

SENATE, No. 359

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Requires Medicaid cover professional violence prevention counseling services.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning Medicaid coverage of professional violence
2 prevention counseling and amending P.L.1968, c.413

3

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

6

7 1. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read
8 as follows:

9 6. a. Subject to the requirements of Title XIX of the federal
10 Social Security Act, the limitations imposed by this act and by the
11 rules and regulations promulgated pursuant thereto, the department
12 shall provide medical assistance to qualified applicants, including
13 authorized services within each of the following classifications:

14 (1) Inpatient hospital services;

15 (2) Outpatient hospital services;

16 (3) Other laboratory and X-ray services;

17 (4) (a) Skilled nursing or intermediate care facility services;

18 (b) Early and periodic screening and diagnosis of individuals
19 who are eligible under the program and are under age 21, to
20 ascertain their physical or mental health status and the health care,
21 treatment, and other measures to correct or ameliorate defects and
22 chronic conditions discovered thereby, as may be provided in
23 regulations of the Secretary of the federal Department of Health and
24 Human Services and approved by the commissioner;

25 (5) Physician's services furnished in the office, the patient's
26 home, a hospital, a skilled nursing, or intermediate care facility or
27 elsewhere.

28 As used in this subsection, "laboratory and X-ray services"
29 includes HIV drug resistance testing, including, but not limited to,
30 genotype assays that have been cleared or approved by the federal
31 Food and Drug Administration, laboratory developed genotype
32 assays, phenotype assays, and other assays using phenotype
33 prediction with genotype comparison, for persons diagnosed with
34 HIV infection or AIDS.

35 b. Subject to the limitations imposed by federal law, by this
36 act, and by the rules and regulations promulgated pursuant thereto,
37 the medical assistance program may be expanded to include
38 authorized services within each of the following classifications:

39 (1) Medical care not included in subsection a.(5) above, or any
40 other type of remedial care recognized under State law, furnished
41 by licensed practitioners within the scope of their practice, as
42 defined by State law;

43 (2) Home health care services;

44 (3) Clinic services;

45 (4) Dental services;

46 (5) Physical therapy and related services;

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.

- 1 (6) Prescribed drugs, dentures, and prosthetic devices; and
- 2 eyeglasses prescribed by a physician skilled in diseases of the eye
- 3 or by an optometrist, whichever the individual may select;
- 4 (7) Optometric services;
- 5 (8) Podiatric services;
- 6 (9) Chiropractic services;
- 7 (10) Psychological services;
- 8 (11) Inpatient psychiatric hospital services for individuals under
- 9 21 years of age, or under age 22 if they are receiving such services
- 10 immediately before attaining age 21;
- 11 (12) Other diagnostic, screening, preventive, and rehabilitative
- 12 services, and other remedial care;
- 13 (13) Inpatient hospital services, nursing facility services, and
- 14 intermediate care facility services for individuals 65 years of age or
- 15 over in an institution for mental diseases;
- 16 (14) Intermediate care facility services;
- 17 (15) Transportation services;
- 18 (16) Services in connection with the inpatient or outpatient
- 19 treatment or care of substance use disorder, when the treatment is
- 20 prescribed by a physician and provided in a licensed hospital or in a
- 21 narcotic and substance use disorder treatment center approved by
- 22 the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21
- 23 et seq.) and whose staff includes a medical director, and limited to
- 24 those services eligible for federal financial participation under Title
- 25 XIX of the federal Social Security Act;
- 26 (17) Any other medical care and any other type of remedial care
- 27 recognized under State law, specified by the Secretary of the federal
- 28 Department of Health and Human Services, and approved by the
- 29 commissioner;
- 30 (18) Comprehensive maternity care, which may include: the
- 31 basic number of prenatal and postpartum visits recommended by the
- 32 American College of Obstetrics and Gynecology; additional
- 33 prenatal and postpartum visits that are medically necessary;
- 34 necessary laboratory, nutritional assessment and counseling, health
- 35 education, personal counseling, managed care, outreach, and
- 36 follow-up services; treatment of conditions which may complicate
- 37 pregnancy; and physician or certified nurse-midwife delivery
- 38 services;
- 39 (19) Comprehensive pediatric care, which may include:
- 40 ambulatory, preventive, and primary care health services. The
- 41 preventive services shall include, at a minimum, the basic number
- 42 of preventive visits recommended by the American Academy of
- 43 Pediatrics;
- 44 (20) Services provided by a hospice which is participating in
- 45 the Medicare program established pursuant to Title XVIII of the
- 46 Social Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.).
- 47 Hospice services shall be provided subject to approval of the

