

SENATE, No. 3333

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 11, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Authorizes Assistant Commissioner of Division of Developmental Disabilities to establish exception rates, and programmatic and staffing requirements, for individuals with highly acute needs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/11/2021)

1 **AN ACT** concerning individuals with highly acute developmental
2 disabilities and 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. a. The Assistant Commissioner of the Division of
8 Developmental Disabilities in the Department of Human Services,
9 or the assistant commissioner's designee, shall have the authority
10 both to identify individuals who have highly acute needs, and to set
11 exception rates, within annually appropriated fiscal resources, for a
12 provider agency to appropriately serve those individuals.

13 b. The setting of exception rates for individuals with highly
14 acute needs shall be limited to the following services:

- 15 (1) individual supports;
16 (2) community-based supports;
17 (3) community inclusion;
18 (4) day habilitation; and
19 (5) behavioral supports.

20 c. As used in this section, "highly acute needs" means self-
21 injurious or aggressive behaviors that are so extreme that the
22 individual cannot be safely served within the current system without
23 staffing ratios or clinical supports that are significantly higher than
24 any assumed ratios and percentages in the current rate structure.

25
26 2. a. The assistant commissioner, or the designee thereof,
27 shall establish corresponding programmatic requirements for each
28 exception rate established under section 1 of this act. Programmatic
29 requirements shall include, but need not be limited to, the
30 following:

31 (1) mandated staffing ratios for all units of service under which
32 the exception rate is being utilized;

33 (2) mandated minimum credentials and training for all staff
34 performing units of service under which the exception rate is being
35 utilized;

36 (3) the submission and implementation of a clear transition plan
37 for the individual from their current service plan to the new
38 proposed service plan;

39 (4) the inclusion of mandated planning regarding line of sight
40 issues;

41 (5) the inclusion of established clinical requirements, such as
42 applied behavior analysis, which are to be implemented by highly
43 qualified clinical staff, such as board certified behavior analysts;

44 (6) the inclusion of initial and periodic clinical assessments, as
45 applicable, to be performed by qualified professionals;

46 (7) mandated data reporting and review requirements;

47 (8) mandated medical oversight requirements; and

48 (9) a mandated plan to manage all physical environment issues.

1 b. Once a service provider is selected, the mandated
2 programmatic requirements and corresponding exception rates shall
3 be discussed with the service provider to ensure that the provider is
4 willing, and has the capacity, to meet all programmatic
5 requirements, and to make any needed clinical adjustments as
6 agreed to by both the division and the provider.

7
8 3. This act shall take effect immediately.

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11 STATEMENT

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13 This bill would allow the Assistant Commissioner of the
14 Division of Developmental Disabilities (DDD) in the Department of
15 Human Services to create an exception rate for individuals who are
16 identified thereby as having highly acute needs, and to mandate
17 specific clinical and staffing requirements in association with that
18 rate for each individual. The rate and programmatic requirements
19 will be established on an individual basis in order to ensure that
20 funding is directly tied to true costs based on the programmatic
21 requirements outlined in each case.

22 There is a small sub-population of individuals with
23 developmental disabilities in New Jersey who are not able to be
24 safely served in the current developmental disabilities system, due
25 to inadequate staffing and clinical supports. This sub-population
26 exhibits extremely intense self-injurious behavior, aggression
27 towards others, or a combination of both, which significantly
28 increases the risk of injury to these individuals, their families,
29 facility staff, and anyone else around them.

30 The fee-for-service system recently implemented by the DDD
31 does not account for this sub-population of individuals, and because
32 these individuals represent such a small percentage of the overall
33 population, and can be seen as outliers, the current rate structure
34 was designed without these individuals in mind. As a result, even
35 the highest rates do not account for the staffing ratios and clinical
36 supports that are required to safely support these individuals.

37 The policies associated with the new fee-for-service system also
38 do not ensure the safety of these individuals, as there are no
39 requirements for mandated staffing ratios or specific clinical
40 supports. This can lead to the dangerous placement of these
41 individuals with service providers who are not clinically equipped
42 to support someone with such intense needs. This bill would
43 attempt to alleviate the system's shortcomings in this regard.