

[Second Reprint]

SENATE, No. 3042

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

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District 36 (Bergen and Passaic)

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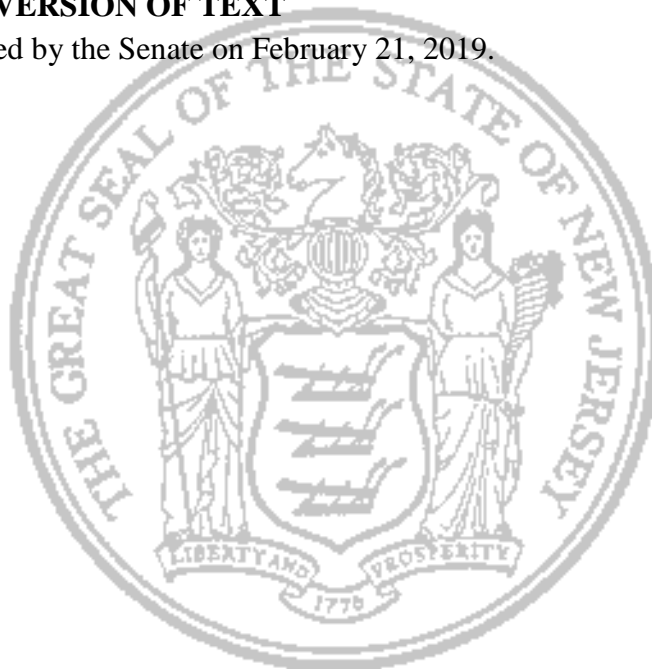
Senator Singleton

SYNOPSIS

Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.

CURRENT VERSION OF TEXT

As amended by the Senate on February 21, 2019.



(Sponsorship Updated As Of: 3/15/2019)

1 AN ACT concerning the State Health Benefits Program and the
 2 School Employees' Health Benefits Program, amending
 3 P.L.1961, c.49 and P.L.2007, c.103, and supplementing
 4 P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

- 8
 9 1. (New section) The Legislature finds and declares that:
 10 a. The cost of health care in this country has been increasing at
 11 a pace that will make our current system of health care delivery
 12 unsustainable on its present trajectory.
 13 b. As health care costs continue to rise more quickly than the
 14 average annual income, those costs displace other priorities for
 15 individuals, such as saving for retirement or their children's
 16 education, and even discourage people from obtaining
 17 recommended health care. The litany of research in this area has
 18 demonstrated that all necessary action must be taken to reduce costs
 19 wherever possible.
 20 c. One way to reduce costs is to increase the **['control]**
 21 oversight¹ that a self-insured employer, such as the State, exercises
 22 over health care programs **['and plans']**¹, as occurs when hiring a
 23 third-party **['administrator] medical claims reviewer**¹ to
 24 **['manage] examine**¹ claims processing.
 25 d. Hiring a third-party **['administrator] medical claims**
 26 reviewer¹ to **['receive, archive, manage, adjudicate, and pay]**
 27 provide **2[real-time or near-real-time] regular, frequent, and**
 28 ongoing² review and oversight of the claims process, which process
 29 includes, but is not limited to, the receipt, management,
 30 adjudication, and payment of¹ claims ^{1, 1} serves the best interests of
 31 the State ¹, participating employers,¹ and the thousands of
 32 employees and their dependents covered under the State Health
 33 Benefits Program and the School Employees' Health Benefits
 34 Program. A third-party **['administrator] medical claims reviewer**¹
 35 would act **['as a fiduciary to] in the best interests of the State,**
 36 participating employers, and¹ program participants, work toward
 37 identifying and eliminating systemic errors, recover overpayments,
 38 and **['pay] ensure that**¹ only the required and appropriate amounts
 39 due and owing on claims ¹are paid¹ as a result of proper
 40 adjudication.
 41 e. For the purpose of facilitating greater efficiency and
 42 transparency in the **['provision] adjudication**¹ of health benefits

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:

¹Senate SBA committee amendments adopted January 17, 2019.

²Senate floor amendments adopted February 21, 2019.

1 'claims' to State employees, their eligible family members, and
2 **'[others receiving health benefits under the programs]** participating
3 local government and education employees and their eligible family
4 members', the State of New Jersey deems it fitting and crucial to
5 procure a third-party **'[administrator]** medical claims reviewer'
6 expeditiously, with a goal for implementation in the plan year
7 beginning in January of 2020.

8
9 2. (New section) a. Notwithstanding the provisions of any
10 other law to the contrary, a contract for the services of a third-party
11 **'[administrator]** medical claims reviewer' for the State Health
12 Benefits Program and the School Employees' Health Benefits
13 Program shall be procured in an expedited process and in the
14 manner provided by this section.

