30:4D-6g

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 103

NJSA: 30:4D-6g (Provides that non-participating hospitals receive certain fee-for-service)

BILL NO: S1532 (Substituted for A2618)

SPONSOR(S): Bryant

DATE INTRODUCED: April 29, 2004

COMMITTEE: **ASSEMBLY:**
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 21, 2004

SENATE: June 21, 2004

DATE OF APPROVAL: July 14, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL 1st reprint enacted

S1532

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A2618

SPONSOR'S STATEMENT: (Begins on 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

§§1-3 -
C.30:4D-6g
to 30:4D-6i
§4 - C.30:4J-4.1

P.L. 2004, CHAPTER 103, ***approved July 14, 2004***
Senate, No. 1532 ***(First Reprint)***

AN ACT concerning payment for emergency care provided in certain hospitals and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2000, c.71 (C.30:4J-1 et seq.).

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

1. The Legislature finds and declares that:

a. In accordance with the "Health Care Reform Act," P.L.1992 c.160 (C.26:2H-18.51 et al.), it has been and continues to be of paramount public interest for the State to take all necessary and appropriate actions to ensure access to, and the provision of, cost-effective and high-quality hospital care to its citizens. Consistent with these goals, it is and has been the policy of this State that reimbursement for emergency services and related screening and hospitalization be reasonable, in order to promote access to such care without overburdening the health care payment system. These imperative public policies continue to apply equally to both public and private payers of health care services[1] **[**.**]**;[1]

b. In light of the provisions of section 14 of the "Health Care Reform Act," (C.26:2H-18.64), which prohibits hospitals from denying admission or appropriate services to a patient on the basis of that patient's ability to pay or source of payment, questions have arisen as to the rates at which emergency services should be reimbursed when they are provided to enrollees in Medicaid and NJ FamilyCare managed care plans by non-participating hospitals. In order to ensure that the goal of cost-efficient access to emergency services is furthered, it is necessary to clarify the rates that have been and continue to be deemed reasonable reimbursement[1] **[**.**]**; and[1]

c. It is necessary that the reimbursement clarification be understood as reaffirming the paramount public health and welfare purpose of promoting cost-efficiency in the delivery of emergency services and related screening and hospitalization [1] **[**and, accordingly, it is necessary that the curative reimbursement clarification be applied both prospectively and retroactively to the date of enactment of P.L.1992, c.160**]**[1].

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SBA committee amendments adopted June 14, 2004.

2. As used in this act:

"Contractor" means a health maintenance organization authorized to operate in this State which contracts with the Department of Human Services for the provision of health care services to recipients of Medicaid and enrollees of NJ FamilyCare.

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

"NJ FamilyCare" means the Children's Health Care Coverage Program established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) and the FamilyCare Health Coverage Program established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.).

"Non-participating hospital" means a hospital with which the contractor does not have a written provider agreement that complies with applicable State law and regulations, including N.J.A.C.8:38-15.2 and 10:74-2.1.

3. [1][a.][1] A non-participating hospital that provides emergency health care services to a Medicaid recipient enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

[1][b. A non-participating hospital shall be paid only for services that are determined by the Medicaid program to be medically necessary.][1]

4. a. A non-participating hospital that provides emergency health care services to an enrollee in NJ FamilyCare who is enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

b. [1][A non-participating hospital shall be paid only for services that are determined by the NJ FamilyCare program to be medically necessary.]

As used in this section, "contractor" and "non-participating hospital" have the same meaning as provided in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).[1]

5. This act shall take effect immediately [1][and shall be retroactive to September 1, 1995][1].

Provides that non-participating hospitals receive fee-for-service payment from Medicaid for emergency services provided to Medicaid and NJ FamilyCare recipients.

SENATE, No. 1532

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED APRIL 29, 2004

Sponsored by:
Senator WAYNE R. BRYANT
District 5 (Camden and Gloucester)

SYNOPSIS

Provides that non-participating hospitals receive fee-for-service payment from Medicaid for emergency services provided to Medicaid and NJ FamilyCare recipients.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning payment for emergency care provided in certain hospitals and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2000, c.71 (C.30:4J-1 et seq.).

