ASSEMBLY, No. 5671

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:
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District 38 (Bergen and Passaic)
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SYNOPSIS

Requires DHS to establish a pilot program covering menstrual hygiene products under Medicaid and NJ FamilyCare.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/20/2021)

AN ACT concerning menstrual hygiene products and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

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

1. a. Notwithstanding any State law or regulation to the contrary, the Department of Human Services shall establish a pilot program to provide menstrual hygiene products to eligible menstruators under the State Medicaid and New Jersey FamilyCare programs, in accordance with parameters set forth by the Commissioner of Human Services. The establishment of this pilot program shall be contingent upon federal approval of the State's application for a waiver pursuant to Section 1115 of Title XIX the Social Security Act (42 U.S.C., s.1315).

b. Menstrual hygiene products shall be provided, with no cost-sharing requirement, to eligible menstruators upon confirmation of eligibility by presentation of a valid Medicaid card at any pharmacy that is an approved Medicaid provider.

c. The department, in consultation with appropriate experts in the fields of gynecology, women's health, and adolescent health, shall establish:

(1) the quantity of menstrual hygiene products to be provided each month, at no cost, to eligible menstruators; and

(2) the frequency with which such items are to be provided, at no charge, to eligible menstruators.

d. The Commissioner of Human Services shall apply for such federal waivers as are necessary to implement the provisions of this section and to continue to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

e. As used in this section:

"Cost-sharing" means a deductible, co-insurance or co-payment, or similar charges.

"Menstrual hygiene products" means tampons, menstrual cups, or sanitary napkins used to collect or absorb menstrual fluids.

2. The Commissioner of Human Services, pursuant to the "Administrative Procurement Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect immediately, but shall remain inoperable until the Commissioner of Human Services receives approval for any necessary federal waivers, pursuant to subsection d. of section 1 of this act.

STATEMENT

This bill establishes a pilot program under which the State Medicaid and New Jersey FamilyCare programs would provide menstrual hygiene products free-of-charge for Medicaid and New Jersey FamilyCare-eligible menstruators through contracted Medicaid pharmacies. The bill defines "menstrual hygiene products" as tampons, menstrual cups, and sanitary napkins used to collect menstrual fluids. This pilot program is contingent upon federal approval of the State's Section 1115 waiver application to provide this new benefit and the receipt of federal matching funds for State expenditures for menstrual hygiene products under the Medicaid and New Jersey FamilyCare programs.

Under the bill, the Commissioner of Human Services, in consultation with appropriate experts in the fields of gynecology, women's health, and adolescent health, would determine both the quantity and frequency with which menstrual hygiene products are to be provided to eligible menstruators. Menstruators enrolled in the Medicaid or the New Jersey FamilyCare programs would receive a supply of menstrual hygiene products, at no cost, by providing a current Medicaid identification card at an approved Medicaid pharmacy. Pharmacies that participate in the pilot would then submit claims to the department, on a quarterly basis, for reimbursement for the menstrual hygiene products furnished to eligible menstruators.

Currently, federal statute and regulations prohibit enrollees in federal safety-net programs, such as the Medicaid program, the Supplemental Nutrition Assistance Program (SNAP), and the Supplemental Nutrition Assistance Program for Women, Infants, and Children (WIC), from using their benefits to purchase menstrual hygiene products. The impact of these policies is clearly illustrated in the results of a recent survey of low-income women in St. Louis, MO. Of the women surveyed, 66 percent reported being unable to afford menstrual hygiene products at some point in the previous 12 months, while 20 percent of these respondents confronted this problem on a monthly basis.

During the school year, low-income students may have access to menstrual hygiene products through the school health office or designated teachers. However, research by menstrual pad manufacturer Always shows that 20 percent of school-aged menstruators have either left school early, or missed school days altogether, because they lacked access to menstrual hygiene products.

The coronavirus 2019 (COVID-19) pandemic has only heightened "period poverty," a term that refers to inadequate access to menstrual hygiene products and education, clean toilets, and handwashing facilities, as numerous New Jersey residents face

economic hardship due to pandemic-related job losses and reduced hours of employment, and as schools switch students to remote learning as a way to slow the spread of COVID-19. Without access to menstrual hygiene products, many low-income menstruators are forced to extend the length of time they use a single tampon orsanitary napkin, or reuse a soiled sanitary napkin, thereby risking infection and, potentially, toxic shock syndrome. Other menstruators resort to using alternatives to menstrual hygiene products, such as toilet paper, paper towels, diapers, socks, or rags. It is the intent of the bill's sponsor to provide all low-income menstruators with equitable access to a reliable supply of menstrual hygiene products through the Medicaid and New Jersey FamilyCare programs.