

[Second Reprint]

ASSEMBLY, No. 4389

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 9, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Requires certain entities authorized to issue health benefits plans to pay annual assessment.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on July 27, 2020, with amendments.



1 AN ACT concerning an assessment on ²certain² entities authorized
2 to issue health benefits plans and supplementing Title 17B of the
3 New Jersey Statutes.

4

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

7

8 1. As used in this act:

9 "Commissioner" means the Commissioner of Banking and
10 Insurance.

11 "Entity subject to this act" or "entity" means ¹[an entity that is
12 subject to section 9010 of the Affordable Care Act and that is
13 subject to an assessment by the State, including ¹] an insurance
14 company, health service corporation, hospital service corporation,
15 medical service corporation, health maintenance organization,
16 ²[dental service corporation,]² or dental plan organization
17 authorized to issue health benefits or dental benefits plans in this
18 State. "Entity" shall include a multiple employer welfare
19 arrangement ²that is initially² registered pursuant to the "Self-
20 Funded Multiple Employer Welfare Arrangement Regulation Act,"
21 P.L.2001, c.352 (C.17B:27C-1 et seq.) ²after the date of enactment
22 of this act. "Entity" shall not include a dental service corporation or
23 a multiple employer welfare arrangement that is registered pursuant
24 to the "Self-Funded Multiple Employer Welfare Arrangement
25 Regulation Act," P.L.2001, c.352 (C.17B:27C-1 et seq.) as of the
26 date of enactment of this act².

27 "Health benefits plan" means a benefits plan which pays or
28 provides hospital and medical expense benefits for covered
29 services, and is delivered or issued for delivery in this State by or
30 through an entity subject to this act, including a vision or dental
31 plan as defined pursuant to section 1 of P.L.2014, c.70 (C.26:2S-
32 26). For the purposes of this act, "health benefits plan" shall not
33 include the following plans, policies or contracts: Medicaid,
34 Medicare, Medicare Advantage, ¹Medicare supplement,¹ accident
35 only, credit, disability, long-term care, TRICARE supplement
36 coverage, coverage arising out of a workers' compensation or
37 similar law, automobile medical payment insurance, personal injury
38 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1
39 et seq.), ²small employer health benefits plans issued pursuant to
40 P.L.1992, c.162 (C.17B:27A-17),² and hospital confinement
41 indemnity coverage.

42 "Net written premiums" means the premiums earned in this State
43 on health benefits plans, less return premiums thereon and
44 dividends paid or credited to policy or contract holders on the

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted July 23, 2020.

²Assembly AAP committee amendments adopted July 27, 2020.

1 health benefits plan business. Net earned premium shall include the
2 aggregate premiums earned on the entity's insured group and
3 individual business, excluding premiums from any Medicaid or NJ
4 FamilyCare contracts.

5

6 2. a. An entity subject to this act shall annually file with the
7 commissioner its net written premiums for the preceding year, no
8 later than April 1 of each year.

9 b. The commissioner shall calculate and issue to the entity a
10 certified assessment, which shall be ²~~2.75%~~ 2.5%² of the entity's
11 net written premiums. ¹~~The commissioner shall calculate the~~
12 assessment without regard to:

13 (1) the threshold limits established in section 9010(b)(2)(A) of
14 the Affordable Care Act; or

15 (2) the partial exclusion of net premiums provided for in section
16 9010(b)(2)(B) of the Affordable Care Act. ¹

17 c. An entity shall annually pay the assessment issued pursuant
18 to subsection b. of this section to the State Treasurer no later than
19 May 1 of each year, as prescribed by the commissioner.

20 d. If the commissioner determines that the amount of the
21 assessment calculated pursuant to this section shall reduce the
22 State's total revenue, the commissioner may reduce the assessment.

23

24 3. a. There is established in the Department of the Treasury a
25 nonlapsing revolving fund to be known as the "Health Insurance
26 Affordability Fund." This fund shall be the repository for all
27 monies collected pursuant to this act. As directed by the
28 commissioner, ¹in consultation with the Commissioners of the
29 Department of Human Services and the Department of Health,¹ the
30 monies in the fund shall be used only for the purposes of increasing
31 affordability in the individual ²~~and small group markets~~ market²
32 and providing greater access to health insurance to the uninsured,
33 including minors, ¹with a primary focus on households with an
34 income below 400 percent of the federal poverty level, expanding
35 eligibility, or modifying the definition of affordability in ²~~those~~
36 ~~markets~~ the individual market^{2, 1} through subsidies, reinsurance,
37 tax policies, outreach and enrollment efforts, buy-in programs, such
38 as the NJ FamilyCare Advantage Program, or any other efforts that
39 can increase affordability for ²~~small employers and~~² individual
40 policyholders ²~~in those markets~~² ¹or that can reduce racial
41 disparities in coverage for the uninsured¹.

42 b. The monies in the fund shall be invested and reinvested by
43 the Director of the Division of Investment in the Department of the
44 Treasury to the same extent that other trust funds that are in the
45 custody of the State Treasurer are invested and reinvested, in the
46 manner provided by law. Interest received on the monies in the
47 fund shall be credited to the fund.

1 ¹c. The report required pursuant to section 3 of P.L.2019, c.141
2 shall set forth the impacts of the measures taken pursuant to this act
3 on affordability and reductions in racial disparities in health
4 insurance coverage, including impacts by income level, race, and
5 immigration status. The report shall make recommendations to
6 increase affordability and reduce the uninsured rate in New Jersey,
7 as appropriate, based on the data available to the department.

8 d. (1) The assessments collected pursuant to section 2 of this act
9 shall be deposited to the Health Insurance Affordability Fund and
10 shall be used for the purposes set forth in subsection a. of this
11 section. Beginning in State Fiscal Year 2021, and each State fiscal
12 year thereafter, if 100 percent of the money appropriated from the
13 Health Insurance Affordability Fund is not used for the purposes set
14 forth in subsection a. of this section on the effective date of an
15 annual appropriations act for the State fiscal year, or if an
16 amendment or supplement to an annual appropriations act for the
17 State fiscal year appropriates money from the Health Insurance
18 Affordability Fund to a purpose not set forth in subsection a. of this
19 section, the Director of the Division of Budget and Accounting in
20 the Department of the Treasury shall, not later than five days after
21 the enactment of the annual appropriations act, or an amendment or
22 supplement thereto, that appropriates money from the Health
23 Insurance Affordability Fund to a purpose not set forth in
24 subsection a. of this section, certify to the Director of the Division
25 of Taxation and the Commissioner of Banking and Insurance that
26 the requirements of this section have not been met.

27 (2) The Commissioner of Banking and Insurance shall, no later
28 than five days after certification by the Director of the Division of
29 Budget and Accounting in the Department of the Treasury pursuant
30 to paragraph (1) of this subsection that the requirements of this
31 section have not been met by the annual appropriations act, or an
32 amendment or supplement to the annual appropriations act, notify
33 each entity that the assessment imposed pursuant to section 2 of this
34 act shall no longer be paid or collected.¹

35
36 4. This act shall take effect on January 1, 2021, except the
37 commissioner may take any anticipatory administrative action in
38 advance as shall be necessary for the implementation of this act.