15 b. The Division of Purchase and Property in the Department of
16 the Treasury shall procure, without the need for formal
17 advertisement, but through the solicitation of proposals from
18 professional services vendors, a third-party **'[administrator]**
19 medical claims reviewer', which shall be responsible for the 'strict
20 oversight of the' adjudication and processing of direct payments for
21 health care services rendered to participants in the State Health
22 Benefits Program and School Employees' Health Benefits Program
23 **'[and for the processing of payments for the prescription drug**
24 **benefits of those participants in accordance with the adjudicative**
25 **tools procured or provided by the State]'**. The third-party
26 **'[administrator]** medical claims reviewer' shall perform all duties
27 in accordance with all applicable State and federal laws and with
28 the rules and regulations issued by the State Treasurer and the State
29 Health Benefits Commission and the School Employees' Health
30 Benefits Commission, and shall act **'[as a fiduciary]'** in the best
31 **'[interest]** interests' of 'the State, participating employers, and'
32 covered persons under the programs. The third-party
33 **'[administrator]** medical claims reviewer' shall not be the carrier,
34 or a subsidiary, related party, or affiliate thereof, with which the
35 State has contracted pursuant to section 4 of P.L.1961, c.49
36 (C.52:14-17.28) or section 35 of P.L.2007, c.103 (C.52:14-17.46.5)
37 for the provision of hospital, surgical, obstetrical, and other covered
38 health care services and benefits or for the provider networks for
39 those services. The third-party **'[administrator]** medical claims
40 reviewer' shall not exercise any authority over the provision of
41 health care benefits for Medicare-eligible retirees. 'The contract
42 awarded for the services of the third-party medical claims reviewer
43 may include provisions permitting the compensation of the third-
44 party medical claims reviewer based upon a percentage of the costs
45 recovered by the State as a result of the information provided by the

1 third-party medical claims reviewer in the performance of its
2 duties.¹

3 c. Notwithstanding the provisions of any other law to the
4 contrary, for the purpose of expediting the procurement of a third-
5 party ¹**[administrator]** medical claims reviewer¹, the following
6 provisions shall apply as modifications to law or regulation that
7 may interfere with the expedited procurement:

8 (1) the timeframes for challenging the specifications shall be
9 modified as determined by the division;

10 (2) in lieu of advertising in accordance with sections 2, 3, and 4
11 of P.L.1954, c.48 (C.52:34-7, C.52:34-8, and C.52:34-9), the
12 division shall advertise the request for proposals for the above
13 service and any addenda thereto on the division's website;

14 (3) the period of time that the State Comptroller has to review
15 the request for proposals for the procurement of a third-party
16 ¹**[administrator]** medical claims reviewer¹ for compliance with
17 applicable public contracting laws, rules, and regulations, pursuant
18 to section 10 of P.L.2007, c.52 (C.52:15C-10), shall be 10 business
19 days or less if practicable, as determined by the State Comptroller;

20 (4) the timeframes for submission under section 4 of
21 P.L.2012, c.25 (C.52:32-58) and section 1 of P.L.1977, c.33
22 (C.52:25-24.2) shall be extended to prior to the issuance of a Notice
23 of Intent to Award;

24 (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)
25 shall not apply to technical and support services, under this section,
26 provided by a vendor using a "24/7 follow-the-sun model" as long
27 as the contractor is able to provide such services in the United
28 States during the business day; and

29 (6) the term "bids" in subparagraph (f) of subsection a. of
30 section 7 of P.L.1954, c.48 (C.52:34-12) shall not include pricing
31 which will be revealed to all responsive bidders during the
32 negotiation process.

33 d. The division may, to the extent necessary, waive or modify
34 any requirement under any other law or regulation that may
35 interfere with the expeditious procurement of this service.

36 e. Upon the expiration of the initial contract for a third-party
37 ¹**[administrator]** medical claims reviewer¹ procured pursuant to
38 subsection b. of this section, the procurement of such service
39 thereafter shall be ¹required and¹ in accordance with
40 P.L.1954, c.48 (C.52:34-6 et seq.) and any other applicable law
41 governing the awarding of public contracts by a State agency.

42
43 3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to
44 read as follows:

45 6. **[(A)]** a. For each active covered State employee and for the
46 eligible dependents the employee may have enrolled at the
47 employee's option, the State, from funds appropriated therefor, shall

1 pay ¹its share of¹ the premium or periodic charges for the benefits
2 provided under the contract ¹in amounts equal to the premium or
3 periodic charges for the benefits provided under such a contract
4 covering the employee and the employee's enrolled dependents
5 purchased by the commission pursuant to subsection a. of section 4
6 of P.L.1961, c.49 (C.52:14-17.28)¹.

