

[Second Reprint]

ASSEMBLY, No. 4688

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

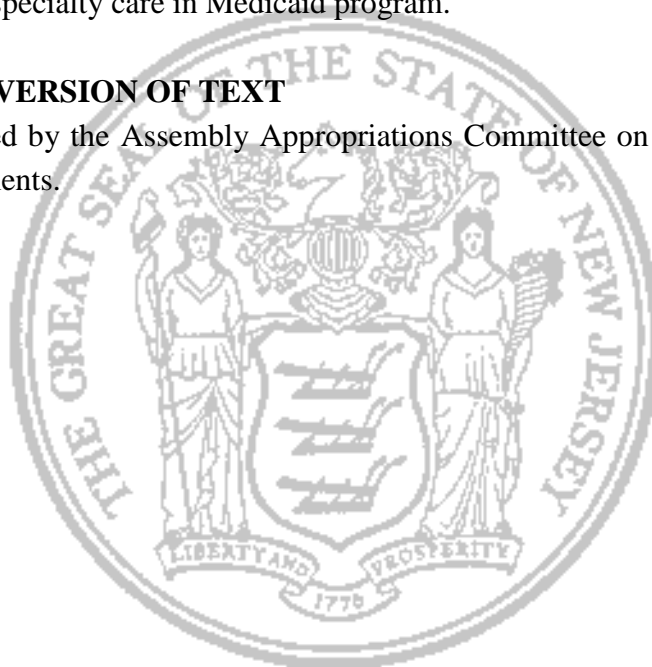
**Assemblyman Johnson, Assemblywomen Reynolds-Jackson, Dunn,
Lampitt and Timberlake**

SYNOPSIS

Codifies and establishes certain network adequacy standards for pediatric primary and specialty care in Medicaid program.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 16, 2021, with amendments.



(Sponsorship Updated As Of: 6/16/2021)

1 AN ACT concerning network adequacy of pediatric providers in the
 2 Medicaid program and supplementing ²[P.L.1997, c.192
 3 (C.26:2S-1 et al.)] Title 30 of the Revised Statutes².

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

7
 8 1. a. ²[Pursuant to section 19 of P.L.1997, c.192 (C.26:2S-18),
 9 the commissioner shall only approve the network adequacy of a
 10 managed care plan provided by a managed care organization
 11 contracted with] At the next regular opportunity,² the Division of
 12 Medical Assistance and Health Services in the Department of
 13 Human Services ²[to provide benefits under Medicaid if the plan
 14 has] shall amend the Medicaid managed care organization contract
 15 provisions on network adequacy to require²:

16 (1) a sufficient number of pediatric primary care physicians
 17 (PCPs) to assure that:

18 (a) at least two physicians eligible as PCPs are within five miles
 19 or 10 minutes driving time or public transit time, whichever is less,
 20 of 90 percent of the managed care plan's pediatric enrollees who
 21 live in urban counties;

22 (b) at least two physicians eligible as PCPs are within 10 miles
 23 or 15 minutes driving time or public transit time, whichever is less,
 24 of 90 percent of the managed care plan's pediatric enrollees who
 25 live in non-urban counties; and

26 (c) 100 percent of all pediatric enrollees live no more than 30
 27 minutes from at least one physician eligible as a PCP;

28 (2) a sufficient number of pediatric medical specialists to assure:

29 (a) access within 15 miles or 30 minutes driving time or public
 30 transit time, whichever is less, of 90 percent of the managed care
 31 plan's pediatric enrollees who live in urban counties; and

32 (b) access within 40 miles or 60 minutes driving time or public
 33 transit time, whichever is less, of 90 percent of the managed care
 34 plan's pediatric enrollees who live in non-urban counties;

35 (3) a sufficient number of pediatric oncologists and
 36 developmental and behavioral pediatricians ²and psychiatrists² to
 37 assure:

38 (a) access within 10 miles or 20 minutes driving time or public
 39 transit time, whichever is less, of 90 percent of the managed care
 40 plan's pediatric enrollees who live in urban counties; and

41 (b) access within 30 miles or 45 minutes driving time or public
 42 transit time, whichever is less, of 90 percent of the managed care
 43 plan's pediatric enrollees who live in non-urban counties; and

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:

¹Assembly AHU committee amendments adopted June 14, 2021.

²Assembly AAP committee amendments adopted June 16, 2021.

1 (4) the following types of pediatric medical specialties
2 represented within the plan's network: adolescent medicine; allergy
3 and immunology; cardiology; developmental and behavioral
4 pediatrics; ¹psychiatry,¹ emergency medicine; endocrinology and
5 diabetes; gastroenterology and nutrition; general pediatrics; general
6 pediatrics – dermatology; hematology; human genetics and
7 metabolism; infectious disease; neonatology; nephrology;
8 neurology; oncology; ophthalmology; ¹[orthopaedics]
9 orthopedics¹; otolaryngology; plastic surgery; pulmonary medicine,
10 including sleep medicine; radiology; rehabilitative medicine; and
11 rheumatology.

