SPONSOR: Rep. Longhurst & Rep. Heffernan & Rep. Minor-Brown
& Rep. Michael Smith & Rep. Bush &
Rep. Dorsey Walker & Sen. Poore
Reps. Chukwuocha, Dukes, Harris, Hensley, Lambert,
S. Moore, Morrison, Osienski; Sens. Buckson, Gay,
Hansen, Hoffner, Huxtable, Pettyjohn, Sturgeon

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 5

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO REIMBURSEMENT OF SCHOOL-BASED BEHAVIORAL HEALTH SERVICES.

WHEREAS, the Centers for Medicare and Medicaid Services reimburses the State of Delaware approximately $65 for every $100 billed for allowable services provided to Medicaid-enrolled students; and

WHEREAS, the Delaware Medicaid State Plan currently limits the reimbursement of Medicaid-covered, school based behavioral health services to those provided under an Individualized Educational Program (IEP) or Individualized Family Service Plan (IFSP); and

WHEREAS, in 2014, the Centers for Medicare and Medicaid Services clarified that schools may seek reimbursement for all medically necessary, Medicaid-covered services provided to students enrolled in Medicaid without an IEP or IFSP; and

WHEREAS, expanding reimbursement opportunities for school-based services could assist local education agencies in providing critical access to behavioral health for children and reducing the cost of hiring school-based mental health professionals.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as show by strike through and insertions as shown by underline as follows:

§ 533. Medicaid Reimbursement for School-Based Services.

(a) By January 1, 2025, the Department of Health and Social Services shall apply to the Centers for Medicare and Medicaid Services for a State Plan Amendment that authorizes the State to provide for reimbursement for all medically necessary behavioral health services provided in a school setting to all individuals enrolled in the program or the Delaware

Children's Health Insurance Program, regardless of whether the services are provided under an Individualized Educational Program or Individualized Family Service Plan.

(b) After the State Plan Amendment is approved, eligible services provided in a school setting by any school Medicaid allowable licensed or credentialed mental health provider shall be reimbursable.

(c) The Department of Education may retain up to 5% of federal reimbursements to defray related administrative costs. The remaining federal reimbursement for school-based services shall be disbursed to the local education agencies through which services were provided.

(d) Local education agencies must reinvest the funds reimbursed to support school-based behavioral health programs and services.

(e) Upon obtaining federal approval, the Department of Health and Social Services shall update its regulations and provider manuals to reflect the changes to the program and provide comprehensive and advanced training to local education agencies.

(f) The Department of Health and Social Services shall notify the Chief Clerk of the House and the Secretary of the Senate of the occurrence of the following:

(1) The submission of the State Plan Amendment to the Centers for Medicare and Medicaid Services.

(2) Receipt of approval for the State Plan Amendment.

(3) The submission of a Cost Allocation Plan amendment following the approval of the State Plan Amendment.

(4) Receipt of approval of the Cost Allocation Plan amendment.

SYNOPSIS

The State's Medicaid Plan still limits the reimbursement of Medicaid-covered, school-based behavioral health services to those provided under an Individualized Educational Program (IEP) or Individualized Family Service Plan (IFSP), despite federal policy changes that allow for these services to be provided as a medical necessity without IEP or IFSP documentation. This bill would charge the Department of Health & Social Services to apply to the Centers for Medicare and Medicaid Services for a State Plan Amendment that would allow for reimbursement of medically necessary behavioral health services without IEP or IFSP documentation. Local education agencies must use the reimbursed funds to further invest in school-based behavioral health supports.

This House Substitute differs from the original HB 5 in that the deadline for application for a State Plan Amendment is extended to January 1, 2025. It also allows the Department of Education, the administrator of all reimbursements, to retain up to 5% of federal reimbursement dollars in order to defray administrative costs. Remaining funds shall be reimbursed to the local education agencies providing the services.