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

1. The Legislature finds and declares that:

a. In accordance with the "Health Care Reform Act," P.L.1992 c.160 (C.26:2H-18.51 et al.), it has been and continues to be of paramount public interest for the State to take all necessary and appropriate actions to ensure access to, and the provision of, cost-effective and high-quality hospital care to its citizens. Consistent with these goals, it is and has been the policy of this State that reimbursement for emergency services and related screening and hospitalization be reasonable, in order to promote access to such care without overburdening the health care payment system. These imperative public policies continue to apply equally to both public and private payers of health care services.

b. In light of the provisions of section 14 of the "Health Care Reform Act," (C.26:2H-18.64), which prohibits hospitals from denying admission or appropriate services to a patient on the basis of that patient's ability to pay or source of payment, questions have arisen as to the rates at which emergency services should be reimbursed when they are provided to enrollees in Medicaid and NJ FamilyCare managed care plans by non-participating hospitals. In order to ensure that the goal of cost-efficient access to emergency services is furthered, it is necessary to clarify the rates that have been and continue to be deemed reasonable reimbursement.

c. It is necessary that the reimbursement clarification be understood as reaffirming the paramount public health and welfare purpose of promoting cost-efficiency in the delivery of emergency services and related screening and hospitalization and, accordingly, it is necessary that the curative reimbursement clarification be applied both prospectively and retroactively to the date of enactment of P.L.1992, c.160.

2. As used in this act:

"Contractor" means a health maintenance organization authorized to operate in this State which contracts with the Department of Human Services for the provision of health care services to recipients of Medicaid and enrollees of NJ FamilyCare.

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

"NJ FamilyCare" means the Children's Health Care Coverage Program established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.)

and the FamilyCare Health Coverage Program established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.).

"Non-participating hospital" means a hospital with which the contractor does not have a written provider agreement that complies with applicable State law and regulations, including N.J.A.C.8:38-15.2 and 10:74-2.1.

3. a. A non-participating hospital that provides emergency health care services to a Medicaid recipient enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

b. A non-participating hospital shall be paid only for services that are determined by the Medicaid program to be medically necessary.

4. a. A non-participating hospital that provides emergency health care services to an enrollee in NJ FamilyCare who is enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

b. A non-participating hospital shall be paid only for services that are determined by the NJ FamilyCare program to be medically necessary.

5. This act shall take effect immediately and shall be retroactive to September 1, 1995.

STATEMENT

This bill provides that a non-participating hospital (a hospital that is not under contract with a Medicaid or NJ FamilyCare-participating health maintenance organization) that provides emergency health care services to a Medicaid recipient or an enrollee of NJ FamilyCare, who is enrolled in a Medicaid or NJ FamilyCare managed care plan, shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient or enrollee were a participant in fee-for-service Medicaid.

The bill further provides that a non-participating hospital shall be paid only for services that are determined by Medicaid or the NJ FamilyCare program, as applicable, to be medically necessary.

The provisions of this bill are intended to clarify the rates at which emergency services should be reimbursed when they are provided to

1 recipients of Medicaid managed care and enrollees in NJ FamilyCare
2 managed care by non-participating hospitals. The provisions of the bill
3 are retroactive to September 1, 1995, when Medicaid managed care
4 first became mandatory for certain groups of recipients.
5 The "Health Care Reform Act" (N.J.S.A.26:2H-18.51 et al.),
6 beginning January 1, 1993, established State policy that hospitals shall
7 not deny admission or appropriate services to a patient on the basis of
8 that patient's ability to pay or source of payment. In order to ensure
9 that the "Health Care Reform Act" goal of cost-efficient access to
10 health care services is furthered, it is necessary to clarify the rates for
11 certain health care services that have been and continue to be deemed
12 reasonable reimbursement.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1532

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2004

The Senate Budget and Appropriations Committee reports favorably and with committee amendments, Senate Bill No. 1532.

Senate Bill No. 1532, as amended, provides that a non-participating hospital (a hospital that is not under contract with a Medicaid or NJ FamilyCare-participating health maintenance organization) that provides emergency health care services to a Medicaid recipient or an enrollee of NJ FamilyCare, who is enrolled in a Medicaid or NJ FamilyCare managed care plan, shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient or enrollee were a participant in fee-for-service Medicaid.

The bill further provides that a non-participating hospital shall be paid only for services that are determined by a Medicaid managed care plan or the NJ FamilyCare managed care plan, as applicable, to be medically necessary.

The provisions of this bill are intended to clarify the rates at which emergency services should be reimbursed when they are provided to recipients of Medicaid managed care and enrollees in NJ FamilyCare managed care by non-participating hospitals.

The "Health Care Reform Act" (N.J.S.A.26:2H-18.51 et al.), beginning January 1, 1993, established State policy that hospitals shall not deny admission or appropriate services to a patient on the basis of that patient's ability to pay or source of payment. In order to ensure that the "Health Care Reform Act" goal of cost-efficient access to health care services is furthered, it is necessary to clarify the rates for certain health care services that have been and continue to be deemed reasonable reimbursement.

COMMITTEE AMENDMENTS

The amendments to Senate Bill No. 1532 make the bill prospective only, rather than retroactive, in effect and apply only to services provided on or after the date of enactment. The amendments also remove provisions under which Medicaid and NJ FamilyCare would

determine the medical necessity of the services that are the subject of this bill.

As amended, the provisions of this bill are identical to those of Assembly Bill No. 2618 (1R), now pending in the General Assembly.

