

[Second Reprint]  
**ASSEMBLY, No. 4146**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED SEPTEMBER 19, 2016

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**SYNOPSIS**

Provides for monitoring and evaluation of transition of mental health and substance use disorder treatment service system and developmental disability system to fee-for-service reimbursement model; makes appropriation.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on December 15, 2016, with amendments.

(Sponsorship Updated As Of: 2/14/2017)

1 AN ACT concerning the transition by <sup>2</sup>certain<sup>2</sup> community-based  
 2 <sup>2</sup>**[mental health and substance use disorder]** health care<sup>2</sup>  
 3 treatment service providers to a fee-for-service reimbursement  
 4 model and making an appropriation.

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

8  
 9 1. a. The Legislature finds the following:

10 (1) The Division of Mental Health and Addiction Services  
 11 (DMHAS) <sup>2</sup>and the Division of Developmental Disabilities (DDD)<sup>2</sup>  
 12 in the Department of Human Services <sup>2</sup>**[has]** have<sup>2</sup> historically  
 13 used a cost reimbursement system to provide most State-level  
 14 funding for community-based <sup>2</sup>**[mental health and substance use**  
 15 **disorder treatment]**<sup>2</sup> services in New Jersey. <sup>2</sup>**[The DMHAS has]**  
 16 Both divisions have<sup>2</sup> begun to transition most community-based  
 17 <sup>2</sup>**[mental health and substance use disorder treatment]**<sup>2</sup> services  
 18 from a cost reimbursement system to a fee-for-service  
 19 reimbursement system <sup>2</sup>**[, beginning in July 2016, and]**. The  
 20 DMHAS<sup>2</sup> plans to require all providers to complete the transition  
 21 by July 2017 <sup>2</sup>, while the DDD is transitioning providers in a more  
 22 gradual fashion<sup>2</sup>.

23 (2) Under the cost reimbursement system, community-based  
 24 <sup>2</sup>**[mental health and substance use disorder treatment]**<sup>2</sup> providers  
 25 <sup>2</sup>in both divisions<sup>2</sup> receive a monthly payment at a predetermined  
 26 contracted rate, regardless of the actual services provided to  
 27 consumers, and a close-out process is used at the end of the year to  
 28 reconcile each provider's actual costs with the payments made.  
 29 Under the new fee-for-service reimbursement model, monthly  
 30 reimbursement will not be predetermined, and each provider will  
 31 instead be required to submit a reimbursement claim for each  
 32 specific unit of service that it has actually delivered to a consumer.

33 (3) The <sup>2</sup>**[DMHAS has]** divisions have<sup>2</sup> proposed new  
 34 reimbursement rate schedules that would take effect as part of the  
 35 transition to a fee-for-service model. The new rates cannot easily  
 36 be compared to the cost reimbursement system, since the actual  
 37 payments that providers will receive under the new fee-for-service  
 38 model will be based on submitted claims, rather than on  
 39 predetermined monthly amounts. While the Executive Branch  
 40 estimates that the new rates will result in an overall increase in  
 41 funding to providers, <sup>1</sup>**[those]** for many<sup>1</sup> providers <sup>1</sup>**[that have high**  
 42 **overhead costs and low service volume may nonetheless find that]**<sup>1</sup>

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHU committee amendments adopted November 14, 2016.

<sup>2</sup>Assembly AAP committee amendments adopted December 15, 2016.

1 the new rates <sup>1</sup>~~are~~ may be<sup>1</sup> insufficient to cover <sup>1</sup>~~their expenses~~  
2 the costs of providing services<sup>1</sup>.

