

# A STUDY OF NEW JERSEY ASSEMBLY BILL 3856

REQUIRES HEALTH BENEFITS COVERAGE FOR  
ADDITIONAL PROSTHETIC APPLIANCE UNDER  
CERTAIN CIRCUMSTANCES

Report to the New Jersey Assembly

December 13, 2024

Mandated Health Benefits Advisory Commission



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## INTRODUCTION

The Mandated Health Benefits Advisory Commission (MHBAC, the Commission) has been asked to review A3856 (see Appendix I for a copy of the legislation), a bill that requires health insurers (hospital, medical, and health service corporations, commercial individual, small employer, and large group insurers, health maintenance organizations, the State Health Benefits Program (SHBP), and the School Employees' Health Benefits Program (SEHBP)) to provide health benefits coverage for an additional orthotic or prosthetic appliance or device<sup>1</sup> under certain circumstances. The bill does not apply to Medicaid.

Specifically, A3856 would revise a current coverage mandate for orthotic and prosthetic appliances under New Jersey statutory law to require health insurers to cover an additional orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, if the covered person's physician determines that the additional appliance is necessary to enable the covered person to engage in physical and recreational activities, including running, bicycling, swimming, climbing, skiing, snowboarding, and team and individual sports. The bill does not change the provisions in the current law that require orthotic and prosthetic appliances to be covered without utilization management and be reimbursed at the same rate as under the Medicare reimbursement schedule.

The Mandated Health Benefits Advisory Commission Act (N.J.S.A.17B:27D-1 et seq.) tasks the Commission with providing an independent analysis of the social, medical, and financial impact of proposed legislation referred to it for review. The Act does not ask the Commission to recommend whether or not to enact the legislation, and the Commission does not do so here. The MHBAC prepared this report using its own resources, including staff from the New Jersey Department of Banking and Insurance. Commission members contributed their professional expertise -- on a voluntary basis -- in helping to shape the presentation of this report, analyzing published research, and drafting and editing its various sections. The MHBAC has sought to include information from a number of reputable sources that it found credible but recognizes that opinions and analyses may differ.

The bill that is the subject of this review amends previously enacted legislation, [P.L. 2007, c.345](#), which initially established a coverage mandate for orthotics and prosthetics. This Commission issued two reports related to these mandates. The first [report](#) was issued on March 18, 2005. The second [report](#) was issued on April 6, 2006.

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<sup>1</sup> Orthotics and prosthetics are related but different types of devices, both of which can assist with mobility issues. Orthotic devices are devices designed to help individuals with problems or deficiencies in using their limbs or other body parts. Examples of orthotics include spine, wrist, knee, and ankle braces, as well as other braces and supports. Prosthetic devices are artificial replacements for a missing body part, such as an artificial limb.

## **SOCIAL IMPACT**

The Amputee Coalition reports that there are nearly 4 million Americans living with limb loss or limb difference<sup>i</sup> and roughly 185,000 amputations are performed in the U.S. each year.<sup>ii</sup> African Americans are up to four times more likely to experience amputation than White Americans. Among diabetics who have had a lower extremity amputation, approximately 55% will require amputation of the other leg within 3 years.

Most current insurance coverage for orthotic and prosthetic devices is for limited applications, such as walking-specific mobility. Recreational orthotic and prosthetic devices -- orthotic and prosthetic appliances specifically designed for activities such as running, swimming, and biking - - are not typically covered.<sup>iii</sup> As a recent study stated, “Recreating with walking-specific devices...has been shown to fail under the strain of recreation and to cause long term physical and behavioral negative side effects.”<sup>iv</sup> Another source reported on a study that found that people with disabilities who are physically active are more likely to be employed and advance in their careers, and have better physical and mental health than those who are inactive.<sup>v</sup>

## **MEDICAL EVIDENCE**

The Centers for Disease Control and Prevention (CDC) found that U.S. adults with disabilities were three times more likely to have heart disease, stroke, diabetes, and cancer than adults without disabilities. The CDC reported that, while physical activity could help reduce the impact of these chronic diseases, nearly half of all adults with disabilities engage in no leisure time aerobic physical activity.<sup>vi</sup> Among all those with disabilities, adults with mobility limitations were the least likely to engage in any aerobic activity, with nearly 60% not getting any aerobic activity.<sup>vii</sup> The CDC also found that children and adults with mobility limitations were at greater risk for obesity.<sup>viii</sup> The challenges to those with a disability being more physically active included pain and a lack of accessible environments where they could enjoy recreation and exercise. The lack of affordable access to recreational orthotic and prosthetic devices is another. The CDC also found that adults with disabilities were 82% more likely to be physically active if their doctor recommended it.<sup>ix</sup>

## **OTHER STATES**

The U.S. Veterans Administration and the U.S. Department of Defense provide access to orthotic and prosthetic devices designed for physical activity to active-duty military members and retired veterans.<sup>x</sup> In 2022, Maine became the first state to enact legislation mandating insurance coverage for recreational orthotic and prosthetic devices for children aged 18 and younger. That success resulted in advocacy groups coming together to work to expand insurance coverage for

these devices for children and young adults on a state-by-state basis. This policy and advocacy initiative, called So Kids Can Move, seeks to bring greater attention to its position that access to these recreational orthotic and prosthetic devices is an essential component of “medically necessary healthcare for children and young adults,”<sup>xi</sup> rather than an unnecessary use of resources. The So Kids Can Move initiative is a collaboration of the Amputee Coalition, a support group for people who have experienced amputation, along with a number of orthotic and prosthetic provider groups, including the American Orthotic and Prosthetic Association (AOPA), the National Association for the Advancement of Orthotics and Prosthetics (NAAOP), and the American Academy of Orthotists and Prosthetists (AAOP).