1 Secretary of the federal Department of Health and Human Services
2 for federal reimbursement;

3 (21) Mammograms, subject to approval of the Secretary of the
4 federal Department of Health and Human Services for federal
5 reimbursement, including one baseline mammogram for women
6 who are at least 35 but less than 40 years of age; one mammogram
7 examination every two years or more frequently, if recommended
8 by a physician, for women who are at least 40 but less than 50 years
9 of age; and one mammogram examination every year for women
10 age 50 and over;

11 (22) Upon referral by a physician, advanced practice nurse, or
12 physician assistant of a person who has been diagnosed with
13 diabetes, gestational diabetes, or pre-diabetes, in accordance with
14 standards adopted by the American Diabetes Association:

15 (a) Expenses for diabetes self-management education or training
16 to ensure that a person with diabetes, gestational diabetes, or pre-
17 diabetes can optimize metabolic control, prevent and manage
18 complications, and maximize quality of life. Diabetes self-
19 management education shall be provided by an in-State provider
20 who is:

21 (i) a licensed, registered, or certified health care professional
22 who is certified by the National Certification Board of Diabetes
23 Educators as a Certified Diabetes Educator, or certified by the
24 American Association of Diabetes Educators with a Board
25 Certified-Advanced Diabetes Management credential, including, but
26 not limited to: a physician, an advanced practice or registered nurse,
27 a physician assistant, a pharmacist, a chiropractor, a dietitian
28 registered by a nationally recognized professional association of
29 dietitians, or a nutritionist holding a certified nutritionist specialist
30 (CNS) credential from the Board for Certification of Nutrition
31 Specialists ; or

32 (ii) an entity meeting the National Standards for Diabetes Self-
33 Management Education and Support, as evidenced by a recognition
34 by the American Diabetes Association or accreditation by the
35 American Association of Diabetes Educators;

36 (b) Expenses for medical nutrition therapy as an effective
37 component of the person's overall treatment plan upon a: diagnosis
38 of diabetes, gestational diabetes, or pre-diabetes; change in the
39 beneficiary's medical condition, treatment, or diagnosis; or
40 determination of a physician, advanced practice nurse, or physician
41 assistant that reeducation or refresher education is necessary.
42 Medical nutrition therapy shall be provided by an in-State provider
43 who is a dietitian registered by a nationally-recognized professional
44 association of dietitians, or a nutritionist holding a certified
45 nutritionist specialist (CNS) credential from the Board for
46 Certification of Nutrition Specialists, who is familiar with the
47 components of diabetes medical nutrition therapy;

1 (c) For a person diagnosed with pre-diabetes, items and services
2 furnished under an in-State diabetes prevention program that meets
3 the standards of the National Diabetes Prevention Program, as
4 established by the federal Centers for Disease Control and
5 Prevention; and

6 (d) Expenses for any medically appropriate and necessary
7 supplies and equipment recommended or prescribed by a physician,
8 advanced practice nurse, or physician assistant for the management
9 and treatment of diabetes, gestational diabetes, or pre-diabetes,
10 including, but not limited to: equipment and supplies for self-
11 management of blood glucose; insulin pens; insulin pumps and
12 related supplies; and other insulin delivery devices.

13 (23) Upon referral by a health care professional licensed
14 pursuant to Title 45 of the Revised Statutes, professional violence
15 prevention counseling services for persons who have incurred a
16 gunshot or stabbing injury and are determined by the referring
17 health care professional to be at a high risk of re-injury or
18 retaliation.