12 b. ²[A managed care organization that violates any provision
13 of this act shall be liable for penalties described under section 16 of
14 ¹[P.L.2018, c. 32] P.L.1997, c.192¹ (C.26:2S-16)] No out-of-state
15 pediatric specialty hospital shall be denied the right to participate in
16 a managed care organization network under the same terms and
17 conditions currently applicable to all other contracting providers,
18 provided the pediatric specialty hospital is willing to accept 125
19 percent of its home state Medicaid fee-for-service rate and accepts
20 the terms and conditions of the contract. Nothing in this section
21 shall preclude any provider from negotiating a higher or lower rate
22 for any service or set of services².

23 c. ²No out-of-state or in-state pediatric specialty provider shall
24 be denied the right to participate in a managed care organization
25 network under the same terms and conditions currently applicable
26 to all other contracting providers, provided the out-of-state or in-
27 state pediatric specialty provider is willing to accept 100 percent of
28 the State Medicaid fee-for-service rate and accepts the terms and
29 conditions of the contract. Nothing in this section shall preclude any
30 provider from negotiating a higher or lower rate for any service or
31 set of services.

32 d. In each reporting period, a managed care organization may
33 seek a waiver of a specific network adequacy provision established
34 in paragraphs (2) through (3) of subsection a. of this section from
35 the Division of Medical Assistance and Health Services. The
36 division shall establish a waiver process where, at a minimum, the
37 managed care organization must demonstrate both an active, good
38 faith effort to meet requirements for applicable specialties in each
39 applicable county, and certify to the division which specialty or
40 specialties, and in which counties, for which insufficient providers
41 exist.

42 e. The Division of Medical Assistance and Health Services
43 shall require each managed care organization to establish a process
44 by which a patient or provider may submit a grievance regarding
45 the adequacy of its provider network. This process shall include
46 response timeframes, but no more than 30 days, and reporting

1 defined in the managed care contract, including documentation of
2 specific provider availability addressing each grievance.

3 f. In order to provide timely services to patients, when a
4 managed care organization is notified by a provider of their
5 willingness to participate under the provisions of subsections b. and
6 c. of this section, the managed care organization shall initiate
7 contracting and provide timely authorization to ensure services can
8 be provided to the beneficiary without delay and consistent with
9 timeframes defined in the managed care contract for all routine and
10 urgent services. Balance-billing of Medicaid beneficiaries shall be
11 prohibited. Any copayments or other forms of cost-sharing
12 imposed on services rendered under this paragraph shall be limited
13 to the maximum amount allowed under State law for the Medicaid
14 program.

15 g. The Division of Medical Assistance and Health Services
16 shall establish an enhanced system to assess the network adequacy
17 of a managed care organization contracted with the division to
18 provide benefits under Medicaid, including, but not limited to,
19 requiring the managed care organization to certify, at a minimum on
20 an annual basis, that the managed care organization meets the
21 network adequacy requirements contained in their contract. The
22 division shall enforce appropriate sanctions for non-compliance
23 with this section, including, but not limited to, financial penalties
24 that accrue during the period of non-compliance.

25 h. A managed care organization shall annually provide a report
26 of the number of out-of-network contracts and waivers sought and
27 granted by pediatric specialty, as listed in paragraph (4) of
28 subsection a. of this section, and county to the Division of Medical
29 Assistance and Health Services, who shall make that information
30 publicly available by request.

31 i.² For the purposes of this section:

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

34 "Network adequacy" means the adequacy ¹of¹ the provider
35 network with respect to the scope and type of health care benefits
36 provided by the managed care plan, the geographic service area
37 covered by the provider network, and access to medical specialists
38 pursuant to the standards in the regulations promulgated pursuant to
39 section 19 of P.L.1997, c.192 (C.26:2S-18) and in the existing
40 contract between a managed care organization and the Division of
41 Medical Assistance and Health Services in the Department of
42 Human Services.

43 "Non-urban county" shall mean: ¹【Hunterdon, Morris, Somerset,
44 Sussex, Warren,】¹ Atlantic, Cape May, Cumberland, Gloucester,
45 ¹【and】 Hunterdon, Morris, ¹ Salem ¹, Somerset, Sussex, and
46 Warren¹ counties ², or as otherwise defined for the purposes of this
47 section by the Commissioner of Human Services².

1 “Urban county” shall mean: Bergen, ¹【Hudson, and Passaic,
2 Essex, Union, Middlesex, Mercer,】¹ Burlington, Camden,
3 ¹【Monmouth and Ocean】 Essex, Hudson, Mercer, Middlesex,
4 Monmouth, Ocean, Passaic, and Union¹ counties ², or as otherwise
5 defined for the purposes of this section by the Commissioner of
6 Human Services^{2 1 1}
7

8 2. The ²【Commissioner of Banking and Insurance, in
9 conjunction with the】² Commissioner of Human Services ²【,】²
10 shall adopt rules and regulations pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ^{1 1} to
12 effectuate the purposes of this act.
13

14 3. This act shall take effect on the first day of the third month
15 following enactment, except that the ²【Commissioner of Banking
16 and Insurance, in conjunction with the】² Commissioner of Human
17 Services ²【,】² may take such anticipatory administrative action in
18 advance thereof as shall be necessary for the implementation of this
19 act.