FISCAL IMPACT

No data are available which permit the estimation of the bill's possible fiscal impact.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1532
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JUNE 29, 2004

SUMMARY

Synopsis: Provides that non-participating hospitals receive fee-for-service payment from Medicaid for emergency services provided to Medicaid and NJ FamilyCare recipients.

Type of Impact: Possible Medicaid expenditure increase that cannot be determined.

Agencies Affected: Department of Human Services (DHS).

Office of Legislative Services Estimate

Fiscal Impact	Years 1-3
State Cost	Unable to determine.

BILL DESCRIPTION

Senate Bill No. 1532 of 2004 provides that a hospital that is not under contract with a Medicaid or NJ FamilyCare-participating health maintenance organization that provides emergency health care services to a Medicaid or a NJ FamilyCare recipient enrolled in a managed care plan, shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient or enrollee were a participant in fee-for-service Medicaid. Furthermore, a non-participating hospital shall be paid only for services that are determined by Medicaid or NJ FamilyCare, as applicable, to be medically necessary. The provisions of the legislation are retroactive to September 1, 1995.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The legislation would require Medicaid and NJ FamilyCare to reimburse a hospital that is not

a participating provider with a managed care organization based on the reimbursement the hospital would have received from the Medicaid and NJ FamilyCare programs on a fee-for-service basis, rather than what the hospital would have received from the managed care organization. For example, if a managed care organization would have reimbursed the non-participating hospital $1,000 for a particular emergency service and the fee-for-service reimbursement for that emergency service was $1,500, the non-participating hospital would be paid $1,500.

The Office of Legislative Services (OLS) is unable to determine the fiscal impact of the legislation. OLS has no information regarding:

- Hospitals that are non-participating hospitals with respect to the five managed care organizations that contract with the Medicaid and NJ FamilyCare programs;
- The number and type of emergency room visits to non-participating hospitals by Medicaid and NJ FamilyCare recipients; and
- The amount of reimbursement non-participating hospitals currently receive from managed care organizations for emergency services provided to Medicaid and NJ FamilyCare recipients and the comparable Medicaid/NJ FamilyCare fee-for-service cost for emergency services.

As the legislation is retroactive to September 1, 1995, both DHS and the managed care organizations are likely to incur considerable administrative costs to implement the legislation. Also, as several managed care organizations that participated with Medicaid and NJ FamilyCare programs are no longer operational, it may be difficult to obtain their medical records for the purposes of this legislation.

Finally, it is uncertain whether federal Medicaid reimbursement would be available. At present, federal law allows Medicaid claims to be filed up to two years after the service was provided. As the various managed care programs, on behalf of the Medicaid and NJ FamilyCare programs, had already paid these claims, the federal government may not permit federal Medicaid reimbursement for claims dated before June 2002. Thus, the entire additional cost of claims between September 1995 and June 2002 may have to be paid with State funds. It is also uncertain whether additional federal reimbursement for claims paid since June 2002 would be available.

Section: *Human Services*

Analyst: *Jay Hershberg*
Principal Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2618

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MAY 3, 2004

Sponsored by:
Assemblyman LOUIS D. GREENWALD
District 6 (Camden)

SYNOPSIS

Provides that non-participating hospitals receive fee-for-service payment from Medicaid for emergency services provided to Medicaid and NJ FamilyCare recipients.

CURRENT VERSION OF TEXT

As introduced.

1 **AN ACT** concerning payment for emergency care provided in certain
2 hospitals and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.)
3 and P.L.2000, c.71 (C.30:4J-1 et seq.).
4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7
8 1. The Legislature finds and declares that:
9 a. In accordance with the "Health Care Reform Act," P.L.1992
10 c.160 (C.26:2H-18.51 et al.), it has been and continues to be of
11 paramount public interest for the State to take all necessary and
12 appropriate actions to ensure access to, and the provision of,
13 cost-effective and high-quality hospital care to its citizens. Consistent
14 with these goals, it is and has been the policy of this State that
15 reimbursement for emergency services and related screening and
16 hospitalization be reasonable, in order to promote access to such care
17 without overburdening the health care payment system. These
18 imperative public policies continue to apply equally to both public and
19 private payers of health care services.
20 b. In light of the provisions of section 14 of the "Health Care
21 Reform Act," (C.26:2H-18.64), which prohibits hospitals from denying
22 admission or appropriate services to a patient on the basis of that
23 patient's ability to pay or source of payment, questions have arisen as
24 to the rates at which emergency services should be reimbursed when
25 they are provided to enrollees in Medicaid and NJ FamilyCare
26 managed care plans by non-participating hospitals. In order to ensure
27 that the goal of cost-efficient access to emergency services is
28 furthered, it is necessary to clarify the rates that have been and
29 continue to be deemed reasonable reimbursement.
30 c. It is necessary that the reimbursement clarification be
31 understood as reaffirming the paramount public health and welfare
32 purpose of promoting cost-efficiency in the delivery of emergency
33 services and related screening and hospitalization and, accordingly, it
34 is necessary that the curative reimbursement clarification be applied
35 both prospectively and retroactively to the date of enactment of
36 P.L.1992, c.160.
37
38 2. As used in this act:
39 "Contractor" means a health maintenance organization authorized
40 to operate in this State which contracts with the Department of Human
41 Services for the provision of health care services to recipients of
42 Medicaid and enrollees of NJ FamilyCare.
43 "Medicaid" means the Medicaid program established pursuant to
44 P.L.1968, c.413 (C.30:4D-1 et seq.).
45 "NJ FamilyCare" means the Children's Health Care Coverage
46 Program established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.)

