

# SENATE, No. 2416

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 9, 2022

**Sponsored by:**  
**Senator VIN GOPAL**  
**District 11 (Monmouth)**

### **SYNOPSIS**

Requires Medicaid reimbursement for covered behavioral health services provided by local education agency to student who is eligible Medicaid beneficiary.

### **CURRENT VERSION OF TEXT**

As introduced.



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

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

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7 1. a. As used in this section:

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

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

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

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

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

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

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

40 d. A local education agency shall utilize Medicaid  
41 reimbursement payments issued under this section to provide  
42 behavioral health services for students and their families, which may  
43 include behavioral health assessment, case management, health  
44 education, and social emotional learning.

45 e. The division, in conjunction with the Department of  
46 Education and the Department of the Treasury, shall assist a local  
47 education agency in implementing a plan to submit Medicaid claims  
48 for covered behavioral health services and obtain Medicaid

1 reimbursements under this section. To the extent possible, this  
2 system shall overlap with the claims and reimbursement procedures  
3 associated with the Special Education Medicaid Initiative, as a means  
4 to streamline all school-based Medicaid claims. A local education  
5 agency may enter into an agreement with one or more other local  
6 education authorities in the State for the purposes of contracting with  
7 a third party entity to process and submit Medicaid claims for  
8 covered behavioral health services provided under this section.

9  
10 2. The Commissioner of Human Services shall apply for such  
11 State plan amendments or waivers as may be necessary to implement  
12 the provisions of this act and to secure federal financial participation  
13 for State Medicaid expenditures under the federal Medicaid program.

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

19  
20 4. This act shall take effect on the first day of the sixth month  
21 next following any federal approval necessary to secure federal  
22 financial participation for State Medicaid expenditures under this act,  
23 except that the Commissioner of Human Services may take any  
24 administrative action in advance thereof as shall be necessary to  
25 implement the provisions of this act.

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STATEMENT

30 This bill requires the Division of Medical Assistance and Health  
31 Services in the Department of Human Services (DHS), or a managed  
32 care organization contracted with the division to provide benefits to  
33 Medicaid beneficiaries, to reimburse a local education agency for  
34 behavioral health services covered under Medicaid, delivered in-  
35 person or via telehealth, and provided to a student who is an eligible  
36 Medicaid beneficiary. Services provided under the bill are to be  
37 reimbursable by Medicaid regardless of the following: whether the  
38 student participates in an Individualized Education program (IEP),  
39 504 Accommodation Plan, Individualized Health Care Plan, or  
40 Individualized Family Service Plan (IFSP); or whether the covered  
41 services are provided at no charge to the student. Furthermore, all  
42 services are required to be provided by a licensed medical  
43 practitioner approved as a Medicaid provider or a local education  
44 agency approved as a Medicaid provider. Under the bill, a "local  
45 education agency" means a public authority legally constituted by the  
46 State as an administrative agency to provide control of and direction  
47 for kindergarten through grade 12 public educational institutions.

1 This bill is in response to the reversal of a federal Medicaid policy  
2 which prohibited Medicaid reimbursement for school health services  
3 if the same services were provided free of charge to the general  
4 student population *unless* the services were specifically included in a  
5 student's IEP, IFSP, or other similar educational plan. Currently,  
6 Medicaid reimbursement is only available in New Jersey for those  
7 services provided to students who qualify under the rule exception  
8 through the Special Education Medicaid Initiative (SEMI) program.  
9 SEMI is jointly operated by the Department of Education (DOE), the  
10 DHS, and the Department of the Treasury along with participating  
11 local education agencies, and allows for recovery of a portion of costs  
12 for Medicaid-covered services provided to Medicaid-eligible special  
13 education students. However, the federal policy shift allows New  
14 Jersey to expand its school-based Medicaid program by providing  
15 schools with the authority to expand its school-based Medicaid  
16 program by providing schools with the authority to seek  
17 reimbursement for covered services provided to all children enrolled  
18 in Medicaid, regardless of whether the services are provided at no  
19 cost to other students.

20 Under the bill, any local education agency claiming Medicaid  
21 reimbursement is required to take all reasonable measures to  
22 ascertain and pursue any claims for reimbursement against legally  
23 liable third parties. If there is no response to a claim submitted by a  
24 local educational agency to a legally liable third party within 45 days,  
25 the local educational agency may bill Medicaid; however the local  
26 educational agency is required to retain a copy of the claim submitted  
27 to the legally liable third party for a period of three years.

28 The bill directs a local education agency to utilize Medicaid  
29 reimbursement payments issued under the bill to provide behavioral  
30 health services for students and their families, which may include  
31 behavioral health assessment, case management, health education,  
32 and social emotional learning.

33 The division, in conjunction with the DOE and the Department of  
34 the Treasury, is required to assist a local education agency in  
35 implementing a plan to submit Medicaid claims for covered  
36 behavioral health services and obtain Medicaid reimbursements  
37 under the bill. To the extent possible, this system is to overlap with  
38 the claims and reimbursement procedures associated with SEMI, as  
39 a means to streamline all school-based Medicaid claims. A local  
40 education agency may enter into an agreement with one or more other  
41 local education authorities in the State for the purposes of contracting  
42 with a third party entity to process and submit Medicaid claims for  
43 covered behavioral health services provided under this section.

44 Finally, the bill directs the Commissioner of Human Services to  
45 apply for such State plan amendments or waivers as may be necessary  
46 to implement the provisions of this bill and to secure federal financial  
47 participation for State Medicaid expenditures under the federal  
48 Medicaid program. This bill is to take effect on the first day of the sixth

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1 month next following the federal approval of any such State plan  
2 amendments or waivers, except that the Commissioner of Human  
3 Services may take any administrative action in advance thereof as is  
4 necessary to implement the provisions of the bill.