

[Third Reprint]

ASSEMBLY, No. 4688

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

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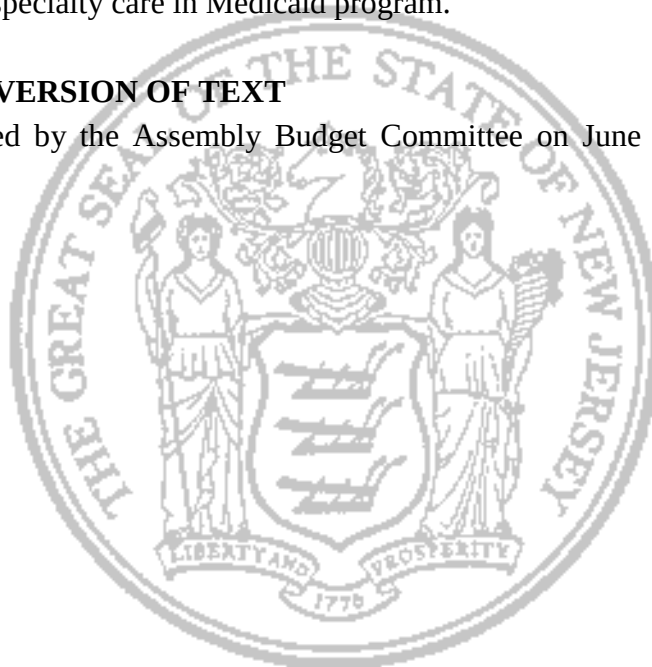
**Assemblyman Johnson, Assemblywomen Reynolds-Jackson, Dunn,
Lampitt, Timberlake, Swain and Assemblyman Tully**

SYNOPSIS

Codifies and establishes certain network adequacy standards for pediatric primary and specialty care in Medicaid program.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 21, 2021, with amendments.



(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning network adequacy of pediatric providers in the
2 Medicaid program and supplementing ²[P.L.1997, c.192
3 (C.26:2S-1 et al.)] Title 30 of the Revised Statutes².
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. ²[Pursuant to section 19 of P.L.1997, c.192 (C.26:2S-18),
9 the commissioner shall only approve the network adequacy of a
10 managed care plan provided by a managed care organization
11 contracted with] At the next regular opportunity,² the Division of
12 Medical Assistance and Health Services in the Department of
13 Human Services ²[to provide benefits under Medicaid if the plan
14 has] shall amend the Medicaid managed care organization contract
15 provisions on network adequacy to require²:
16

17 (1) a sufficient number of pediatric primary care physicians
18 (PCPs) to assure that:

19 (a) at least two physicians eligible as PCPs are within five miles
20 or 10 minutes driving time or public transit time, whichever is less,
21 of 90 percent of the managed care plan's pediatric enrollees who
22 live in urban counties;

23 (b) at least two physicians eligible as PCPs are within 10 miles
24 or 15 minutes driving time or public transit time, whichever is less,
25 of 90 percent of the managed care plan's pediatric enrollees who
26 live in non-urban counties; and

27 (c) 100 percent of all pediatric enrollees live no more than 30
28 minutes from at least one physician eligible as a PCP;

29 (2) a sufficient number of pediatric medical specialists to assure:

30 (a) access within 15 miles or 30 minutes driving time or public
31 transit time, whichever is less, of 90 percent of the managed care
32 plan's pediatric enrollees who live in urban counties; and

33 (b) access within 40 miles or 60 minutes driving time or public
34 transit time, whichever is less, of 90 percent of the managed care
35 plan's pediatric enrollees who live in non-urban counties;

36 (3) a sufficient number of pediatric oncologists and
37 developmental and behavioral pediatricians ²and psychiatrists² to
38 assure:

39 (a) access within 10 miles or 20 minutes driving time or public
40 transit time, whichever is less, of 90 percent of the managed care
41 plan's pediatric enrollees who live in urban counties; and

42 (b) access within 30 miles or 45 minutes driving time or public
43 transit time, whichever is less, of 90 percent of the managed care
44 plan's pediatric enrollees who live in non-urban counties; and

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHU committee amendments adopted June 14, 2021.

²Assembly AAP committee amendments adopted June 16, 2021.

³Assembly ABU committee amendments adopted June 21, 2021.

1 (4) the following types of pediatric medical specialties
2 represented within the plan's network: adolescent medicine; allergy
3 and immunology; cardiology; developmental and behavioral
4 pediatrics; ¹psychiatry; emergency medicine; endocrinology and
5 diabetes; gastroenterology and nutrition; general pediatrics; general
6 pediatrics – dermatology; hematology; human genetics and
7 metabolism; infectious disease; neonatology; nephrology;
8 neurology; oncology; ophthalmology; ¹**[orthopaedics]**
9 orthopedics¹; otolaryngology; plastic surgery; pulmonary medicine,
10 including sleep medicine; radiology; rehabilitative medicine; and
11 rheumatology.

12 b. ³**[²A managed care organization that violates any provision**
13 **of this act shall be liable for penalties described under section 16 of**
14 **¹[P.L.2018, c. 32] P.L.1997, c.192¹ (C.26:2S-16)]** No out-of-state
15 pediatric specialty hospital shall be denied the right to participate in a
16 managed care organization network under the same terms and
17 conditions currently applicable to all other contracting providers,
18 provided the pediatric specialty hospital is willing to accept 125
19 percent of its home state Medicaid fee-for-service rate and accepts the
20 terms and conditions of the contract. Nothing in this section shall
21 preclude any provider from negotiating a higher or lower rate for any
22 service or set of services².