7 **[(B)]** An employee may, on an optional basis, enroll the
8 employee's dependents for coverage under the contract subject to
9 such regulations and conditions as the commission and the carrier
10 may prescribe.

11 b. There is hereby created a health benefits fund. Said fund
12 shall be used to pay the premiums or periodic charges for which the
13 State is responsible under this act.

14 c. The fund shall contain a dedicated subaccount reserved for
15 payment of claims and other health services fees for covered health
16 services and prescription drug benefits provided to covered State
17 employees and their enrolled eligible dependents. No person shall
18 use or authorize the use of the assets in the subaccount, or the
19 investment earnings thereon, for any purpose other than for the
20 provision of benefits in accordance with the terms of the State
21 Health Benefits Program and for defraying the reasonable costs of
22 administering the subaccount.

23 A third-party ¹**[administrator]** medical claims reviewer¹,
24 procured pursuant to section 2 of P.L. , c. (C.) (pending
25 before the Legislature as this bill), ¹**[shall serve as a fiduciary of**
26 the subaccount in accordance with fiduciary standards equivalent to
27 those under the “Employee Retirement Income Security Act of
28 1974” (29 U.S.C. s.1001 et seq.) and]¹ shall , in the performance of
29 ¹**[administrative]** services for the program, act in the best
30 ¹**[interest]** interests¹ of ¹the State, participating employers, and¹
31 covered State employees and their enrolled eligible dependents.
32 Nothing in this subsection shall be construed as subjecting the
33 program, its plans, ¹**[or]** the State ¹, or any participating
34 employer¹ to the provisions of the “Employee Retirement Income
35 Security Act of 1974” (29 U.S.C. s.1001 et seq.).

36 The third-party ¹**[administrator]** medical claims reviewer¹ shall
37 ¹**[be responsible for overseeing and coordinating the payment of**
38 claims and other health services fees for which the State is
39 responsible on a self-funded basis. The third-party administrator
40 shall provide adjudication of claims for health care services
41 provided under the program, process direct payments of adjudicated
42 claims for covered health care services and other health care
43 services fees from the subaccount to health care providers and
44 facilities in accordance with the terms of the program, process
45 payments for prescription drug benefits in accordance with the
46 adjudicative technology procured or provided by the State, and
47 provide related services for the program as required herein. The

1 submission of such claims and payments shall be governed by and
2 occur within the timeframe allotted by the rules and regulations
3 issued by the State Treasurer pursuant to this subsection. The third-
4 party administrator shall take all necessary action to reduce the
5 administrative costs of the program. The third-party administrator
6 shall promptly inform the commission and the State Treasurer if
7 moneys are not, or cannot reasonably be, expected to be collected or
8 disbursed in the appropriate amounts or if any fund reserve
9 established by the commission has fallen below the required level.

10 The third-party administrator shall ¹ collect, ¹ store and maintain
11 a secure archive of medical and prescription drug claims data and
12 other health services payment information and provide such data
13 and other reports in compliance with applicable State and federal
14 laws, including the “Health Insurance Portability and
15 Accountability Act of 1996,” Pub.L.104-191, to document the cost
16 and nature of claims incurred, demographic information on the
17 covered population, emerging utilization and demographic trends,
18 and such other information as may be available to assist in the
19 governance of the program and in timely response to any requests
20 from the Governor, the State Treasurer, the Division of Pensions
21 and Benefits, the State Health Benefits Commission, the State
22 Health Benefits Plan Design Committee, the President of the
23 Senate, and the Speaker of the General Assembly. ¹Such claims
24 data shall include, but not be limited to, for each claim, the claim
25 number, provider information, amount charged, amount paid, and
26 the Current Procedural Terminology (CPT) code. ¹ The State Health
27 Benefits Commission ¹[or] ¹ the State Health Benefits Plan Design
28 Committee ¹, the State Treasurer, or the Division of Pensions and
29 Benefits¹ may direct the third-party ¹[administrator] medical
30 claims reviewer¹ to provide appropriate medical and prescription
31 drug claims and other health services payment data to a health care
32 services provider or other authorized entity, in compliance with
33 applicable State and federal laws, including the “Health Insurance
34 Portability and Accountability Act of 1996,” Pub.L.104-191, for the
35 specific purpose of improving the quality and value of health care
36 services delivered to ¹[plan] program¹ participants.

