

CHAPTER 108

AN ACT concerning school-based Medicaid claims and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7ss Definitions.

1. a. As used in this section:

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

“Local education agency” means a public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

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

b. The division, or a managed care organization contracted with the division to provide benefits to Medicaid beneficiaries, shall reimburse a local education agency for behavioral health services covered under Medicaid, delivered in-person or via telehealth, and provided to a student who is an eligible Medicaid beneficiary. Services provided under this subsection shall be:

(1) reimbursable by Medicaid regardless of the following: whether the student participates in an Individualized Education program, 504 Accommodation Plan, Individualized Health Care Plan, or Individualized Family Service Plan; or whether the covered services are provided at no charge to the student; and

(2) provided by a licensed medical practitioner approved as a Medicaid provider or a local education agency approved as a Medicaid provider.

c. Any local education agency claiming reimbursement under this section shall take all reasonable measures to ascertain and pursue any claims for reimbursement for services under this section against legally liable third parties in accordance with section 1902(a)(25) of the federal Social Security Act (42 U.S.C.s.1396a(a)(25)). If there is no response to a claim submitted by a local educational agency to a legally liable third party within 45 days, the local educational agency may bill Medicaid. The local educational agency shall retain a copy of the claim submitted to the legally liable third party for a period of three years.

d. A local education agency shall utilize Medicaid reimbursement payments issued under this section to provide behavioral health services for students and their families.

e. The provisions of this section shall not be construed to:

(1) prohibit a Medicaid beneficiary from receiving behavioral health services covered under Medicaid from a Medicaid provider who is not a local education agency, provided that the services provided comply with all State and federal laws and regulations; and

(2) require Medicaid reimbursement for behavioral health services covered under Medicaid provided to a Medicaid beneficiary by a local education agency in tandem with duplicative behavioral health services provided by another approved Medicaid provider located in the community to the same beneficiary, to the extent that State or federal law or regulation prohibit the provision of such duplicative services.

f. The division, in conjunction with the Department of Education and the Department of the Treasury, shall assist a local education agency in implementing a plan to submit Medicaid claims for covered behavioral health services and obtain Medicaid reimbursements under this section. To the extent possible, this system shall overlap with the claims, reimbursement, and administrative procedures associated with the Special Education Medicaid Initiative as a means to streamline all school-based Medicaid claims, which system shall include the requirement for a local education agency to obtain parental or guardian consent prior to billing Medicaid for any service provided under this section. A local education agency may enter into

an agreement with one or more other local education agencies in the State for the purposes of contracting with a third-party entity to process and submit Medicaid claims for covered behavioral health services provided under this section.

C.30:4D-7tt State plan amendments, waivers, application, implementation, secure financial participation.

2. 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.

3. 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.

4. This act shall take effect on the first day of the sixth month next following any federal approval necessary to secure federal financial participation for State Medicaid expenditures under this act, except that the Commissioner of Human Services may take any administrative action in advance thereof as shall be necessary to implement the provisions of this act.

Approved July 13, 2023.