STATE OF NEW YORK

11658

IN ASSEMBLY

July 29, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Wieder) -- read once and referred to the Committee on People with Disabilities

AN ACT to amend the mental hygiene law and the public health law, in relation to establishing a mandatory supplemental therapeutic services reimbursement for individuals receiving services through the office for people with developmental disabilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The mental hygiene law is amended by adding a new section 16.36 to read as follows:

§ 16.36 Supplemental therapeutic services reimbursement.

1. Notwithstanding any inconsistent provision of law, rule or regulation, the commissioner shall, upon application and upon satisfaction of the criteria set forth in subdivision three of this section, authorize supplemental reimbursement for therapeutic services for an eligible individual when such services: (a) have been determined to be medically necessary; (b) are included in an approved service plan, plan of care, or other authorized planning document; and (c) cannot be secured within twenty-one days despite documented reasonable efforts to obtain such services at state-established reimbursement rates.

2. For purposes of this section, "therapeutic services" shall mean counseling, psychotherapy, behavioral therapy, or other clinically appropriate therapeutic intervention provided by a person who is licensed, certified, or otherwise legally authorized under the laws of this state to furnish such service.

3. Supplemental reimbursement under this section shall be approved upon a determination by the commissioner, or the commissioner's designee, that:

(a) the service is medically necessary and included in an approved planning document;

(b) the eligible individual or the individual's authorized representative, in coordination with the relevant care manager, service coordinator, or other responsible planning entity, made documented reasonable efforts over a period of not less than twenty-one days to obtain the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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service from a provider willing to accept the applicable state-established reimbursement rate, and such efforts were unsuccessful;

(c) delay or absence of such service would materially impair the individual's health, behavioral stability, community functioning, or maintenance in the least restrictive setting appropriate to such individual's needs; and

(d) the provider selected to furnish the service is appropriately licensed, certified, or otherwise legally authorized under the laws of this state.

4. Upon approval under subdivision three of this section, the commissioner shall authorize reimbursement in an amount equal to seventy-five percent of the provider's billed charges, subject to the following:

(a) The minimum supplemental reimbursement floor shall be one hundred twenty dollars per hour for individual therapy sessions, ninety dollars per hour for group therapy sessions, and one hundred fifty dollars per hour for behavioral intervention or applied behavior analysis (ABA) services. Such reimbursement floors shall not be reduced by regulation or administrative action.

(b) Beginning January first, two thousand twenty-eight, and annually thereafter, the minimum reimbursement floors set forth in paragraph (a) of this subdivision shall be increased by the same percentage as the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) for the New York metropolitan area for the preceding calendar year, as published by the United States Bureau of Labor Statistics. Such annual adjustment is mandatory.

(c) The maximum reimbursement shall not exceed two hundred fifty dollars per hour for individual therapy, one hundred seventy-five dollars per hour for group therapy, and three hundred twenty-five dollars per hour for ABA services, subject to the same annual CPI-U adjustment described in paragraph (b) of this subdivision.

5. The commissioner shall act on a complete application for supplemental reimbursement under this section within fifteen business days of receipt. Failure to act within such period shall constitute approval of the application by operation of law. The commissioner shall provide written notice to the applicant within five business days of a determination, including the basis for any denial.

6. To the extent any therapeutic service authorized under this section is or may be reimbursable under the New York state Medicaid program, including any applicable waiver or managed care arrangement, the commissioner shall coordinate implementation of this section with the department of health to ensure compliance with applicable federal Medicaid requirements. No supplemental reimbursement shall be authorized in a manner that would jeopardize federal financial participation or violate any applicable federal statute, regulation, or waiver condition.

7. Any individual or authorized representative who is denied supplemental reimbursement under this section, or who does not receive a determination within the timeframe required by subdivision five of this section, may seek administrative review pursuant to applicable procedures under the mental hygiene law and may file a complaint with the office of the Medicaid inspector general. The commissioner shall maintain a dedicated intake process for complaints arising under this section and shall respond in writing within ten business days.

8. The commissioner shall promulgate regulations necessary to implement this section within ninety days of enactment, including standards governing: (a) documentation of provider unavailability at state-established reimbursement rates during the twenty-one day period required

under subdivision three of this section; (b) verification of medical necessity; (c) allowable service categories; (d) prior authorization and utilization review procedures; and (e) audit and program integrity measures.

§ 2. Section 32 of the public health law is amended by adding a new subdivision 25-a to read as follows:

25-a. practices related to supplemental therapeutic services reimbursement authorized pursuant to section 16.36 of the mental hygiene law for the purpose of detecting fraud, waste, abuse, or improper payment, to the same extent as other payments made with state or Medicaid funds;

§ 3. On or before December first next succeeding the effective date of this act, and annually thereafter, the commissioner of the office for people with developmental disabilities shall publish on the office's website and submit to the governor, temporary president of the senate and speaker of the assembly, a report setting forth, for the preceding year: (a) the number of applications received; (b) the number approved and denied; (c) the general reasons for denial in aggregate form; (d) the types of services approved; (e) average and aggregate reimbursement amounts; (f) the number of applications approved by operation of law due to the commissioner's failure to act within fifteen business days; and (g) a summary of access-related outcomes. No personally identifiable information shall be included in such report.

§ 4. Nothing in this act shall be construed to create an entitlement to any therapeutic service beyond amounts appropriated therefor, to alter underlying program eligibility standards, to require the state to revise any generally applicable reimbursement methodology outside the limited circumstances set forth herein, or to create any private right of action.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.