Eight states, including Maine, have enacted laws expanding insurance coverage for recreational prosthetic appliances and devices or for both orthotic and prosthetic appliances and devices. Information on these eight states is presented in Table 1.

Table 1. States with Laws Mandating Insurance Coverage for Recreational Orthotic and Prosthetic Appliances and Devices

<b>States with Enacted Laws</b>			
State	Bill Number	Specifics	Status
Arkansas	<a href="#">HB 1252</a>	Applies to prosthetics only; coverage regardless of age for amputees with K-3 and K-4 activity levels*; specifically allows for prior authorization and medical necessity reviews; sets a minimum rate of 80% of Medicare; covers replacements and repairs, subject to certain restrictions.	Enacted 4/13/23
Colorado	<a href="#">HB 1136</a>	Applies to prosthetics only; coverage regardless of age and without utilization management; coverage applies to the large group market; coverage for the individual and small employer market is contingent on a finding that there is no state defrayment required.	Enacted 5/25/23
Illinois	<a href="#">SB 2195</a>	Applies to both orthotics and prosthetics; coverage regardless of age; specifically allows for prior authorization; coverage requirement includes repairs and replacements.	Enacted 8/7/23
Maine	<a href="#">LD 1003</a>	Applies to prosthetics only; coverage for children 18 years of age and younger.	Enacted 5/7/22
Maryland	HB 865	Applies to prosthetics only; coverage by insurers, health service plans, HMOs, and the Maryland Medical Assistance Program for replacement once annually for prostheses, repairs to prostheses, or prostheses deemed medically necessary for performing physical activities.	Enacted 5/16/24
Minnesota	<a href="#">HF 3339/</a> <a href="#">SF 3351</a>	Applies to both orthotics and prosthetics; coverage regardless of age; requires coverage for repair and replacement; coverage restrictions only allowed if they are otherwise generally applicable to covered benefits under the plan; authorizes	Enacted 5/24/24

		utilization review using “the most recent version of treatment and fit criteria as recognized by relevant clinical specialists.”	
New Hampshire	<a href="#">SB 177</a>	Applies to prosthetics only; coverage for children 18 years of age and younger in large group plans; requires coverage for repairs and replacements; allows an insurer to limit coverage for activity-specific prosthetic devices to one activity-specific prosthetic device per plan year; does not apply to plans available through the Small Business Health Options Program (SHOP).	Enacted 7/3/24
New Mexico	<a href="#">HB 131</a>	Applies to both orthotics and prosthetics; coverage regardless of age; requires coverage and rates to be at least as generous as Medicare; coverage requirement includes repairs and replacements; requires carriers to use “the most recent version of treatment and fit criteria as recognized by relevant clinical specialists or their organizations” when performing utilization review; prohibits use of spending limits or lifetime restrictions.	Enacted 4/7/23

Sources: Whitney Doyle and Ryan Geddie, “So Every Body Can Move,” Presentation of the Amputee Coalition. Accessed 12/12/23. [So\\_Every\\_BODY\\_Can\\_Move\\_Presentation.pdf \(april-rural.org\)](#)

Amputee Coalition, “Amputee Coalition State Advocacy Initiatives,” 2024. Accessed 9/3/24. [State Advocacy - Amputee Coalition \(amputee-coalition.org\)](#)

\* “Do You Know Your K-Level?,” inMotion Volume 23(5), September/October 2013. Accessed 12/13/23. [do-you-know-your-k-level.pdf \(amputee-coalition.org\)](#)

In the eight states that have enacted legislation requiring health benefits coverage for recreational prosthetics or for both recreational orthotics and prosthetics, support has been strongly bipartisan, with few votes cast against the legislation.<sup>xii</sup> The APOA's stated goal is to enact recreational orthotic and prosthetic legislation in 28 states ahead of the 2028 Los Angeles Paralympics,<sup>xiii</sup> creating the opportunity for advocates to move from a state-by-state insurance mandate strategy to promote federal legislation on recreational orthotic and prosthetic appliances and devices.<sup>xiv</sup>

In 2023, legislation mandating expanded insurance coverage for recreational orthotic and prosthetic appliances and devices was introduced in two other states. Indiana's bill, [HB 1433](#), would have required coverage for children 18 years of age and younger under Medicaid. The bill passed in the Indiana House but failed to progress in committee in the Senate; it has been reintroduced in the current legislative session as HB 1428. A bill introduced in Massachusetts, [H.4096](#), would mandate coverage regardless of age in the commercial markets, the state public employee plan and Medicaid, including coverage for repairs and replacements of recreational orthotic and prosthetic appliances and devices. The bill is still pending before the Massachusetts legislature.

## **DISCUSSION**

Engaging in appropriate levels of physical activity can lead to better overall health and mental health outcomes for those who use orthotic and prosthetic devices.<sup>xv</sup> Engaging in physical activity using an inappropriately designed orthotic or prosthetic, however, "can lead to secondary musculoskeletal conditions like osteoarthritis...from overuse, as well as knee, hip, and back pain, skin sores and discomfort...and faster breakdown and less reliability of the standard prosthesis."<sup>xvi</sup> According to the "So Everybody Can Move" coalition, damaging or breaking a daily orthotic or prosthetic device not designed for recreation or sport can lead to higher expenses for insurance providers.<sup>xvii</sup> A number of the states that have passed or are considering legislation to expand insurance mandates for recreational orthotic and prosthetic devices have conducted analyses of the cost of doing so. Those cost estimates are considered in the next section.

