

## CHAPTER 141

AN ACT concerning health insurance and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:27A-57 “Health Insurance Exchange Trust Fund.”

1. a. There is established in the Department of the Treasury a nonlapsing revolving fund to be known as the “Health Insurance Exchange Trust Fund.” This fund shall be the repository for monies collected pursuant to subsection c. of this section, any federal financial participation available, and other monies received as grants or otherwise appropriated for the purposes of supporting health insurance outreach and enrollment efforts through an exchange. The monies in the fund shall be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that can increase market stabilization and that may result in a net benefit to policyholders.

b. The State Treasurer shall be the custodian of the fund and all disbursements from the fund shall be made by the State Treasurer upon vouchers signed by the Commissioner of Banking and Insurance. The monies in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury to the same extent that other trust funds that are in the custody of the State Treasurer are invested and reinvested, in the manner provided by law. Interest received on the monies in the fund shall be credited to the fund.

c. The commissioner may apply a monthly assessment to each individual health benefits plan sold in the individual market. The assessment shall be paid by the carrier and deposited into the fund and shall be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that can increase market stabilization and that may result in a net benefit to policyholders. The assessment may be applied at a rate of:

(1) .5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a federally-facilitated exchange;

(2) 1 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange using the federal platform;  
or

(3) 3.5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange. The commissioner shall have the discretion to adjust this rate to ensure that the State-based exchange is fully funded, but in no case shall the assessment be applied at a rate that exceeds 4 percent of the total monthly premium charged by a carrier. If the commissioner determines it is necessary to adjust the rate above 3.5 percent pursuant to this paragraph, the commissioner shall, in advance of the adjustment, post on the department’s website a report describing the reasons and justifications for the adjustment, which shall be consistent with the purposes of supporting the exchange as provided in this section.

After the 2020 plan year, the commissioner shall notify a carrier of its assessment rate for the subsequent year at least 20 days prior to the date the carrier is required to file its rate filing with the department. In the case of an assessment for the 2020 plan year, the commissioner shall notify carriers as soon as is practicable of the assessment amount.

d. Any unexpended balance in the fund at the end of a year shall be available for expenditure by the commissioner in the subsequent year. The commissioner shall consider any unexpended balance from a previous year when calculating the assessment pursuant to subsection c. of this section.

C.17B:27A-58 Authority to operate a State-based exchange, coordinate operations with other entities; advisory committee.

2. a. Notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The commissioner may require that all plans in the individual and small employer markets be made available for comparison on the State-based exchange, but nothing in this section shall allow the commissioner to require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange. The department shall coordinate the operations of the exchange with the operations of the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) to determine eligibility for those programs as soon as practicable.

b. The Commissioner of Human Services, in consultation with the Commissioner of Banking and Insurance, shall submit a proposal for available federal financial participation funds to the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services pursuant to 42 C.F.R. 433.112 for the Medicaid eligibility platform and the exchange to be integrated. Notwithstanding the foregoing, the Department of Banking and Insurance may proceed to implement the provisions of this act, including the operation of the State-based exchange.

c. The Commissioner of Banking and Insurance shall have the authority to require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

d. The Commissioner of Banking and Insurance shall establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange. The advisory committee shall include at least nine members, as follows:

(1) The Commissioner of Banking and Insurance, or a designee, who shall serve ex-officio;

(2) The Commissioner of Human Services, or a designee, who shall serve ex-officio;

(3) the Commissioner of Health, or a designee, who shall serve ex-officio; and

(4) six public members, who shall be residents of the State, appointed by the Commissioner of Banking and Insurance. Each public member shall have demonstrated experience in one or more of the following areas: health insurance consumer advocacy; individual health insurance coverage; small employer health insurance coverage; health benefits plan marketing; the provision of health care services; or academic or professional research relating to health insurance.

3. a. The Commissioner of Banking and Insurance shall present a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1, 2022, which contains the commissioner's findings and recommendations, including such recommendations for administrative or legislative action as the commissioner deems appropriate, and the status of any decisions or efforts pursuant to subsection a. of section 2 of this act to coordinate the operations of the exchange with:

(1) the New Jersey Individual Health Coverage Program established pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and the New Jersey Small Employer Health Benefits Program established pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.); and

(2) the operations of the State Medicaid and NJ FamilyCare programs.

b. The Commissioner of Banking and Insurance and the Commissioner of Human Services shall present a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1, 2022, which contains an evaluation of the actions of those departments in securing federal financial participation pursuant to subsection b. of section 2 of this act, including details on any grants or federal funding matches which were evaluated, any applications for grants or funding that were made, any applications that were denied, and any funding that was or may be received.

C.17B:27A-59 Rules, regulations.

4. The Department of Banking and Insurance shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

5. This act shall take effect on January 1, 2020, except the commissioner may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved June 28, 2019.