ASSEMBLY, No. 3794

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 2, 2022

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SYNOPSIS

Extends COVID-19 Medicaid per diem rate, and requires Medicaid coverage without prior authorization, for certain partial care behavioral health and substance use disorder treatment services.

CURRENT VERSION OF TEXT

As introduced.
AN ACT concerning Medicaid reimbursement and coverage for certain
partial care behavioral health and substance use disorder treatment
services and supplementing Title 30 of the Revised Statutes.

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

1. As used in this act:

“Division” means the Division of Medical Assistance and Health
Services in the Department of Human Services.

“Medicaid” means the New Jersey Medical Assistance and
Health Services Program established pursuant to P.L.1968, c.413
(C.30:4D-1 et seq.).

“Partial care services” means comprehensive, individualized,
structured, non-residential behavioral health care and support
services for an adult with severe mental illness or substance use
disorder in order to facilitate community integration and prevent
hospitalization and relapse. Partial care services may include, but
are not limited to: psychiatric care, individual and group
counseling, case management, and prevocational services.

“Per diem rate” means the daily reimbursement rate, established
by the Division of Medical Assistance and Health Services for
partial care services provided by telehealth during the coronavirus
disease 2019 emergency period, equal to the existing
reimbursement payment for 5 hours of in-person services.

2. a. The division shall reimburse partial care services
providers under Medicaid at the per diem rate for 180 days
following the expiration of the federal Medicaid waiver authorizing
the per diem rate. Telehealth services reimbursed under this section
shall be provided without the imposition of any prior authorization
or other utilization management requirements and in accordance
with the policy guidance issued by the division regarding the
qualifications for the per diem rate, provided that a partial care
services provider: is open for onsite services; and submits a status
report to the division following day 90, day 150, and day 180 of the
180-day period. The status report shall include data on the total
number of patients served, the number of patients receiving in-
person services, and the nature of the in-person services rendered as
a means to demonstrate the provider’s best efforts to expand in-
person services over the course of the 180-day period.

b. The division shall utilize the status reports submitted by
partial care services providers pursuant to subsection a. of this
section to assess the need to continue the per diem rate beyond the
180-day period. A determination to extend the per diem rate shall
be made no later than 20 days prior to the end of the 180-day
period. During an extension of the 180-day period, partial care
services providers shall be required to comply with the provisions
set forth in subsection a. of this section, except that providers shall submit a status report to the division every 60 days.

3. The division shall provide coverage of partial care services under Medicaid to an eligible individual on an hourly basis for up to five hours a day, five days a week, without the imposition of any prior authorization or other utilization management requirements.

4. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

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

6. This act shall take effect immediately.

STATEMENT

This bill requires the extension of certain policies established by the Division of Medical Assistance and Health Services in the Department of Human Services in response to the COVID-19 pandemic regarding the reimbursement and coverage of partial care behavioral health services provided to Medicaid beneficiaries. Under the bill, “partial care services” means comprehensive, individualized, structured, non-residential behavioral health care and support services for an adult with severe mental illness or substance use disorder in order to facilitate community integration and prevent hospitalization and relapse. Partial care services may include, but are not limited to: psychiatric care, individual and group counseling, case management, and prevocational services.

First, the bill requires the division to reimburse partial care services providers under Medicaid at the per diem rate, established by the division for partial care services provided by telehealth during the COVID-19 emergency period, for 180 days following the expiration of the federal Medicaid waiver authorizing the per diem rate. Telehealth services reimbursed under the bill are required to be provided without the imposition of any prior authorization or other utilization management requirements and in accordance with the policy guidance issued by the division regarding the qualifications for the per diem rate, provided that a partial care services provider: is open for onsite services; and submits a status report to the division following day 90, day 150, and day 180 of the 180-day period. The status report is required to include data on the total number of patients served, the number of patients receiving in-
person services, and the nature of the in-person services rendered as a means to demonstrate the provider’s best efforts to expand in-person services over the course of the 180-day period.

Furthermore, the bill directs the division to use the status reports to assess the need to continue the per diem rate beyond the 180-day period. The division is required to make a determination to extend the per diem rate no later than 20 days prior to the end of the 180-day period. During an extension of the 180-day period, partial care services providers are required to comply with the provisions set forth in the bill, except that providers are to submit a status report to the division every 60 days.

The per diem rate was established at the onset of the pandemic to allow partial care providers to continue to support patients via telehealth, while the basis of most programs – in-person, group services intended to promote socialization – was contraindicated because of the virus. Currently, the per diem rate will remain in effect until the end of the federal waiver authorizing the rate, and is equal to $89.60 per diem for partial care behavioral health services provided via telemedicine, and $78.31 per diem for partial care substance use disorder services provided via telemedicine. By extending the per diem rate 180 days beyond the expiration of the federal waiver, this bill affords providers the necessary time to stabilize their operations and cash flow as they gradually transition their staff and patients from primarily telehealth services back to in-person services.

Second, the bill permanently extends the division’s policy to not require prior authorization requirements for partial care services under Medicaid during the COVID-19 emergency. Under the bill, the division is required to provide coverage of such services to an eligible individual on an hourly basis for up to five hours a day, five days a week, without the imposition of any prior authorization or other utilization management requirements. In doing so, this bill reduces the burden on providers to secure approval for services and allows them to focus, instead, on making the appropriate clinical decisions based on each patient’s needs.