## **FINANCIAL IMPACT**

Maine was the first state to adopt legislation mandating insurance coverage for recreational orthotic and prosthetic devices, with coverage limited to children aged 18 years and younger. The estimated impact on the net cost of commercial insurance in Maine was \$0.01 to \$0.08 per member per month (PMPM), or 0.00% to 0.02% of premium, assuming insurers bear the full cost of the benefit with no cost sharing.<sup>xviii</sup> The Maine analysis estimated that the total cost to



the state, with 62,250 members enrolled in individual qualified health plans, was \$9,000 to \$89,000.<sup>xix</sup>

The Fiscal Impact Statement on Arkansas' law requiring insurance coverage for recreational orthotic and prosthetic devices reported, "[T]he additional cost of covering prosthetic devices for athletics and recreation and prosthetic devices for showering or bathing is immaterial."<sup>xx</sup> The Fiscal Impact Report for New Mexico's orthotic and prosthetic device insurance mandate estimated that the law's annual cost to the state would be approximately \$250,000.<sup>xxi</sup>

A multi-state analysis of the fiscal impact of expanding commercial insurance coverage to include recreational orthotic and prosthetic devices for all ages estimated that the cost increases to premiums for the Colorado bill ranged from \$0.01 to \$0.08 per member per month (PMPM), while the Illinois law was estimated to add between \$0.01 and \$0.37 PMPM to commercial insurance premiums.<sup>xxii</sup> Another source estimated that the Colorado insurance mandate would cost the state between \$73,308 and \$724,924 annually.<sup>xxiii</sup>

The New Hampshire Insurance Department produced a Fiscal Note on its version of legislation establishing a recreational prosthetics coverage mandate. The Fiscal Note, which examined the provisions of the bill both as introduced and as enacted (with amendments limiting the mandate to one activity-specific device per plan year), estimated an "Indeterminable Increase" in state costs through FY 2027 for both versions of the bill. The analysis of the bill as introduced estimated a cost range of \$0.07 to \$0.21 PMPM; as for the enacted bill, the Fiscal Note found that "the Department believes these changes to the bill as amended are significant enough to drive the estimated cost...towards the lower end of the PMPM range."<sup>xxiv</sup>

Maryland's Department of Legislative Services (DLS) generated a Fiscal and Policy Note on its version of legislation establishing a recreational prosthetics coverage mandate. The analysis found that the impact of expanded insurance coverage on small businesses was "potential[ly] meaningful," while the bill "would have a negligible impact" on the State Employee and Retiree Health and Welfare Benefits Program because the program already covers these prostheses.<sup>xxv</sup> DLS estimated that overall Medicaid spending would increase from \$1.7 million in FY 2025 to \$3.8 million in FY 2029 as a result of the prosthetics bill, with the state General Fund and federal funding splitting the costs equally (*i.e.*, in FY 2029 Maryland's General Fund will spend an estimated \$1.9 million and federal funding will also provide \$1.9 million for state Medicaid expenditures for the expanded prosthetics coverage).<sup>xxvi</sup>

Minnesota's Health Finance and Policy Committee issued a Consolidated Fiscal Note on its orthotic and prosthetic devices bill. The analysis found that state government costs resulting from the bill would increase by \$1.05 million in FY 2025, roughly \$3.23 million in FY 2026, and approximately \$3.29 million in FY 2027. The bulk of this increased spending would come from Minnesota's General Fund, with the balance provided by the state's Health Care Access Fund.<sup>xxvii</sup>

The New Jersey Office of Legislative Services (OLS) issued a Fiscal Estimate on S1439, the Senate companion bill to A3856. OLS estimated that requiring health benefits coverage for an additional orthotic or prosthetic appliance will result in a total annual spending increase of \$461,000 to \$577,000 in State and local government expenditures for the State Health Benefits Program and the School Employees' Health Benefits Program. These spending increases would represent a roughly 0.01% increase in costs for medical claims, based on Plan Year 2024 levels. The Fiscal Estimate is limited to assessing the impact of the bill on the public employee plans and does not attempt to address the cost impact to commercial markets.<sup>xxviii</sup>

Lastly, the Commission previously prepared reports on the legislation that was ultimately adopted establishing the current coverage mandate for prosthetic and orthotic devices, P.L. 2007, c.345. The Commission reports noted that the coverage mandate was projected to result in an average premium increase of 0.025%, or 25 cents per \$1,000 of premium.<sup>xxix</sup>

A number of states have suggested that this mandated benefit may trigger the ACA's defrayment provision. The federal Patient Protection and Affordable Care Act requires states to defray the cost of any health insurance benefit mandate enacted after December 31, 2011, that is part of an insurance plan sold on a state exchange that is in addition to the state's essential health benefits (EHBs) and related to specific care, treatment, or services. (([P.L. 111-148 § 1311\(d\)\(3\)](#) & [45 CFR 155.170](#)). Federal law requires (1) the state to identify benefit mandates that are in addition to the state's EHB, and (2) insurers to report the cost of those benefits back to the state (i.e., excess cost reports). The state must then defray the cost of the additional mandates by making the appropriate payment directly to an enrollee or to the insurer on the enrollee's behalf ([45 CFR 155.170](#)). A [2017 federal final](#) rule (§ 19) changed the entity responsible for identifying mandates and receiving excess cost reports from the state's exchange to the state. Defrayment does not apply to the large group market. For more information on State-required benefits, please refer to this CMS [FAQ on Defrayal of State Additional Required Benefits](#).