3 (4) <sup>1</sup>~~Because the~~ The<sup>1</sup> new fee-for-service reimbursement  
4 system <sup>1</sup>may negatively affect many providers' cash flow,  
5 particularly during the transition. The fee-for-service system<sup>1</sup> will  
6 allow reimbursement only for <sup>1</sup>~~those~~ specific<sup>1</sup> services that have  
7 <sup>1</sup>~~actually~~<sup>1</sup> been provided and claimed, <sup>1</sup>~~and will not allow~~  
8 community-based providers to be paid for vacant treatment slots or  
9 for lower service levels, the conversion to a fee-for-service  
10 reimbursement system may negatively affect provider cash flow  
11 during the transition and make revenue unpredictable, thereby  
12 ~~reducing the~~ and may effectively pay less than providers had  
13 received in the past for delivering the same services. This reduced  
14 predictability of revenue may impede<sup>1</sup> providers' ability to provide  
15 adequate services to persons in need. The conversion may  
16 simultaneously force providers to increase their marketing  
17 expenditures in an attempt to maximize billable services, while  
18 forcing them to maintain a greater reserve of cash on hand in order  
19 to ensure their ability to absorb costs when vacancies inevitably  
20 arise.

21 (5) Providers engaged in the transition to a fee-for-service  
22 reimbursement model will also be required to be approved by  
23 Medicaid, which will necessitate their compliance with extensive  
24 administrative regulations, and their use and administration of new  
25 billing systems and software, both of which may require additional  
26 and unanticipated financial expenditures.

27 b. The Legislature therefore declares that it is both reasonable  
28 and necessary, and in the public interest, for the State to establish  
29 procedures for monitoring the transition by community-based  
30 <sup>2</sup>~~mental health and substance use disorder treatment~~<sup>2</sup> providers to  
31 a fee-for-service reimbursement system, in order to ensure that  
32 reimbursement rates established under the new fee-for-service  
33 system are adequate, that <sup>1</sup>~~patient~~ client<sup>1</sup> access to care is  
34 maintained, and that continuity of care and quality <sup>2</sup>~~or~~ of<sup>2</sup> care  
35 are not harmed as a result of the transition.

36  
37 2. a. There <sup>2</sup>~~is~~ are<sup>2</sup> hereby established <sup>2</sup>~~an~~ two<sup>2</sup> advisory  
38 <sup>2</sup>~~board~~ boards<sup>2</sup> to be known as the Independent <sup>2</sup>Mental Health  
39 and Addiction<sup>2</sup> Fee-for-Service Transition Oversight Board <sup>2</sup>and  
40 the Independent Developmental Disability Fee-for-Service  
41 Transition Oversight Board<sup>2</sup>. The purpose of the <sup>2</sup>~~board~~  
42 Independent Mental Health and Addiction Fee-for-Service  
43 Transition Oversight Board<sup>2</sup> shall be to monitor and oversee the  
44 transition by <sup>2</sup>~~community-based mental health and substance use~~  
45 ~~disorder treatment providers~~ DMHAS-contracted providers<sup>2</sup> to a  
46 fee-for-service reimbursement system; determine the adequacy of

1 fee-for-service reimbursement rates; and provide recommendations  
2 to better facilitate the transition. <sup>2</sup>The purpose of the Independent  
3 Developmental Disability Fee-for-Service Transition Oversight  
4 Board shall be to monitor and oversee the transition by DDD-  
5 contracted providers to a fee-for-service reimbursement system;  
6 determine the adequacy of fee-for-service reimbursement rates; and  
7 provide recommendations to better facilitate the transition.<sup>2</sup>

8 b. The <sup>2</sup>**board** Independent Mental Health and Addiction  
9 Fee-for-Service Transition Oversight Board<sup>2</sup> shall be comprised of  
10 <sup>1</sup>**11** 12<sup>1</sup> members, appointed by the Governor, as follows:

11 (1) two representatives of provider entities that receive State  
12 funds for mental health services;

13 (2) two representatives of provider entities that receive State  
14 funds for substance use disorder treatment services;

15 (3) a certified public accountant, upon the recommendation of  
16 the New Jersey Society of Certified Public Accountants (NJCPA);

17 (4) a current consumer of State-funded mental health services,  
18 or the parent or guardian of such consumer;

19 (5) a current consumer of State-funded substance use disorder  
20 treatment services, or the parent or guardian of such consumer;

21 (6) <sup>1</sup>one person upon the recommendation of the Mental Health  
22 Association in New Jersey;

23 (7)<sup>1</sup> one person upon the recommendation of the New Jersey  
24 chapter of the National <sup>1</sup>**Association** Alliance<sup>1</sup> on Mental Illness  
25 (NAMI);

26 <sup>1</sup>**[(7)] (8)**<sup>1</sup> one person upon the recommendation of the New  
27 Jersey Association of Mental Health and Addiction Agencies  
28 (NJAMHAA);

29 <sup>1</sup>**[(8)] (9)**<sup>1</sup> one person upon the recommendation of the New  
30 Jersey Psychiatric Rehabilitation Association; and

31 <sup>1</sup>**[(9)] (10)**<sup>1</sup> one person upon the recommendation of the New  
32 Jersey Hospital Association.

