65 years of age or older shall be
41 provided with services cited in subsections a.(3) and (5) of this
42 section and subsections b.(1)-(5), (6) excluding prescribed drugs,
43 (7), (8), (10), (12), (15), and (17) of this section, and nursing
44 facility services cited in subsection b.(13) of this section.

45 (4) Individuals who are blind or disabled shall be provided with
46 services cited in subsections a.(3) and (5) of this section and
47 subsections b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),

1 (12), (15), and (17) of this section, and nursing facility services
2 cited in subsection b.(13) of this section.

3 (5) (a) Inpatient hospital services, subsection a.(1) of this
4 section, shall only be provided to eligible medically needy
5 individuals, other than pregnant women, if the federal Department
6 of Health and Human Services discontinues the State's waiver to
7 establish inpatient hospital reimbursement rates for the Medicare
8 and Medicaid programs under the authority of section 601(c)(3) of
9 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
10 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
11 extended to other eligible medically needy individuals if the federal
12 Department of Health and Human Services directs that these
13 services be included.

14 (b) Outpatient hospital services, subsection a.(2) of this section,
15 shall only be provided to eligible medically needy individuals if the
16 federal Department of Health and Human Services discontinues the
17 State's waiver to establish outpatient hospital reimbursement rates
18 for the Medicare and Medicaid programs under the authority of
19 section 601(c)(3) of the Social Security Amendments of 1983,
20 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
21 services may be extended to all or to certain medically needy
22 individuals if the federal Department of Health and Human Services
23 directs that these services be included. However, the use of
24 outpatient hospital services shall be limited to clinic services and to
25 emergency room services for injuries and significant acute medical
26 conditions.

27 (c) The division shall monitor the use of inpatient and outpatient
28 hospital services by medically needy persons.

29 h. In the case of a qualified disabled and working individual
30 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
31 only medical assistance provided under this act shall be the
32 payment of premiums for Medicare part A under 42 U.S.C.
33 ss.1395i-2 and 1395r.

34 i. In the case of a specified low-income Medicare beneficiary
35 pursuant to 42 U.S.C. s.1396a(a)10(E)iii, the only medical
36 assistance provided under this act shall be the payment of premiums
37 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42
38 U.S.C. s.1396d(p)(3)(A)(ii).

39 j. In the case of a qualified individual pursuant to 42 U.S.C.
40 s.1396a(aa), the only medical assistance provided under this act
41 shall be payment for authorized services provided during the period
42 in which the individual requires treatment for breast or cervical
43 cancer, in accordance with criteria established by the commissioner.

44 k. In the case of a qualified individual pursuant to 42 U.S.C.
45 s.1396a(ii), the only medical assistance provided under this act shall
46 be payment for family planning services and supplies as described
47 at 42 U.S.C. s.1396d(a)(4)(C), including medical diagnosis and

1 treatment services that are provided pursuant to a family planning
2 service in a family planning setting.

3 (cf: P.L.2019, c.237, s.2)

4
5 2. The Commissioner of Human Services shall apply for such
6 State plan amendments or waivers as may be necessary to
7 implement the provisions of this act and to secure federal financial
8 participation for State Medicaid expenditures under the federal
9 Medicaid program.

10
11 3. The Commissioner of Human Services, in coordination with
12 the Commission of Education and the State Treasurer, pursuant to
13 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), shall adopt rules and regulations necessary to implement the
15 provisions of this act.

16
17 4. This act shall take effect on the first day of the fourth month
18 next following the date of enactment, but the Commissioner of
19 Human Services, in coordination with the Commission of Education
20 and the State Treasurer, may take such anticipatory administrative
21 action in advance thereof as may be necessary for the
22 implementation of this act.

23 24 25 STATEMENT

26
27 This bill codifies and expands Medicaid coverage for certain
28 school-based services. Under the bill, the State Medicaid program is
29 to include coverage for school-based services listed in a recipient
30 student's Individualized Education program (IEP), 504
31 accommodation plan, Individualized Health Care Plan, Individualized
32 Family Service Plan, or that are otherwise medically necessary as
33 determined by a licensed medical practitioner, and that are coverable
34 under the Medicaid program, pursuant to P.L.1968, c.413 (C.30:4D-1
35 et seq.). School-based services are to be provided: (1) by a licensed
36 medical practitioner approved as a Medicaid provider or a local
37 education agency (LEA) approved as a Medicaid provider; (2) to a
38 student who is an eligible beneficiary of the Medicaid program; and
39 (3) within the recipient student's school setting, or in the recipient
40 student's home or in a community setting if deemed medically
41 necessary by a licensed medical practitioner or if specified in the
42 recipient student's IEP.

43 Currently, Medicaid reimbursement for school-based services is
44 administered under the Special Education Medicaid Initiative
45 (SEMI), a program jointly operated by the New Jersey Departments
46 of Education, Human Services, and Treasury along with
47 participating LEAs. The purpose of the SEMI is to recover a portion
48 of costs for certain Medicaid-covered services provided to

1 Medicaid-eligible students enrolled in participating LEAs. Health-
2 related services provided to Medicaid-eligible students and
3 submitted to Medicaid for reimbursement under the SEMI are
4 required to be included in the student's IEP. This bill codifies this
5 provision of the SEMI, and expands Medicaid reimbursement to
6 include other school-based services listed in a recipient student's 504
7 accommodation plan, Individualized Health Care Plan, Individualized
8 Family Service Plan, or that are otherwise medically necessary as
9 determined by a licensed medical practitioner. All services are
10 required to be coverable under the Medicaid program.

11 Finally, the bill requires the Commissioner of Human Services to
12 apply for such State plan amendments or waivers as may be
13 necessary to implement the provisions of this act and to secure
14 federal financial participation for State Medicaid expenditures
15 under the federal Medicaid program. For reference, in 2017, the
16 Centers for Medicare and Medicaid Services approved a State plan
17 amendment submitted by the Massachusetts Medicaid agency which
18 allowed schools that are Medicaid-eligible providers to bill for
19 Medicaid services provided to all Medicaid-enrolled students,
20 similar to the provisions in this bill.