As part of the recently adopted HHS Notice of Benefit and Payment Parameters for 2025 Final Rule, for plan years beginning on or after January 1, 2027, CMS revised the standards for state selection of EHB-benchmark plans to address long-standing requests from states to improve, and reduce the burden of, the EHB-benchmark plan update process.<sup>xxx</sup> The process of updating the state's EHB-benchmark plan creates a pathway to adding benefits to the benchmark plan that may not trigger defrayal provided certain parameters are met. Thus, although this is a state-by-state analysis and no such analysis has been performed for New Jersey, coverage for recreational orthotics and prosthetics may trigger the federal defrayment requirements. However, it may be noted that, depending on the specific provisions in each state's laws, it will not always be possible to do a one-to-one comparison of projected costs between states.

## CONCLUSION

The Amputee Coalition and the So Every Body Can Move advocacy group have asserted, “Movement is medicine and physical activity is a right, not a privilege.”<sup>xxxix</sup> These organizations frame the issue of mandated insurance coverage for recreational orthotic and prosthetic devices as one of equitable access to medically necessary healthcare, so that people with disabilities can run, bike, swim, ski, kayak, and enjoy other activities and sports. They point out that people with limb loss and limb difference who are more physically active have better mental health and overall health; they are also more likely to be employed.

The estimated fiscal impacts to states and effects on insurance premium costs in the eight states that have enacted recreational prosthetic or orthotic and prosthetic device coverage mandates were generally not found to be prohibitive, although the projected financial impacts in Maryland and Minnesota were notably higher than those projected in other states, including New Jersey. However, it should be noted that each state’s law has different attributes that may impact the ultimate cost. A review of the Maine bill on recreational prosthetic devices reported, “One potential savings of a recreational prosthetic is that since they are more durable and made for high activity, there will be less breakage and therefore minimized costs for repair and maintenance.”<sup>xxxii</sup> This was cited as a potential benefit to insurers and employers.

Finally, mandating insurance coverage for recreational orthotic and prosthetic devices appears to generally have had broad support in other states. All eight of the enacted recreational prosthetic or orthotic and prosthetic coverage mandate laws have passed unanimously or with very broad bipartisan support.

## ENDNOTES

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<sup>i</sup> Doyle, Whitney and Geddie, Ryan, “So Every Body Can Move,” The Amputee Coalition Presentation. Accessed 12/12/23. [So Every BODY Can Move Presentation.pdf \(april-rural.org\)](#)

<sup>ii</sup> The Amputee Coalition, “Limb Loss Statistics.” Accessed 12/18/23. [Limb Loss Statistics - Amputee Coalition \(amputee-coalition.org\)](#)

<sup>iii</sup> Kehoe, Shaneis, Cain, Jeffrey, Montgomery, Angela, and Mitsou, Lindi, “A Multi-State Analysis of the Fiscal and Social Impact of Commercial Insurance Coverage for Recreational Prostheses in the United States,” Medical Research Archives, European Society of Medicine Volume 11(5), May 31, 2023. Accessed 12/7/23. [View of A Multi-State Analysis of the Fiscal and Social Impact of Commercial Insurance Coverage for Recreational Prostheses in the United States \(esmed.org\)](#)

<sup>iv</sup> *Ibid.*

<sup>v</sup> So Coloradans Can Move, “HB-1136.” Accessed 12/12/23. [So Coloradans Can Move Fact Sheet \(aopanet.org\)](#)

<sup>vi</sup> Centers for Disease Control and Prevention (CDC), Disability and Health Promotion, “Increasing Physical Activity Among Adults with Disabilities.” Accessed 12/13/23. [Increasing Physical Activity among Adults with Disabilities | CDC](#)

<sup>vii</sup> CDC Vital Signs, “Adults with Disabilities: Physical Activity Is for Everybody,” May 2014. Accessed 12/13/23. <https://www.cdc.gov/vitalsigns/pdf/2014-05-vitalsigns.pdf>

<sup>viii</sup> Centers for Disease Control and Prevention (CDC), Disability and Health Promotion, “Disability and Obesity.” Accessed 12/13/23. [Disability and Obesity | CDC](#)

<sup>ix</sup> CDC Vital Signs, *op. cit.*

<sup>x</sup> So Kids Can Move, “Frequently Asked Questions (FAQs),” December 2022. Accessed 12/7/23. [Frequently-Asked-Questions-FAQs So-Kids-Can-Move Dec2022.pdf \(aopanet.org\)](#)

<sup>xi</sup> *Ibid.*

<sup>xii</sup> Borowsky, Larry, “Power to the People: Amputee Advocates Win Big in 2023,” Amplitude, April 30, 2023. Accessed 12/7/23. [Amputees Score Big Statehouse Wins on Prosthetic Insurance \(livingwithamplitude.com\)](#)

<sup>xiii</sup> American Orthotic and Prosthetic Association, “So Every Body Can Move.” Accessed 12/7/23. [So Every BODY Can Move | AOPA – AMERICAN ORTHOTIC & PROSTHETIC ASSOCIATION \(aopanet.org\)](#)

<sup>xiv</sup> Hines, Kevin L. and McClellan, Mac, “Academy Society Spotlight: Legislation and Reimbursement in O&P: Are Things Looking Up?” The O&P Edge, December 1, 2023. Accessed 12/13/23. [Academy Society Spotlight: Legislation and Reimbursement in O&P: Are Things Looking Up? - The O&P EDGE Magazine \(opedge.com\)](#)