33 c. <sup>2</sup>The Independent Developmental Disability Fee-for-Service  
34 Transition Oversight Board shall be comprised of 11 members,  
35 appointed by the Governor, as follows:

36 (1) two representatives of provider entities that receive State  
37 funds for developmental disability services;

38 (2) a certified public accountant, upon the recommendation of  
39 the New Jersey Society of Certified Public Accountants (NJCPA);

40 (3) a current consumer of State-funded developmental disability  
41 services, or the parent or guardian of such consumer;

42 (4) one person on the recommendation of the Alliance for the  
43 Betterment of Citizens with Disabilities (ABCD);

44 (5) one person on the recommendation of the Arc of New Jersey;

45 (6) one person on the recommendation of Autism New Jersey;

46 (7) one person on the recommendation of the Developmental  
47 Disabilities Association of New Jersey;

1       (8) one person on the recommendation of the New Jersey  
2 Association of Community Providers (NJACP);

3       (9) one person on the recommendation of the New Jersey  
4 Council on Developmental Disabilities (NJCDD); and

5       (10) one person on the recommendation of the Boggs Center on  
6 Developmental Disabilities at Robert Wood Johnson Medical  
7 School.

8       d.<sup>2</sup> The members of the <sup>2</sup>[board] boards<sup>2</sup> shall be appointed  
9 within 45 days after the effective date of this act, and <sup>2</sup>[the] each<sup>2</sup>  
10 board shall hold its initial organizational meeting as soon as  
11 practicable, but no later than 30 days, after the appointment of its  
12 members. <sup>2</sup>[The] Each<sup>2</sup> board shall select a chairperson from  
13 among its members, and shall meet and hold hearings at such places  
14 and times as the chairperson may designate. The chairperson may  
15 appoint a secretary who need not be a board member.

16       <sup>2</sup>[d.] e.<sup>2</sup> The members of the <sup>2</sup>[board] boards<sup>2</sup> shall serve  
17 without compensation, but may be reimbursed for travel and other  
18 necessary expenses incurred in the performance of their duties,  
19 within the limits of funds appropriated or otherwise made available  
20 to <sup>2</sup>[the] each<sup>2</sup> board for its purposes.

21       <sup>2</sup>[e.] f.<sup>2</sup> The Department of Human Services shall provide  
22 professional and clerical staff to the <sup>2</sup>[board] boards<sup>2</sup> as may be  
23 necessary for <sup>2</sup>[the] each<sup>2</sup> board's purposes. <sup>2</sup>[The] Each<sup>2</sup> board  
24 shall also be entitled to call upon the services of any other State,  
25 county, or municipal department, board, commission, or agency, as  
26 may be available to it for its purposes.

27       <sup>2</sup>[f.] g.<sup>2</sup> In executing its duties under this act, <sup>2</sup>[the] each<sup>2</sup>  
28 board shall consult with the <sup>2</sup>[community-based mental health and  
29 substance use disorder treatment]<sup>2</sup> providers and their clients who  
30 are being affected by the transition to a fee-for-service  
31 reimbursement model.

32       <sup>2</sup>[g.] h. Each<sup>2</sup> board may solicit and receive grants or other  
33 funds that are made available for its purposes by any governmental,  
34 public, private, not-for-profit, or for-profit agency, including funds  
35 that are made available under any federal or State law, regulation,  
36 or program.

