

P.L. 2021, CHAPTER 276, *approved November 8, 2021*
Senate, No. 3000 (*Fourth Reprint*)

- 1 **AN ACT** concerning network adequacy of pediatric providers in the
2 Medicaid program and supplementing ³**[P.L.1997, c.192**
3 (C.26:2S-1 et al.)**]** Title 30 of the Revised Statutes³.
4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7
8 1. a. ³**[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,³ the Division of
12 Medical Assistance and Health Services in the Department of
13 Human Services ³**[to provide benefits under Medicaid if the plan**
14 has**]** shall amend the Medicaid managed care organization contract
15 provisions on network adequacy to require³:
16 (1) a sufficient number of pediatric primary care physicians
17 (PCPs) to assure that:
18 (a) at least two physicians eligible as PCPs are within five miles
19 or 10 minutes driving time or public transit time, whichever is less,
20 of 90 percent of the managed care plan's pediatric enrollees who
21 live in urban counties;
22 (b) at least two physicians eligible as PCPs are within 10 miles
23 or 15 minutes driving time or public transit time, whichever is less,
24 of 90 percent of the managed care plan's pediatric enrollees who
25 live in non-urban counties; and
26 (c) 100 percent of all pediatric enrollees live no more than 30
27 minutes from at least one physician eligible as a PCP;
28 (2) a sufficient number of pediatric medical specialists to assure:
29 (a) access within 15 miles or 30 minutes driving time or public
30 transit time, whichever is less, of 90 percent of the managed care
31 plan's pediatric enrollees who live in urban counties; and
32 (b) access within 40 miles or 60 minutes driving time or public
33 transit time, whichever is less, of 90 percent of the managed care
34 plan's pediatric enrollees who live in non-urban counties;

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:

¹Senate SHH committee amendments adopted January 14, 2021.

²Senate SBA committee amendments adopted March 22, 2021.

³Assembly AAP committee amendments adopted June 16, 2021.

⁴Assembly ABU committee amendments adopted June 21, 2021.

1 (3) a sufficient number of pediatric oncologists and
2 developmental and behavioral pediatricians ³and psychiatrists³ to
3 assure:

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

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

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

21 b. ⁴**[**³**]**A managed care organization that violates any provision
22 of this act shall be liable for penalties described under section 16 of
23 ¹[P.L.2018, c. 32] P.L.1997, c.192¹ (C.26:2S-16)] No out-of-state
24 pediatric specialty hospital shall be denied the right to participate in a
25 managed care organization network under the same terms and
26 conditions currently applicable to all other contracting providers,
27 provided the pediatric specialty hospital is willing to accept 125
28 percent of its home state Medicaid fee-for-service rate and accepts the
29 terms and conditions of the contract. Nothing in this section shall
30 preclude any provider from negotiating a higher or lower rate for any
31 service or set of services³.

32 c. ³No out-of-state or in-state pediatric specialty provider shall be
33 denied the right to participate in a managed care organization network
34 under the same terms and conditions currently applicable to all other
35 contracting providers, provided the out-of-state or in-state pediatric
36 specialty provider is willing to accept 100 percent of the State
37 Medicaid fee-for-service rate and accepts the terms and conditions of
38 the contract. Nothing in this section shall preclude any provider from
39 negotiating a higher or lower rate for any service or set of services.

40 d. ⁴**[**⁴**]**In each reporting period, a managed care organization may
41 seek a waiver of a specific network adequacy provision established in
42 paragraphs (2) through (3) of subsection a. of this section from the
43 Division of Medical Assistance and Health Services. The division
44 shall establish a waiver process where, at a minimum, the managed
45 care organization must demonstrate both an active, good faith effort to
46 meet requirements for applicable specialties in each applicable county,

1 and certify to the division which specialty or specialties, and in which
2 counties, for which insufficient providers exist.