<sup>xv</sup> Kehoe, *et al.*, *op. cit.*

<sup>xvi</sup> So Kids Can Move, *op. cit.*

<sup>xvii</sup> *Ibid.*

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<sup>xviii</sup> Maine Bureau of Insurance, Department of Professional & Financial Regulation, “A Report to the Joint Standing Committee on Health Coverage, Insurance and Financial Services of the 130<sup>th</sup> Maine Legislature, Review and Evaluation of LD 1003, An Act to Improve Outcomes for Persons with Limb Loss,” February 2022. Accessed 12/7/23. [LD1003-Maine-Mandated-Benefit-Athletic-Prosthetic-Report.pdf](#)

<sup>xix</sup> *Ibid.*

<sup>xx</sup> Segal, “Purpose of Bill HB1252,” March 10, 2023. Accessed 12/18/23. [Microsoft Word - HB1252 \(state.ar.us\)](#)

<sup>xxi</sup> New Mexico Legislative Finance Committee, “Fiscal Impact Report: Prosthetic and Custom Orthotic Device Coverage, HFIS/House Bill 131,” March 8, 2023. Accessed 12/8/23. [Microsoft Word - HB0131.doc \(nmlegis.gov\)](#)

<sup>xxii</sup> Kehoe, *et al.*, *op. cit.*

<sup>xxiii</sup> So Coloradans Can Move, *op. cit.*

<sup>xxiv</sup> LegiScan, Bill Text: NH Senate Bill 177, “SB 177-FN-Fiscal Note.” Accessed 9/4/24. [Bill Text: NH SB177 | 2024 | Regular Session | Enrolled | LegiScan](#)

<sup>xxv</sup> Department of Legislative Services (Maryland), “Fiscal and Policy Note, Third Reader – Revised, House Bill 865,” April 6, 2024. Accessed 9/4/24. [2024 Regular Session - Fiscal and Policy Note for House Bill 865 \(maryland.gov\)](#)

<sup>xxvi</sup> *Ibid.*

<sup>xxvii</sup> Health Finance and Policy Committee (Minnesota), “Consolidated Fiscal Note, HF3339-3A: Coverage for Orthotic and Prosthetic Devices,” April 10, 2024. Accessed 9/4/24. [Fiscal Notes](#) (HF3339\_3A.pdf)

<sup>xxviii</sup> Office of Legislative Services, Legislative Budget and Finance Office, “Legislative Fiscal Estimate, Senate, No. 1439, State of New Jersey, 221<sup>st</sup> Legislature,” June 28, 2024. Accessed 9/4/24. [1439\\_E1.PDF \(state.nj.us\)](#)

<sup>xxix</sup> *Ibid.*

<sup>xxx</sup> Federal Register, “Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program,” November 24, 2023. Accessed 12/7/23. [Federal Register :: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan \(CO-OP\) Program; and Basic Health Program](#)

<sup>xxxi</sup> Doyle and Geddie, *op. cit.*

<sup>xxxii</sup> Maine Bureau of Insurance, *op. cit.*

**ASSEMBLY, No. 3856**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED FEBRUARY 22, 2024

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman WILLIAM B. SAMPSON, IV**

**District 31 (Hudson)**

**Assemblyman ANTWAN L. MCCLELLAN**

**District 1 (Atlantic, Cape May and Cumberland)**

**Co-Sponsored by:**

**Assemblywoman McCann Stamato, Assemblyman Atkins,**

**Assemblywomen Ramirez, Drulis, Assemblymen Simonsen and Bergen**

**SYNOPSIS**

Requires health benefits coverage for additional prosthetic appliance under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/26/2024)**

1 AN ACT concerning health benefits coverage and prosthetic  
2 appliances and amending P.L.2007, c.345.

3

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

6

7 1. Section 1 of P.L.2007, c.345 (C.17:48-6ff) is amended to  
8 read as follows:

9 1. a. Every hospital service corporation contract that provides  
10 hospital or medical expense benefits and is delivered, issued,  
11 executed or renewed in this State pursuant to P.L.1938, c.366  
12 (C.17:48-1 et seq.), or approved for issuance or renewal in this State  
13 by the Commissioner of Banking and Insurance on or after the  
14 effective date of this act, shall provide benefits to any person  
15 covered thereunder for expenses incurred in obtaining:

16 (1) an orthotic or prosthetic appliance from any licensed  
17 orthotist or prosthetist, or any certified pedorthist, as determined  
18 medically necessary by the covered person's physician; and

19 (2) an additional orthotic or prosthetic appliance from any  
20 licensed orthotist or prosthetist, or any certified pedorthist, if the  
21 covered person's physician determines that the additional appliance  
22 is necessary to enable the covered person to engage in physical and  
23 recreational activities, including running, bicycling, swimming,  
24 climbing, skiing, snowboarding, and team and individual sports.

25 As used in this section, "orthotic appliance," "prosthetic  
26 appliance," "licensed orthotist" and "licensed prosthetist" have the  
27 meaning assigned to them in section 3 of P.L.1991, c.512  
28 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
29 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

30 b. On and after the effective date of this act, a hospital service  
31 corporation contract shall reimburse for orthotic and prosthetic  
32 appliances at the same rate as reimbursement for such appliances  
33 under the federal Medicare reimbursement schedule.

34 c. The benefits shall be provided to the same extent as for any  
35 other medical condition under the contract.

36 d. The provisions of this section shall apply to all hospital  
37 service corporation contracts in which the hospital service  
38 corporation has reserved the right to change the premium.

