

**ASSEMBLY, No. 3110**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED MARCH 7, 2022

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblywomen Piperno, Eulner, Assemblymen Caputo, Verrelli,**

**Assemblywomen Jimenez, Dunn and Assemblyman Barranco**

**SYNOPSIS**

Establishes minimum Medicaid reimbursement rates for brain injury services.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/12/2022)**

1 AN ACT concerning Medicaid reimbursement for brain injury  
2 services 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. The Legislature funds and declares:

8 a. An acquired brain injury is an injury caused by an event,  
9 either internal or external to the injured individual, and does not  
10 include congenital or degenerative disorders, or those injuries  
11 induced by birth trauma. An acquired brain injury can either be  
12 categorized as a traumatic brain injury or non-traumatic brain injury.  
13 A traumatic brain injury is an alteration in brain function caused by  
14 an external force and may be caused by falls, assaults, motor vehicle  
15 accidents, or sports injuries. A non-traumatic brain injury is damage  
16 to the brain caused by internal factors, such as stroke, aneurysm,  
17 tumor, infectious disease, and anoxia.

18 b. A severe acquired brain injury can produce an altered or  
19 diminished state of consciousness and result in an impairment of  
20 cognitive abilities or physical functioning. It can also effect  
21 behavioral or emotional functioning. These impairments may be  
22 permanent and cause partial or total functional disability, leading to  
23 the injured individual requiring long-term care supports.

24 c. The State's Medicaid program provides brain injury services  
25 under the Managed Long-Term Supports and Services program, with  
26 the goal of providing community alternatives for individuals with  
27 brain injuries residing in nursing facilities or who are in the  
28 community and at risk for placement in nursing facilities.

29 d. Unlike other Medicaid community-based services,  
30 reimbursement rates for brain injury services have remained static in  
31 recent years despite growing costs, which threatens the ability of  
32 providers to meet the complex health needs of individuals with brain  
33 injuries and provide services within a safe and fulfilling community  
34 environment.

35 e. Despite the similar model of care, reimbursement rates for  
36 services provided to Medicaid beneficiaries with intellectual and  
37 developmental disabilities have not only increased, but have been  
38 restructured to account for adequate consideration for acuity,  
39 increased minimum wage requirements, and other inflationary trends  
40 that assert pressure on providers' cost structures.

41 f. By failing to receive reimbursement rates that adequately  
42 support services, brain injury providers are being forced to return this  
43 fragile population to more costly institutional care in nursing home  
44 facilities.

45 g. It is imperative that the Legislature take action and increase  
46 Medicaid rates for these essential services and ensure that individuals  
47 with brain injuries can continue to thrive and reach their optimal  
48 recoveries in community settings.

1       2. a. Notwithstanding the provisions of any law or regulation to  
2 the contrary, the Medicaid per diem or encounter reimbursement  
3 rates for eligible brain injury services, when such services are  
4 provided by an approved brain injury services provider to a Medicaid  
5 beneficiary requiring treatment for a brain injury, shall be, at  
6 minimum, as follows:

7       (1) The reimbursement rate for Community Residential Services  
8 – Low Supervision provided to a Medicaid beneficiary eligible for  
9 brain injury services shall be equal to the reimbursement rate for  
10 Individuals Supports Services - Tier C provided to a Medicaid  
11 beneficiary eligible for services provided by the Division of  
12 Developmental Disabilities;

13       (2) The reimbursement rate for Community Residential Services  
14 – Moderate Supervision provided to a Medicaid beneficiary eligible  
15 for brain injury services shall be equal to the reimbursement rate for  
16 Individuals Supports Services - Tier D provided to a Medicaid  
17 beneficiary eligible for services provided by the Division of  
18 Developmental Disabilities;

19       (3) The reimbursement rate for Community Residential Services  
20 – High Supervision provided to a Medicaid beneficiary eligible for  
21 brain injury services shall be equal to the reimbursement rate for  
22 Individuals Supports Services - Tier E provided to a Medicaid  
23 beneficiary eligible for services provided by the Division of  
24 Developmental Disabilities; and

25       (4) The reimbursement rate for Structured Day Program Services  
26 provided to a Medicaid beneficiary eligible for brain injury services  
27 shall be equal to the reimbursement rate for Day Habilitation Services  
28 - Tier D provided to a Medicaid beneficiary eligible for services  
29 provided by the Division of Developmental Disabilities.

30       b. As used in this section:

31       “Medicaid” means the program established pursuant to P.L.1968,  
32 c.413 (C.30:4D-1 et seq.).

33       “Brain injury service” means community-based services,  
34 residential services, day care services, and home care services  
35 provided to a Medicaid beneficiary requiring treatment for traumatic  
36 or non-traumatic brain injuries, whether such services are provided  
37 through the Medicaid fee-for-service delivery system or the managed  
38 care delivery system.

39       “Brain injury service provider” means a facility licensed by the  
40 Division of Disability Services in the Department of Human Services  
41 to provide traumatic or non-traumatic brain injury services.

42       “Non-traumatic brain injury” means an injury to the brain caused  
43 by internal factors, such as stroke, aneurysm, tumor, infectious  
44 disease, and anoxia, where continued impairment can be  
45 demonstrated. This term does not include brain dysfunction caused  
46 by congenital or degenerative disorders, birth trauma, or injuries  
47 caused by other circumstances.