37

38       3. a. <sup>2</sup>[The] Each<sup>2</sup> board shall evaluate and report on the  
39 status and effects of the transition by community-based <sup>2</sup>[mental  
40 health and substance use disorder treatment]<sup>2</sup> providers to a fee-  
41 for-service reimbursement model, in accordance with the provisions  
42 of this section. <sup>2</sup>[The] Each<sup>2</sup> board's evaluation of the transition  
43 shall primarily focus on its effects on access to care, continuity of  
44 care, and quality of care. In order to determine the relationship  
45 between the transition to fee-for-service on these measures, <sup>2</sup>[the]  
46 each<sup>2</sup> board shall consider information included in reports issued by  
47 the selected contractor pursuant to subsection c. <sup>2</sup>of <sup>2</sup> section 4 of

1 this act, and may also independently evaluate providers' costs,  
2 revenues, revenue shortfalls, and other needs including technical  
3 assistance, training, and business infrastructure needs that are  
4 affected by the transition, and how these factors affect providers'  
5 ability to serve their <sup>1</sup>[patients] clients<sup>1</sup>. <sup>2</sup>[The] Each<sup>2</sup> board may  
6 make recommendations to the contractor selected pursuant to  
7 section 4 of this act with regard to its evaluation.

8 b. <sup>2</sup>[The] Each<sup>2</sup> board shall submit a written status report to  
9 the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
10 19.1), to the Governor, and to the <sup>2</sup>[Division of Mental Health and  
11 Addiction Services in the]<sup>2</sup> Department of Human Services, at the  
12 following intervals: (1) an initial status report shall be submitted six  
13 months after the board's organizational meeting; (2) an interim  
14 status report shall be submitted one year after the board's  
15 organizational meeting; and (3) a final status report shall be  
16 submitted two years after the board's organizational meeting.

17 Each written report prepared pursuant to this subsection shall:

18 (1) evaluate the adequacy of fee-for-service reimbursement rates  
19 as of the time of the reporting;

20 (2) identify the positive and negative effects revealed during the  
21 reporting period that have been associated with the transition to a  
22 fee-for-service reimbursement system;

23 (3) identify the number and percentage of community-based  
24 mental health <sup>2</sup>[and] <sup>2</sup> substance use disorder <sup>2</sup>, and developmental  
25 disability<sup>2</sup> treatment providers that are having difficulties with the  
26 transition;

27 (4) identify any specific problems that are hampering the  
28 transition;

29 (5) identify any actions that have been undertaken by any entity  
30 during the reporting period to counteract or remedy the negative  
31 effects identified pursuant to paragraph (2) of this subsection, or the  
32 specific problems identified pursuant to paragraph (4) of this  
33 subsection;

34 (6) indicate the number and percentage of consumers who have  
35 been served by community mental health <sup>2</sup>[and] <sup>2</sup> substance use  
36 disorder <sup>2</sup>, and developmental disability<sup>2</sup> treatment providers during  
37 the course of the reporting period; identify whether the number or  
38 frequency of consumer contacts has been reduced as a result of the  
39 transition; and approximate the number and percentage of  
40 consumers who have been unable to obtain service as a result of the  
41 transition to a fee-for-service model; and

42 (7) provide recommendations for the modification of applicable  
43 reimbursement rate schedules, and recommendations for other  
44 actions that could be undertaken to better facilitate the transition or  
45 otherwise ease the burden on <sup>2</sup>[community-based mental health and  
46 substance use disorder treatment]<sup>2</sup> providers, and to avoid or

1 redress any unintended lapses in service provision or reductions in  
2 service quality or capabilities that may result from the transition.

3 c. <sup>2</sup>~~【The】~~ Each<sup>2</sup> board shall dissolve 30 days after it submits  
4 its final report pursuant to paragraph (3) of subsection b. of this  
5 section.