39 (cf: P.L.2007, c.345, s.1)

40

41 2. Section 2 of P.L.2007, c.345 (C.17:48A-7cc) is amended to  
42 read as follows:

43 2. a. Every medical service corporation contract that provides  
44 hospital or medical expense benefits and is delivered, issued,  
45 executed or renewed in this State pursuant to P.L.1940, c.74

**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 (C.17:48A-1 et seq.), or approved for issuance or renewal in this  
2 State by the Commissioner of Banking and Insurance on or after the  
3 effective date of this act, shall provide benefits to any person  
4 covered thereunder for expenses incurred in obtaining:

5 (1) an orthotic or prosthetic appliance from any licensed  
6 orthotist or prosthetist, or any certified pedorthist, as determined  
7 medically necessary by the covered person's physician; and

8 (2) an additional orthotic or prosthetic appliance from any  
9 licensed orthotist or prosthetist, or any certified pedorthist, if the  
10 covered person's physician determines that the additional appliance  
11 is necessary to enable the covered person to engage in physical and  
12 recreational activities, including running, bicycling, swimming,  
13 climbing, skiing, snowboarding, and team and individual sports.

14 As used in this section, "orthotic appliance," "prosthetic  
15 appliance," "licensed orthotist" and "licensed prosthetist" have the  
16 meaning assigned to them in section 3 of P.L.1991, c.512  
17 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
18 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

19 b. On and after the effective date of this act, a medical service  
20 corporation contract shall reimburse for orthotic and prosthetic  
21 appliances at the same rate as reimbursement for such appliances  
22 under the federal Medicare reimbursement schedule.

23 c. The benefits shall be provided to the same extent as for any  
24 other medical condition under the contract.

25 d. The provisions of this section shall apply to all medical  
26 service corporation contracts in which the medical service  
27 corporation has reserved the right to change the premium.

28 (cf: P.L.2007, c.345, s.2)

29  
30 3. Section 3 of P.L.2007, c.345 (C.17:48E-35.30) is amended  
31 to read as follows:

32 3. a. Every health service corporation contract that provides  
33 hospital or medical expense benefits and is delivered, issued,  
34 executed or renewed in this State pursuant to P.L.1985, c.236  
35 (C.17:48E-1 et seq.), or approved for issuance or renewal in this  
36 State by the Commissioner of Banking and Insurance on or after the  
37 effective date of this act, shall provide benefits to any person  
38 covered thereunder for expenses incurred in obtaining:

39 (1) an orthotic or prosthetic appliance from any licensed  
40 orthotist or prosthetist, or any certified pedorthist, as determined  
41 medically necessary by the covered person's physician; and

42 (2) an additional orthotic or prosthetic appliance from any  
43 licensed orthotist or prosthetist, or any certified pedorthist, if the  
44 covered person's physician determines that the additional appliance  
45 is necessary to enable the covered person to engage in physical and  
46 recreational activities, including running, bicycling, swimming,  
47 climbing, skiing, snowboarding, and team and individual sports.



1 As used in this section, "orthotic appliance," "prosthetic  
2 appliance," "licensed orthotist" and "licensed prosthetist" have the  
3 meaning assigned to them in section 3 of P.L.1991, c.512  
4 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
5 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

6 b. On and after the effective date of this act, a health service  
7 corporation contract shall reimburse for orthotic and prosthetic  
8 appliances at the same rate as reimbursement for such appliances  
9 under the federal Medicare reimbursement schedule.

10 c. The benefits shall be provided to the same extent as for any  
11 other medical condition under the contract.

12 d. The provisions of this section shall apply to all health  
13 service corporation contracts in which the health service  
14 corporation has reserved the right to change the premium.  
15 (cf: P.L.2007, c.345, s.3)

16  
17 4. Section 4 of P.L.2007, c.345 (C.17B:26-2.1z) is amended to  
18 read as follows:

19 4. a. Every individual health insurance policy that provides  
20 hospital or medical expense benefits and is delivered, issued,  
21 executed or renewed in this State pursuant to N.J.S.17B:26-1 et  
22 seq., or approved for issuance or renewal in this State by the  
23 Commissioner of Banking and Insurance on or after the effective  
24 date of this act, shall provide benefits to any person covered  
25 thereunder for expenses incurred in obtaining:

26 (1) an orthotic or prosthetic appliance from any licensed  
27 orthotist or prosthetist, or any certified pedorthist, as determined  
28 medically necessary by the covered person's physician; and

29 (2) an additional orthotic or prosthetic appliance from any  
30 licensed orthotist or prosthetist, or any certified pedorthist, if the  
31 covered person's physician determines that the additional appliance  
32 is necessary to enable the covered person to engage in physical and  
33 recreational activities, including running, bicycling, swimming,  
34 climbing, skiing, snowboarding, and team and individual sports.

35 As used in this section, "orthotic appliance," "prosthetic  
36 appliance," "licensed orthotist" and "licensed prosthetist" have the  
37 meaning assigned to them in section 3 of P.L.1991, c.512  
38 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
39 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

40 b. On and after the effective date of this act, an individual  
41 health insurance policy shall reimburse for orthotic and prosthetic  
42 appliances at the same rate as reimbursement for such appliances  
43 under the federal Medicare reimbursement schedule.

44 c. The benefits shall be provided to the same extent as for any  
45 other medical condition under the policy.

46 d. The provisions of this section shall apply to all individual

1 health insurance policies in which the insurer has reserved the right  
2 to change the premium.