37 The State Treasurer shall deposit into the subaccount the moneys
38 necessary to accomplish the purposes of this subsection ¹[as are
39 appropriated by State law therefor, paid by employers participating
40 in the program, and contributed by employees and retirees of the
41 State and employees and retirees of employers other than the State
42 participating in the program]¹ ², including moneys paid by
43 employers participating in the program, and contributed by
44 employees and retirees of the State and employees and retirees of
45 employers other than the State participating in the program² .
46 Deposits and contributions to the subaccount shall be ¹[irrevocable
47 and]¹ applied to the distribution of payments for the costs of health

1 care services and prescription drug benefits and to fund the
2 reasonable costs of administering the subaccount. Assets in the
3 subaccount shall be expended or withdrawn, and deposits and
4 withdrawals shall be reconciled, in accordance with regulations and
5 procedures adopted pursuant to this subsection.

6 Moneys in the subaccount shall be invested in permitted
7 investments or shall be held in interest-bearing accounts in such
8 depositories as the State Treasurer may select, and may be invested
9 and reinvested in permitted investments or invested and reinvested
10 in the same manner as other accounts in the custody of the State
11 Treasurer as provided by law. All interest or other income or
12 earnings derived from the investment or reinvestment of moneys in
13 the subaccount shall be credited thereto and shall be determined on
14 an aggregate basis for all participating employers.

15 The State Treasurer shall adopt, pursuant to the “Administrative
16 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
17 and regulations as may be necessary to implement the provisions of
18 this ¹ [subsection] act, P.L. , c. (C.) (pending before the
19 Legislature as this bill)¹ .

20 (cf: P.L.1996, c.8, s.3)

21
22 4. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to
23 read as follows:

24 4. a. The commission shall negotiate with and arrange for the
25 purchase, on such terms as it deems to be in the best interests of the
26 State and its employees, from carriers licensed to operate in the
27 State or in other jurisdictions, as appropriate, contracts providing
28 hospital, surgical, obstetrical, and other covered health care services
29 and benefits covering employees of the State and their dependents,
30 and shall execute all documents pertaining thereto for and on behalf
31 and in the name of the State.

32 b. Except for contracts entered into after June 30, 2007, the
33 commission shall not enter into a contract under this act unless the
34 benefits provided thereunder equal or exceed the minimum
35 standards specified in section 5 of P.L.1961, c.49 (C.52:14-17.29)
36 for the particular coverage which such contract provides, and unless
37 coverage is available to all eligible employees and their dependents
38 on the basis specified by section 7 of P.L.1961, c.49 (C.52:14-
39 17.31), except that a State employee enrolled in the program on or
40 after July 1, 2003 and all law enforcement officers employed by the
41 State for whom there is a majority representative for collective
42 negotiations purposes may not be eligible for coverage under the
43 traditional plan as defined in section 2 of P.L.1961, c.49 (C.52:14-
44 17.26) pursuant to a binding collective negotiations agreement or
45 pursuant to the application by the commission, in its sole discretion,
46 of the terms of any collective negotiations agreement binding on the
47 State to State employees for whom there is no majority
48 representative for collective negotiations purposes.

1 c. The commission shall not enter into a contract under
2 P.L.1961, c.49 (C.52:14-17.25 et seq.) after June 30, 2007, unless
3 the contract includes the successor plan, one or more health
4 maintenance organization plans and a State managed care plan that
5 shall be substantially equivalent to the NJ PLUS plan in effect on
6 June 30, 2007, with adjustments to that plan pursuant to a binding
7 collective negotiations agreement or pursuant to action by the
8 commission, in its sole discretion, to apply such adjustments to
9 State employees for whom there is no majority representative for
10 collective negotiations purposes, and unless coverage is available to
11 all eligible employees and their dependents on the basis specified
12 by section 7 of P.L.1961, c.49 (C.52:14-17.31), except as provided
13 in subsection d. of this section.

14 d. Eligibility for coverage under the successor plan may be
15 limited pursuant to a binding collective negotiations agreement or
16 pursuant to the application by the commission, in its sole discretion,
17 of the terms of any collective negotiations agreement binding on the
18 State to State employees for whom there is no majority
19 representative for collective negotiations purposes. Coverage under
20 the successor plan and under the State managed care plan required
21 to be included in a contract entered into pursuant to subsection c. of
22 this section shall be made available in retirement to all State
23 employees who accrued 25 years of nonconcurrent service credit in
24 one or more State or locally-administered retirement systems before
25 July 1, 2007. Coverage under the State managed care plan required
26 to be included in a contract entered into pursuant to subsection c. of
27 this section shall be made available in retirement to all State
28 employees who accrue 25 years of nonconcurrent service credit in
29 one or more State or locally-administered retirement systems on or
30 after July 1, 2007.