23 c. ²No out-of-state or in-state pediatric specialty provider shall be
24 denied the right to participate in a managed care organization network
25 under the same terms and conditions currently applicable to all other
26 contracting providers, provided the out-of-state or in-state pediatric
27 specialty provider is willing to accept 100 percent of the State
28 Medicaid fee-for-service rate and accepts the terms and conditions of
29 the contract. Nothing in this section shall preclude any provider from
30 negotiating a higher or lower rate for any service or set of services.

31 d.¹³ In each reporting period, a managed care organization may
32 seek a waiver of a specific network adequacy provision established in
33 paragraphs (2) through (3) of subsection a. of this section from the
34 Division of Medical Assistance and Health Services. The division
35 shall establish a waiver process where, at a minimum, the managed
36 care organization must demonstrate both an active, good faith effort to
37 meet requirements for applicable specialties in each applicable county,
38 and certify to the division which specialty or specialties, and in which
39 counties, for which insufficient providers exist.

40 ³**[e.] c.³** The Division of Medical Assistance and Health
41 Services shall require each managed care organization to establish a
42 process by which a patient or provider may submit a grievance
43 regarding the adequacy of its provider network. This process shall
44 include response timeframes, but no more than 30 days, and reporting
45 defined in the managed care contract, including documentation of
46 specific provider availability addressing each grievance.

1 ³**[f.]d.**³ In order to provide timely services to patients, when a
2 managed care organization is notified ³[by a provider of their
3 willingness to participate under the provisions of subsections b. and
4 c.] that care is needed for a Medicaid beneficiary in a county where a
5 managed care organization was unable to certify that it meets, or
6 received a waiver of, the network adequacy standards as required in
7 subsection a.³ of this section, the managed care organization shall
8 initiate ³[contracting] negotiations with non-participating providers of
9 that service.³ and ³shall³ provide timely authorization to ensure
10 services can be provided to the beneficiary without delay and
11 consistent with timeframes defined in the managed care contract for all
12 routine and urgent services. Balance-billing of Medicaid beneficiaries
13 shall be prohibited. Any copayments or other forms of cost-sharing
14 imposed on services rendered under this paragraph shall be limited to
15 the maximum amount allowed under State law for the Medicaid
16 program. ³The Commissioner of Human Services may promulgate
17 rules or regulations to resolve in a timely manner contracting disputes
18 that arise under this subsection.³

19 ³**[g.]e.**³ The Division of Medical Assistance and Health
20 Services shall establish an enhanced system to assess the network
21 adequacy of a managed care organization contracted with the division
22 to provide benefits under Medicaid, including, but not limited to,
23 requiring the managed care organization to certify, at a minimum on
24 an annual basis, that the managed care organization meets the network
25 adequacy requirements contained in their contract. The division shall
26 enforce appropriate sanctions for non-compliance with this section,
27 including, but not limited to, financial penalties that accrue during the
28 period of non-compliance.

29 ³**[h.] f.**³ A managed care organization shall annually provide a
30 report of the number of out-of-network contracts and waivers sought
31 and granted by pediatric specialty, as listed in paragraph (4) of
32 subsection a. of this section, and county to the Division of Medical
33 Assistance and Health Services, who shall make that information
34 publicly available by request.

35 ³**[i.] g.**^{3 2} For the purposes of this section:

36 "Medicaid" means the program established pursuant to P.L.1968,
37 c.413 (C.30:4D-1 et seq.).

38 "Network adequacy" means the adequacy ¹of¹ the provider
39 network with respect to the scope and type of health care benefits
40 provided by the managed care plan, the geographic service area
41 covered by the provider network, and access to medical specialists
42 pursuant to the standards in the regulations promulgated pursuant to
43 section 19 of P.L.1997, c.192 (C.26:2S-18) and in the existing
44 contract between a managed care organization and the Division of
45 Medical Assistance and Health Services in the Department of
46 Human Services.

1 “Non-urban county” shall mean: ¹【Hunterdon, Morris, Somerset,
2 Sussex, Warren,】¹ Atlantic, Cape May, Cumberland, Gloucester,
3 ¹【and】 Hunterdon, Morris,¹ Salem ¹, Somerset, Sussex, and
4 Warren¹ counties ², or as otherwise defined for the purposes of this
5 section by the Commissioner of Human Services².

6 “Urban county” shall mean: Bergen, ¹【Hudson, and Passaic,
7 Essex, Union, Middlesex, Mercer,】¹ Burlington, Camden,
8 ¹【Monmouth and Ocean】 Essex, Hudson, Mercer, Middlesex,
9 Monmouth, Ocean, Passaic, and Union¹ counties ², or as otherwise
10 defined for the purposes of this section by the Commissioner of
11 Human Services^{2 1 1}.

12
13 2. The ²【Commissioner of Banking and Insurance, in
14 conjunction with the】² Commissioner of Human Services ²【,】²
15 shall adopt rules and regulations pursuant to the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ^{1 1} to
17 effectuate the purposes of this act.

18
19 3. This act shall take effect on the first day of the third month
20 following enactment, except that the ²【Commissioner of Banking
21 and Insurance, in conjunction with the】² Commissioner of Human
22 Services ²【,】² may take such anticipatory administrative action in
23 advance thereof as shall be necessary for the implementation of this
24 act.