3 (cf: P.L.2007, c.345, s.4)

4

5 5. Section 5 of P.L.2007, c.345 (C.17B:27-46.1ff) is amended  
6 to read as follows:

7 5. a. Every group health insurance policy that provides  
8 hospital or medical expense benefits and is delivered, issued,  
9 executed or renewed in this State pursuant to N.J.S.17B:27-26 et  
10 seq., or approved for issuance or renewal in this State by the  
11 Commissioner of Banking and Insurance on or after the effective  
12 date of this act, shall provide benefits to any person covered  
13 thereunder for expenses incurred in obtaining:

14 (1) an orthotic or prosthetic appliance from any licensed  
15 orthotist or prosthetist, or any certified pedorthist, as determined  
16 medically necessary by the covered person's physician; and

17 (2) an additional orthotic or prosthetic appliance from any  
18 licensed orthotist or prosthetist, or any certified pedorthist, if the  
19 covered person's physician determines that the additional appliance  
20 is necessary to enable the covered person to engage in physical and  
21 recreational activities, including running, bicycling, swimming,  
22 climbing, skiing, snowboarding, and team and individual sports.

23 As used in this section, "orthotic appliance," "prosthetic  
24 appliance," "licensed orthotist" and "licensed prosthetist" have the  
25 meaning assigned to them in section 3 of P.L.1991, c.512  
26 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
27 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

28 b. On and after the effective date of this act, a group health  
29 insurance policy shall reimburse for orthotic and prosthetic  
30 appliances at the same rate as reimbursement for such appliances  
31 under the federal Medicare reimbursement schedule.

32 c. The benefits shall be provided to the same extent as for any  
33 other medical condition under the policy.

34 d. The provisions of this section shall apply to all group health  
35 insurance policies in which the insurer has reserved the right to  
36 change the premium.

37 (cf: P.L.2007, c.345, s.5)

38

39 6. Section 6 of P.L.2007, c.345 (C.17B:27A-7.13) is amended  
40 to read as follows:

41 6. a. Every individual health benefits plan that provides  
42 hospital or medical expense benefits and is delivered, issued,  
43 executed or renewed in this State pursuant to P.L.1992, c.161  
44 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this  
45 State by the Commissioner of Banking and Insurance on or after the  
46 effective date of this act, shall provide benefits to any person  
47 covered thereunder for expenses incurred in obtaining:

1       (1) an orthotic or prosthetic appliance from any licensed  
2 orthotist or prosthetist, or any certified pedorthist, as determined  
3 medically necessary by the covered person's physician; and

4       (2) an additional orthotic or prosthetic appliance from any  
5 licensed orthotist or prosthetist, or any certified pedorthist, if the  
6 covered person's physician determines that the additional appliance  
7 is necessary to enable the covered person to engage in physical and  
8 recreational activities, including running, bicycling, swimming,  
9 climbing, skiing, snowboarding, and team and individual sports.

10       As used in this section, "orthotic appliance," "prosthetic  
11 appliance," "licensed orthotist" and "licensed prosthetist" have the  
12 meaning assigned to them in section 3 of P.L.1991, c.512  
13 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
14 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

15       b. On and after the effective date of this act, an individual  
16 health benefits plan shall reimburse for orthotic and prosthetic  
17 appliances at the same rate as reimbursement for such appliances  
18 under the federal Medicare reimbursement schedule.

19       c. The benefits shall be provided to the same extent as for any  
20 other medical condition under the health benefits plan.

21       d. The provisions of this section shall apply to all individual  
22 health benefits plans in which the carrier has reserved the right to  
23 change the premium.

24 (cf: P.L.2007, c.345, s.6)

25  
26       7. Section 7 of P.L.2007, c.345 (C.17B:27A-19.17) is amended  
27 to read as follows:

28       7. a. Every small employer health benefits plan that provides  
29 hospital or medical expense benefits and is delivered, issued,  
30 executed or renewed in this State pursuant to P.L.1992, c.162  
31 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this  
32 State by the Commissioner of Banking and Insurance on or after the  
33 effective date of this act, shall provide benefits to any person  
34 covered thereunder for expenses incurred in obtaining:

35       (1) an orthotic or prosthetic appliance from any licensed  
36 orthotist or prosthetist, or any certified pedorthist, as determined  
37 medically necessary by the covered person's physician; and

38       (2) an additional orthotic or prosthetic appliance from any  
39 licensed orthotist or prosthetist, or any certified pedorthist, if the  
40 covered person's physician determines that the additional appliance  
41 is necessary to enable the covered person to engage in physical and  
42 recreational activities, including running, bicycling, swimming,  
43 climbing, skiing, snowboarding, and team and individual sports.

44       As used in this section, "orthotic appliance," "prosthetic  
45 appliance," "licensed orthotist" and "licensed prosthetist" have the  
46 meaning assigned to them in section 3 of P.L.1991, c.512  
47 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
48 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

1       b. On and after the effective date of this act, a small employer  
2 health benefits plan shall reimburse for orthotic and prosthetic  
3 appliances at the same rate as reimbursement for such appliances  
4 under the federal Medicare reimbursement schedule.

5       c. The benefits shall be provided to the same extent as for any  
6 other medical condition under the health benefits plan.

7       d. The provisions of this section shall apply to all small  
8 employer health benefits plans in which the carrier has reserved the  
9 right to change the premium.