6  
7 4. a. The Division of Purchase and Property in the Department  
8 of the Treasury, in consultation with the Department of Human  
9 Services <sup>2</sup>~~【and the New Jersey Association of Mental Health and~~  
10 ~~Addiction Agencies】~~<sup>2</sup>, shall issue a request for proposals to  
11 perform <sup>2</sup>~~【an】~~ two separate<sup>2</sup> independent <sup>2</sup>~~【evaluation】~~  
12 evaluations<sup>2</sup> of the <sup>2</sup>~~【transition】~~ transitions<sup>2</sup> of the mental health  
13 and substance use disorders treatment service system <sup>2</sup>~~and the~~  
14 developmental disability services system<sup>2</sup> to fee-for-service. The  
15 <sup>2</sup>~~【evaluation】~~ evaluations<sup>2</sup> shall assess the impact of <sup>2</sup>~~【the】~~ each<sup>2</sup>  
16 transition to fee-for-service and the particular rates adopted in the  
17 fee-for-service system on the financial sustainability of provider  
18 agencies, and on <sup>1</sup>~~【patients’】~~ clients<sup>1</sup> access to care, continuity of  
19 care, and quality of care. Proposals shall be submitted no later than  
20 April 1, 2017. The criteria for selection shall include, but need not  
21 be limited to, demonstrated competence in developing and  
22 evaluating reimbursement systems for state health care programs.  
23 The division shall review all submissions and select one proposal,  
24 with the contract to begin no later than July 1, 2017.

25 b. The selected contractor shall be responsible for evaluating,  
26 on a continual basis, the impact of the transition of the community-  
27 based mental health and substance use disorder treatment services  
28 system <sup>2</sup>~~and the community-based developmental disabilities~~  
29 service system<sup>2</sup> to a fee-for-service reimbursement model and the  
30 particular rates adopted in the fee-for-service system on the  
31 financial sustainability of provider agencies, and on <sup>1</sup>~~【patients’】~~  
32 clients<sup>1</sup> access to care, continuity of care, and quality of care. The  
33 contractor shall conduct its evaluation in accordance with its  
34 contract and, to the maximum extent practicable, with the  
35 recommendations of the Independent <sup>2</sup>Mental Health and  
36 Addiction<sup>2</sup> Fee-for-Service Transition Oversight Board  
37 <sup>2</sup>~~and the Independent Developmental Disability Fee-for-Service~~  
38 Transition Oversight Board<sup>2</sup> established pursuant to section 2 of  
39 this act.

40 c. The contractor shall issue periodic written reports <sup>2</sup>,  
41 separately for each of its evaluations,<sup>2</sup> to the Legislature pursuant to  
42 section 2 of P.L.1991, c.164 (C.52:14-19.1), the Governor, the  
43 <sup>2</sup>~~【Division of Mental Health and Addiction Services in the】~~<sup>2</sup>  
44 Department of Human Services, <sup>2</sup>~~【and】~~<sup>2</sup> the Independent <sup>2</sup>Mental  
45 Health and Addiction<sup>2</sup> Fee-for-Service Transition Oversight Board  
46 <sup>2</sup>, and the Independent Developmental Disability Fee-for-Service

1 Transition Oversight Board<sup>2</sup>. At a minimum, the contractor shall  
2 issue written reports evaluating the <sup>2</sup>**[transition]** transitions<sup>2</sup> for the  
3 following reporting periods: (1) the start of the transition through  
4 September 30, 2017; (2) October 1, 2017 through December 31,  
5 2017; (3) January 1, 2018 through June 30, 2018; and (4) July 1,  
6 2018 through June 30, 2019. Each report shall be submitted no  
7 later than one month following the end of each reporting period.  
8 The contract will terminate after the submission of the final report.

9  
10 5. There <sup>2</sup>**[is]** are<sup>2</sup> appropriated from the General Fund <sup>2</sup>to the  
11 Department of Human Services<sup>2</sup> such <sup>2</sup>**[fund]** amounts as are  
12 determined by the Director of the Division of Purchase and Property  
13 as are<sup>2</sup> necessary for the <sup>2</sup>**[execution]** performance of the  
14 independent evaluation contracts pursuant to<sup>2</sup> of section 4 of this  
15 act <sup>2</sup>subject to the approval of the Director of the Division of  
16 Budget and Accounting in the Department of the Treasury<sup>2</sup> .

17  
18 6. This act shall take effect immediately, and shall expire on  
19 the later of: (1) the 30th day after <sup>2</sup>**[the]** each<sup>2</sup> board submits its  
20 final report pursuant to subsection b. of section 3 of this act <sup>2</sup>, <sup>2</sup> or  
21 (2) the 30th day after the contractor submits its final report pursuant  
22 to subsection c. of section 4 of this act.