19 c. Payments for the foregoing services, goods, and supplies
20 furnished pursuant to this act shall be made to the extent authorized
21 by this act, the rules and regulations promulgated pursuant thereto
22 and, where applicable, subject to the agreement of insurance
23 provided for under this act. The payments shall constitute payment
24 in full to the provider on behalf of the recipient. Every provider
25 making a claim for payment pursuant to this act shall certify in
26 writing on the claim submitted that no additional amount will be
27 charged to the recipient, the recipient's family, the recipient's
28 representative or others on the recipient's behalf for the services,
29 goods, and supplies furnished pursuant to this act.

30 No provider whose claim for payment pursuant to this act has
31 been denied because the services, goods, or supplies were
32 determined to be medically unnecessary shall seek reimbursement
33 from the recipient, his family, his representative or others on his
34 behalf for such services, goods, and supplies provided pursuant to
35 this act; provided, however, a provider may seek reimbursement
36 from a recipient for services, goods, or supplies not authorized by
37 this act, if the recipient elected to receive the services, goods or
38 supplies with the knowledge that they were not authorized.

39 d. Any individual eligible for medical assistance (including
40 drugs) may obtain such assistance from any person qualified to
41 perform the service or services required (including an organization
42 which provides such services, or arranges for their availability on a
43 prepayment basis), who undertakes to provide the individual such
44 services.

45 No copayment or other form of cost-sharing shall be imposed on
46 any individual eligible for medical assistance, except as mandated
47 by federal law as a condition of federal financial participation.

1 e. Anything in this act to the contrary notwithstanding, no
2 payments for medical assistance shall be made under this act with
3 respect to care or services for any individual who:

4 (1) Is an inmate of a public institution (except as a patient in a
5 medical institution); provided, however, that an individual who is
6 otherwise eligible may continue to receive services for the month in
7 which he becomes an inmate, should the commissioner determine to
8 expand the scope of Medicaid eligibility to include such an
9 individual, subject to the limitations imposed by federal law and
10 regulations, or

11 (2) Has not attained 65 years of age and who is a patient in an
12 institution for mental diseases, or

13 (3) Is over 21 years of age and who is receiving inpatient
14 psychiatric hospital services in a psychiatric facility; provided,
15 however, that an individual who was receiving such services
16 immediately prior to attaining age 21 may continue to receive such
17 services until the individual reaches age 22. Nothing in this
18 subsection shall prohibit the commissioner from extending medical
19 assistance to all eligible persons receiving inpatient psychiatric
20 services; provided that there is federal financial participation
21 available.

22 f. (1) A third party as defined in section 3 of P.L.1968, c.413
23 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
24 this or another state when determining the person's eligibility for
25 enrollment or the provision of benefits by that third party.

26 (2) In addition, any provision in a contract of insurance, health
27 benefits plan, or other health care coverage document, will, trust,
28 agreement, court order, or other instrument which reduces or
29 excludes coverage or payment for health care-related goods and
30 services to or for an individual because of that individual's actual or
31 potential eligibility for or receipt of Medicaid benefits shall be null
32 and void, and no payments shall be made under this act as a result
33 of any such provision.

34 (3) Notwithstanding any provision of law to the contrary, the
35 provisions of paragraph (2) of this subsection shall not apply to a
36 trust agreement that is established pursuant to 42 U.S.C.
37 s.1396p(d)(4)(A) or (C) to supplement and augment assistance
38 provided by government entities to a person who is disabled as
39 defined in section 1614(a)(3) of the federal Social Security Act (42
40 U.S.C. s.1382c (a)(3)).

41 g. The following services shall be provided to eligible
42 medically needy individuals as follows:

43 (1) Pregnant women shall be provided prenatal care and delivery
44 services and postpartum care, including the services cited in
45 subsection a.(1), (3), and (5) of this section and subsection b.(1)-
46 (10), (12), (15), and (17) of this section, and nursing facility
47 services cited in subsection b.(13) of this section.

1 (2) Dependent children shall be provided with services cited in
2 subsection a.(3) and (5) of this section and subsection b.(1), (2), (3),
3 (4), (5), (6), (7), (10), (12), (15), and (17) of this section, and
4 nursing facility services cited in subsection b.(13) of this section.