48       “Traumatic brain injury” means an injury to the brain caused by a  
49 blow or jolt to the head or a penetrating head injury or neuro-trauma

1 that disrupts the normal brain function, where continued impairment  
2 can be demonstrated. This term does not include brain dysfunction  
3 caused by congenital or degenerative disorders, birth trauma, or  
4 injuries caused by other circumstances.

5  
6 3. The Commissioner of Human Services shall apply for such State  
7 plan amendments or waivers specific to brain injury services, that  
8 currently exist or may arise in the future which affect reimbursement  
9 rates, as may be necessary to implement the provisions of this act and  
10 to secure federal financial participation for State Medicaid expenditures  
11 under the federal Medicaid program.

12  
13 4. The Commissioner of Human Services, in accordance with the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),  
15 shall adopt such rules and regulations as the commissioner deems  
16 necessary to carry out the provisions of this act.

17  
18 5. This act shall take effect on July 1 next following the date of  
19 enactment and shall apply to services provided on or after the  
20 effective date of this act and to any Medicaid managed care contract  
21 executed or renewed on or after the effective date of this act.

#### 22 23 24 STATEMENT

25  
26 This bill establishes minimum Medicaid reimbursement rates for  
27 brain injury services. Under this bill, the term brain injury includes  
28 both a traumatic brain injury and a non-traumatic brain injury.  
29 "Traumatic brain injury" means an injury to the brain caused by a  
30 blow or jolt to the head or a penetrating head injury or neuro-trauma  
31 that disrupts the normal brain function, where continued impairment  
32 can be demonstrated. "Non-traumatic brain injury" means an injury  
33 to the brain caused by internal factors, such as stroke, aneurysm,  
34 tumor, infectious disease, and anoxia, where continued impairment  
35 can be demonstrated. Neither term includes brain dysfunction caused  
36 by congenital or degenerative disorders, birth trauma, or injuries  
37 caused by other circumstances. Brain injury services include  
38 community-based services, residential services, day care services,  
39 and home care services whether the services are provided through the  
40 Medicaid fee-for-service delivery system or the managed care  
41 delivery system.

42 Specifically, the bill requires that the Medicaid per diem or  
43 encounter reimbursement rates for eligible brain injury services,  
44 when such services are provided by an approved brain injury services  
45 provider to a Medicaid beneficiary requiring treatment for a brain  
46 injury, is to be, at minimum, as follows:

47 (1) The reimbursement rate for Community Residential Services  
48 – Low Supervision provided to a Medicaid beneficiary eligible for  
49 brain injury services, currently at \$140 a day, is to be equal to the

1 reimbursement rate for Individuals Supports Services Tier - C  
2 provided to a Medicaid beneficiary eligible for services provided by  
3 the Division of Developmental Disabilities, currently at \$283.20 per  
4 day;

5 (2) The reimbursement rate for Community Residential Services  
6 – Moderate Supervision provided to a Medicaid beneficiary eligible  
7 for brain injury services, currently at \$190 a day, is to be equal to the  
8 reimbursement rate for Individuals Supports Services Tier - D  
9 provided to a Medicaid beneficiary eligible for services provided by  
10 the Division of Developmental Disabilities, currently at \$396.48 a  
11 day;

12 (3) The reimbursement rate for Community Residential Services  
13 – High Supervision provided to a Medicaid beneficiary eligible for  
14 brain injury services, currently at \$220 a day, is to be equal to the  
15 reimbursement rate for Individuals Supports Services - Tier E  
16 provided to a Medicaid beneficiary eligible for services provided by  
17 the Division of Developmental Disabilities, currently at \$509.96 a  
18 day; and

19 (4) The reimbursement rate for Structured Day Program Services  
20 provided to a Medicaid beneficiary eligible for brain injury services,  
21 currently at \$3.65 for every 15 minutes of services, is to be equal to  
22 the reimbursement rate for Day Habilitation Services - Tier D  
23 provided to a Medicaid beneficiary eligible for services provided by  
24 the Division of Developmental Disabilities, currently at \$6.91 for  
25 every 15 minutes of service.

26 Currently, the State's Medicaid program provides brain injury  
27 services under the Managed Long-Term Supports and Services  
28 program, with the goal of providing community alternatives for  
29 individuals with brain injuries residing in nursing facilities or who  
30 are in the community and at risk for placement in nursing facilities.  
31 Unlike other Medicaid community-based services, reimbursement  
32 rates for brain injury services have remained static in recent years  
33 despite growing costs, which threatens the ability of providers to  
34 meet the complex needs of individuals with brain injuries and provide  
35 services within a safe and fulfilling community environment.  
36 Despite the similar model of care, reimbursement rates for services  
37 provided to Medicaid beneficiaries with intellectual and  
38 developmental disabilities (I/DD) have not only increased, but have  
39 been restructured to account for adequate consideration for acuity,  
40 increased minimum wage requirements, and other inflationary trends  
41 that assert pressure on providers' cost structures. It is the sponsor's  
42 goal to align brain injury service rates with I/DD service rates to  
43 ensure that individuals with brain injuries can continue to thrive and  
44 reach their optimal recoveries in community settings.