10 (cf: P.L.2007, c.345, s.7)

11

12       8. Section 8 of P.L.2007, c.345 (C.26:2J-4.31) is amended to  
13 read as follows:

14       8. a. A certificate of authority to establish and operate a health  
15 maintenance organization in this State pursuant to P.L.1973, c.337  
16 (C.26:2J-1 et seq.) shall not be issued or continued by the  
17 Commissioner of Health and Senior Services on or after the  
18 effective date of this act unless the health maintenance organization  
19 provides health care services for any person covered thereunder for  
20 expenses incurred in obtaining:

21       (1) an orthotic or prosthetic appliance from any licensed  
22 orthotist or prosthetist, or any certified pedorthist, as determined  
23 medically necessary by the covered person's physician; and

24       (2) an additional orthotic or prosthetic appliance from any  
25 licensed orthotist or prosthetist, or any certified pedorthist, if the  
26 covered person's physician determines that the additional appliance  
27 is necessary to enable the covered person to engage in physical and  
28 recreational activities, including running, bicycling, swimming,  
29 climbing, skiing, snowboarding, and team and individual sports.

30       As used in this section, "orthotic appliance," "prosthetic  
31 appliance," "licensed orthotist" and "licensed prosthetist" have the  
32 meaning assigned to them in section 3 of P.L.1991, c.512  
33 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
34 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

35       b. On and after the effective date of this act, a health  
36 maintenance organization shall reimburse for orthotic and prosthetic  
37 appliances at the same rate as reimbursement for such appliances  
38 under the federal Medicare reimbursement schedule.

39       c. The benefits shall be provided to the same extent as for any  
40 other medical condition under the enrollee agreement.

41       d. The provisions of this section shall apply to all enrollee  
42 agreements in which the health maintenance organization has  
43 reserved the right to change the schedule of charges.

44 (cf: P.L.2012, c.17, s.276)

45

46       9. Section 9 of P.L.2007, c.345 (C.52:14-17.29m) is amended  
47 to read as follows:

1 9. a. The State Health Benefits Commission shall ensure that  
2 every contract purchased by the commission on or after the  
3 effective date of this act that provides hospital or medical expense  
4 benefits, shall provide benefits to any person covered thereunder for  
5 expenses incurred in obtaining:

6 (1) an orthotic or prosthetic appliance from any licensed  
7 orthotist or prosthetist, or any certified pedorthist, as determined  
8 medically necessary by the covered person's physician; and

9 (2) an additional orthotic or prosthetic appliance from any  
10 licensed orthotist or prosthetist, or any certified pedorthist, if the  
11 covered person's physician determines that the additional appliance  
12 is necessary to enable the covered person to engage in physical and  
13 recreational activities, including running, bicycling, swimming,  
14 climbing, skiing, snowboarding, and team and individual sports.

15 As used in this section, "orthotic appliance," "prosthetic  
16 appliance," "licensed orthotist" and "licensed prosthetist" have the  
17 meaning assigned to them in section 3 of P.L.1991, c.512  
18 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to  
19 it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

20 b. On and after the effective date of this act, a contract  
21 purchased by the commission shall reimburse for orthotic and  
22 prosthetic appliances at the same rate as reimbursement for such  
23 appliances under the federal Medicare reimbursement schedule.

24 c. The benefits shall be provided to the same extent as for any  
25 other medical condition under the contract.

26 (cf: P.L.2007, c.345, s.9)

27  
28 10. This act shall take effect on the 90th day after enactment,  
29 and shall apply to policies or contracts issued or renewed on or after  
30 the effective date.

31  
32  
33 STATEMENT

34  
35 This bill requires health benefits coverage for an additional  
36 prosthetic appliance under certain circumstances.

37 The bill requires health benefits coverage for an additional  
38 orthotic or prosthetic appliance from any licensed orthotist or  
39 prosthetist, or any certified pedorthist, if the covered person's  
40 physician determines that the additional appliance is necessary to  
41 enable the covered person to engage in physical and recreational  
42 activities, including running, bicycling, swimming, climbing,  
43 skiing, snowboarding, and team and individual sports. The  
44 reimbursement for the additional orthotic or prosthetic appliance is  
45 at the same rate as reimbursement for the appliances under the  
46 federal Medicare reimbursement schedule.

47 Current law requires health benefits coverage for expenses  
48 incurred in obtaining an orthotic or prosthetic appliance from any

**A3856 CONAWAY, SAMPSON**

9

1 licensed orthotist or prosthetist, or any certified pedorthist, as  
2 determined medically necessary by the covered person's physician,  
3 but does not require coverage of an additional appliance for  
4 physical or recreational activities.

5 The bill would apply to hospital, medical, and health service  
6 corporations; commercial individual, small employer, and larger  
7 group insurers; health maintenance organizations; and the State  
8 Health Benefits Program and the School Employees' Health  
9 Benefits Program.



NEW JERSEY GENERAL ASSEMBLY

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ROY FREIMAN  
ASSEMBLYMAN  
16TH DISTRICT

COMMITTEES  
CHAIR, FINANCIAL INSTITUTIONS  
AND INSURANCE  
VICE CHAIR, OVERSIGHT, REFORM  
AND FEDERAL RELATIONS  
BUDGET

August 28, 2024

NJ Mandated Health Benefits Advisory Commission  
P.O. Box 325  
Trenton, NJ 08625

Dear Members of the Commission:

As the Chairman of the Assembly Financial Institutions and Insurance Committee, I respectfully request the Commission review and prepare a written report of A-3856 which requires health benefits coverage for additional prosthetic appliances under certain circumstances. If you have any questions, please do not hesitate to contact Mark Iaconelli, Jr., Esq., Deputy General Counsel, at 609-847-3500.

Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Freiman".

CC: Mark Iaconelli, Jr., Esq.  
Deputy General Counsel  
Assembly Majority Office