

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 Assem-
bly, do enact as follows:

1 Section 1. The mental hygiene law is amended by adding a new section
2 16.36 to read as follows:

3 § 16.36 Supplemental therapeutic services reimbursement.

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

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

18 3. Supplemental reimbursement under this section shall be approved
19 upon a determination by the commissioner, or the commissioner's desig-
20 nee, that:

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

23 (b) the eligible individual or the individual's authorized represen-
24 tative, in coordination with the relevant care manager, service coordi-
25 nator, or other responsible planning entity, made documented reasonable
26 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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1 service from a provider willing to accept the applicable state-estab-
2 lished reimbursement rate, and such efforts were unsuccessful;

3 (c) delay or absence of such service would materially impair the indi-
4 vidual's health, behavioral stability, community functioning, or mainte-
5 nance in the least restrictive setting appropriate to such individual's
6 needs; and

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

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

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

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

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

31 5. The commissioner shall act on a complete application for supple-
32 mental reimbursement under this section within fifteen business days of
33 receipt. Failure to act within such period shall constitute approval of
34 the application by operation of law. The commissioner shall provide
35 written notice to the applicant within five business days of a determi-
36 nation, including the basis for any denial.

37 6. To the extent any therapeutic service authorized under this section
38 is or may be reimbursable under the New York state Medicaid program,
39 including any applicable waiver or managed care arrangement, the commis-
40 sioner shall coordinate implementation of this section with the depart-
41 ment of health to ensure compliance with applicable federal Medicaid
42 requirements. No supplemental reimbursement shall be authorized in a
43 manner that would jeopardize federal financial participation or violate
44 any applicable federal statute, regulation, or waiver condition.

45 7. Any individual or authorized representative who is denied supple-
46 mental reimbursement under this section, or who does not receive a
47 determination within the timeframe required by subdivision five of this
48 section, may seek administrative review pursuant to applicable proce-
49 dures under the mental hygiene law and may file a complaint with the
50 office of the Medicaid inspector general. The commissioner shall main-
51 tain a dedicated intake process for complaints arising under this
52 section and shall respond in writing within ten business days.

53 8. The commissioner shall promulgate regulations necessary to imple-
54 ment this section within ninety days of enactment, including standards
55 governing: (a) documentation of provider unavailability at state-estab-
56 lished reimbursement rates during the twenty-one day period required

1 under subdivision three of this section; (b) verification of medical
2 necessity; (c) allowable service categories; (d) prior authorization and
3 utilization review procedures; and (e) audit and program integrity meas-
4 ures.

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

7 25-a. practices related to supplemental therapeutic services
8 reimbursement authorized pursuant to section 16.36 of the mental hygiene
9 law for the purpose of detecting fraud, waste, abuse, or improper
10 payment, to the same extent as other payments made with state or Medi-
11 caid funds;

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

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

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