5 (3) Individuals who are 65 years of age or older shall be
6 provided with services cited in subsection a.(3) and (5) of this
7 section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7),
8 (8), (10), (12), (15), and (17) of this section, and nursing facility
9 services cited in subsection b.(13) of this section.

10 (4) Individuals who are blind or disabled shall be provided with
11 services cited in subsection a.(3) and (5) of this section and
12 subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),
13 (12), (15), and (17) of this section, and nursing facility services
14 cited in subsection b.(13) of this section.

15 (5) (a) Inpatient hospital services, subsection a.(1) of this
16 section, shall only be provided to eligible medically needy
17 individuals, other than pregnant women, if the federal Department
18 of Health and Human Services discontinues the State's waiver to
19 establish inpatient hospital reimbursement rates for the Medicare
20 and Medicaid programs under the authority of section 601(c)(3) of
21 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
22 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
23 extended to other eligible medically needy individuals if the federal
24 Department of Health and Human Services directs that these
25 services be included.

26 (b) Outpatient hospital services, subsection a.(2) of this section,
27 shall only be provided to eligible medically needy individuals if the
28 federal Department of Health and Human Services discontinues the
29 State's waiver to establish outpatient hospital reimbursement rates
30 for the Medicare and Medicaid programs under the authority of
31 section 601(c)(3) of the Social Security Amendments of 1983,
32 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
33 services may be extended to all or to certain medically needy
34 individuals if the federal Department of Health and Human Services
35 directs that these services be included. However, the use of
36 outpatient hospital services shall be limited to clinic services and to
37 emergency room services for injuries and significant acute medical
38 conditions.

39 (c) The division shall monitor the use of inpatient and outpatient
40 hospital services by medically needy persons.

41 h. In the case of a qualified disabled and working individual
42 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
43 only medical assistance provided under this act shall be the
44 payment of premiums for Medicare part A under 42 U.S.C.
45 ss.1395i-2 and 1395r.

46 i. In the case of a specified low-income Medicare beneficiary
47 pursuant to 42 U.S.C. s.1396a(a)(10)(E)iii, the only medical
48 assistance provided under this act shall be the payment of premiums

1 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42
2 U.S.C. s.1396d(p)(3)(A)(ii).

3 j. In the case of a qualified individual pursuant to 42 U.S.C.
4 s.1396a(aa), the only medical assistance provided under this act
5 shall be payment for authorized services provided during the period
6 in which the individual requires treatment for breast or cervical
7 cancer, in accordance with criteria established by the commissioner.

8 k. In the case of a qualified individual pursuant to 42 U.S.C.
9 s.1396a(ii), the only medical assistance provided under this act shall
10 be payment for family planning services and supplies as described
11 at 42 U.S.C. s.1396d(a)(4)(C), including medical diagnosis and
12 treatment services that are provided pursuant to a family planning
13 service in a family planning setting.

14 (cf: P.L.2018, c.1, s.2)

15
16 2. The Commissioner of Human Services shall apply for such
17 State plan amendments or waivers as may be necessary to
18 implement the provisions of this act and to secure federal financial
19 participation for State Medicaid expenditures under the federal
20 Medicaid program.

21
22 3. The Commissioner of Human Services, pursuant to the
23 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
24 seq.), shall adopt rules and regulations as the commissioner
25 determines necessary to effectuate the purposes of this act.

26
27 4. This act shall take effect immediately.
28
29

30 STATEMENT
31

32 This bill provides that the State Medicaid program includes
33 coverage for professional violence prevention counseling services
34 to gunshot or stabbing victims who are Medicaid enrollees and are
35 determined to be at high risk of re-injury or retaliation. The
36 enrollees would need to be referred to the counseling by a licensed
37 health care professional.

38 The legislation is intended to assist in breaking the cycles of
39 street violence and retaliation by providing counseling to patients
40 recovering from gunshot or stab wounds. Multiple case studies and
41 controlled trials have shown that this type of counseling can be
42 effective at reducing patients’ rates of violence and re-injury.