3 ⁴[e.] c.⁴ The Division of Medical Assistance and Health
4 Services shall require each managed care organization to establish a
5 process by which a patient or provider may submit a grievance
6 regarding the adequacy of its provider network. This process shall
7 include response timeframes, but no more than 30 days, and reporting
8 defined in the managed care contract, including documentation of
9 specific provider availability addressing each grievance.

10 ⁴[f.] d.⁴ In order to provide timely services to patients, when a
11 managed care organization is notified ⁴[by a provider of their
12 willingness to participate under the provisions of subsections b. and
13 c.] that care is needed for a Medicaid beneficiary in a county where a
14 managed care organization was unable to certify that it meets, or
15 received a waiver of, the network adequacy standards as required in
16 subsection a.⁴ of this section, the managed care organization shall
17 initiate ⁴[contracting] negotiations with non-participating providers of
18 that service,⁴ and ⁴shall⁴ provide timely authorization to ensure
19 services can be provided to the beneficiary without delay and
20 consistent with timeframes defined in the managed care contract for all
21 routine and urgent services. Balance-billing of Medicaid beneficiaries
22 shall be prohibited. Any copayments or other forms of cost-sharing
23 imposed on services rendered under this paragraph shall be limited to
24 the maximum amount allowed under State law for the Medicaid
25 program. ⁴The Commissioner of Human Services may promulgate
26 rules or regulations to resolve in a timely manner contracting disputes
27 that arise under this subsection.⁴

28 ⁴[g.] e.⁴ The Division of Medical Assistance and Health
29 Services shall establish an enhanced system to assess the network
30 adequacy of a managed care organization contracted with the division
31 to provide benefits under Medicaid, including, but not limited to,
32 requiring the managed care organization to certify, at a minimum on
33 an annual basis, that the managed care organization meets the network
34 adequacy requirements contained in their contract. The division shall
35 enforce appropriate sanctions for non-compliance with this section,
36 including, but not limited to, financial penalties that accrue during the
37 period of non-compliance.

38 ⁴[h.] f.⁴ A managed care organization shall annually provide a
39 report of the number of out-of-network contracts and waivers sought
40 and granted by pediatric specialty, as listed in paragraph (4) of
41 subsection a. of this section, and county to the Division of Medical
42 Assistance and Health Services, who shall make that information
43 publicly available by request.

44 ⁴[i.] g.^{4 3} For the purposes of this section:

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

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

10 "Non-urban county" shall mean: ¹~~【Hunterdon, Morris, Somerset,~~
11 ~~Sussex, Warren,】~~¹ Atlantic, Cape May, Cumberland, Gloucester,
12 ¹~~【and】~~ Hunterdon, Morris,¹ Salem ¹, Somerset, Sussex, and
13 Warren¹ counties ³, or as otherwise defined for the purposes of this
14 section by the Commissioner of Human Services³.

15 "Urban county" shall mean: Bergen, ¹~~【Hudson, and Passaic,~~
16 ~~Essex, Union, Middlesex, Mercer,】~~¹ Burlington, Camden,
17 ¹~~【Monmouth and Ocean】~~ Essex, Hudson, Mercer, Middlesex,
18 Monmouth, Ocean, Passaic, and Union¹ counties ³, or as otherwise
19 defined for the purposes of this section by the Commissioner of
20 Human Services^{3 1 1}.

21
22 2. The ³~~【Commissioner of Banking and Insurance, in~~
23 ~~conjunction with the】~~³ Commissioner of Human Services ³~~【,】~~³
24 shall adopt rules and regulations pursuant to the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ^{1 1} to
26 effectuate the purposes of this act.

27
28 3. This act shall take effect on the first day of the third month
29 following enactment, except that the ³~~【Commissioner of Banking~~
30 ~~and Insurance, in conjunction with the】~~³ Commissioner of Human
31 Services ³~~【,】~~³ may take such anticipatory administrative action in
32 advance thereof as shall be necessary for the implementation of this
33 act.

34
35
36
37
38 Codifies and establishes certain network adequacy standards for
39 pediatric primary and specialty care in Medicaid program.