1 and the FamilyCare Health Coverage Program established pursuant to
2 P.L.2000, c.71 (C.30:4J-1 et seq.).
3 "Non-participating hospital" means a hospital with which the
4 contractor does not have a written provider agreement that complies
5 with applicable State law and regulations, including N.J.A.C.8:38-15.2
6 and 10:74-2.1.
7
8 3. a. A non-participating hospital that provides emergency health
9 care services to a Medicaid recipient enrolled in a managed care plan
10 shall accept, as payment in full, the amount that the non-participating
11 hospital would otherwise receive from the Medicaid program for the
12 emergency services and any related hospitalization if the recipient were
13 a participant in fee-for-service Medicaid.
14 b. A non-participating hospital shall be paid only for services that
15 are determined by the Medicaid program to be medically necessary.
16
17 4. a. A non-participating hospital that provides emergency health
18 care services to an enrollee in NJ FamilyCare who is enrolled in a
19 managed care plan shall accept, as payment in full, the amount that the
20 non-participating hospital would otherwise receive from the Medicaid
21 program for the emergency services and any related hospitalization if
22 the recipient were a participant in fee-for-service Medicaid.
23 b. A non-participating hospital shall be paid only for services that
24 are determined by the NJ FamilyCare program to be medically
25 necessary.
26
27 5. This act shall take effect immediately and shall be retroactive to
28 January 1, 1993.
29
30
31 STATEMENT
32
33 This bill provides that a non-participating hospital (a hospital that
34 is not under contract with a Medicaid or NJ FamilyCare-participating
35 health maintenance organization) that provides emergency health care
36 services to a Medicaid recipient or an enrollee of NJ FamilyCare, who
37 is enrolled in a Medicaid or NJ FamilyCare managed care plan, shall
38 accept, as payment in full, the amount that the non-participating
39 hospital would otherwise receive from the Medicaid program for the
40 emergency services and any related hospitalization if the recipient or
41 enrollee were a participant in fee-for-service Medicaid.
42 The bill further provides that a non-participating hospital shall be
43 paid only for services that are determined by Medicaid or the NJ
44 FamilyCare program, as applicable, to be medically necessary.
45 The provisions of this bill are intended to clarify the rates at which
46 emergency services should be reimbursed when they are provided to

1 recipients of Medicaid managed care and enrollees in NJ FamilyCare
2 managed care by non-participating hospitals. The provisions of the bill
3 are retroactive to January 1, 1993, the effective date of the "Health
4 Care Reform Act" (N.J.S.A.26:2H-18.51 et al.), which established
5 State policy that hospitals shall not deny admission or appropriate
6 services to a patient on the basis of that patient's ability to pay or
7 source of payment. In order to ensure that the "Health Care Reform
8 Act" goal of cost-efficient access to health care services is furthered,
9 it is necessary to clarify the rates for certain health care services that
10 have been and continue to be deemed reasonable reimbursement.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2618

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2004

The Assembly Health and Human Services Committee reports favorably and with committee amendments Assembly Bill No. 2618.

As amended by the committee, this bill requires that a non-participating hospital (a hospital that is not under contract with a Medicaid or NJ FamilyCare-participating health maintenance organization) that provides emergency health care services to a Medicaid recipient or an enrollee of NJ FamilyCare, who is enrolled in a Medicaid or NJ FamilyCare managed care plan, accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient or enrollee were a participant in fee-for-service Medicaid.

The provisions of this bill are intended to clarify the rates at which emergency services are to be reimbursed when they are provided to recipients of Medicaid managed care and enrollees in NJ FamilyCare managed care by non-participating hospitals.

As reported by the committee, this bill is identical to Senate Bill No. 1532 (1R) (Bryant), which is currently pending before the Senate.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

-- delete the provisions concerning the determination of whether services are medically necessary by the Medicaid and NJ FamilyCare programs (subsection b. of sections 3 and 4); and

-- revise the effective date to delete the provision that would have made the bill retroactive to January 1, 1993, and provide for the bill to take effect immediately.

Other amendments are technical in nature.