31 e. Actions taken by the commission before the effective date of
32 P.L.2007, c. 103 in anticipation of entering into any contract
33 pursuant to subsection c. of this section are hereby deemed to have
34 been within the authority of the commission pursuant to P.L.1961,
35 c.49 (C.52:14-17.25 et seq.).

36 f. Any carrier with which the commission contracts for the
37 provision of hospital, surgical, obstetrical, and other covered health
38 care services and benefits pursuant to this section shall ¹grant
39 provide¹ to the third-party ¹administrator¹ medical claims
40 reviewer¹, procured pursuant to section 2 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), ¹access to any
42 information in¹ ²that carrier's² provider network ¹contract
43 contracts¹, ²and provider health care services¹ such as claims
44 information² and contractual discounts provided thereunder, ²that
45 are² applicable to a health benefits plan offered under the State
46 Health Benefits Program.

1 ¹Documents, materials and other information in the possession or
2 control of the State, or the third-party medical claims reviewer, that
3 are obtained or created by, or disclosed to, the State or any other
4 person pursuant to this subsection shall be recognized by this State
5 as being proprietary and containing trade secrets. All such
6 documents, materials or other information shall be confidential by
7 law and privileged, ²and² shall not be subject to
8 P.L.1963, c.71 (C.47:1A-1 et seq.) ²], shall not be subject to
9 subpoena, and shall not be subject to discovery or admissible in
10 evidence in any private civil action]²; except that the State is
11 authorized to use the documents, materials or other information in
12 the furtherance of any regulatory or legal action brought as a part of
13 the commission's or third-party medical claims reviewer's official
14 duties. The State and the third-party medical claims reviewer shall
15 not disclose, sell, or transfer the documents, materials or other
16 information without the prior written consent of the carrier. This
17 subsection shall not be construed as pertaining to medical claims
18 data.

19 g. A contract entered into ²with a carrier² pursuant to this
20 section shall ²[reserve to the State] include therein² the ²State's
21 existing² right to withhold payment for administrative services or
22 to pursue any other remedy deemed appropriate by the State
23 Treasurer if the carrier is found by the State upon information
24 provided by the third-party medical claims reviewer to have
25 committed errors resulting in a loss to the State in a quantity or
26 value, or both, beyond a certain threshold, as shall be provided in
27 the contract or by rules promulgated by the State Treasurer. The
28 contract shall permit the State to recover any loss resulting from
29 errors identified by the third-party medical claims reviewer.¹
30 (cf: P.L.2007, c.103, s.21)

31
32 5. Section 35 of P.L.2007, c. 103 (C.52:14-17.46.5) is amended
33 to read as follows:

34 35. a. The commission shall negotiate with and arrange for the
35 purchase, on such terms as it deems in the best interests of the State,
36 participating employers and those persons covered hereunder from
37 carriers licensed to operate in the State or in other jurisdictions, as
38 appropriate, contracts providing benefits required by the School
39 Employees' Health Benefits Program Act, as specified in section 36
40 of P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the
41 commission may determine to provide, so long as such modification
42 of benefits is in the best interests of the State, participating
43 employers and those persons covered hereunder, and is consistent
44 with the provisions of section 40 of that act (C.52:14-17.46.10). The
45 commission shall have authority to execute all documents
46 pertaining thereto for and on behalf of the State. The commission
47 shall not enter into a contract under the School Employees' Health

1 Benefits Program Act, unless the benefits provided thereunder are
2 equal to or exceed the standards specified in section 36 of that act,
3 or as such standards are modified pursuant to section 40 of that act.

4 b. The rates charged for any contract purchased under the
5 authority of the School Employees' Health Benefits Program Act
6 shall reasonably and equitably reflect the cost of the benefits
7 provided based on principles which in the judgment of the
8 commission are actuarially sound. The rates charged shall be
9 determined based upon accepted group rating principles with due
10 regard to the experience, both past and contemplated, under the
11 contract. The commission shall have the right to particularize
12 subgroups for experience purposes and rates. No increase in rates
13 shall be retroactive.

14 c. The commission shall be authorized to accept an assignment
15 of contract rights from or enter into an agreement, contract,
16 memorandum of understanding or other terms with the State Health
17 Benefits Commission to ensure that coverage for eligible
18 employees, retirees and dependents under the School Employees'
19 Health Benefits Program whose benefits had been provided through
20 the State Health Benefits Program is continued without interruption.
21 The transition provided for in this subsection shall occur within one
22 year of the effective date of the School Employees' Health Benefits
23 Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-
24 17.46.1 through C.52:14-17.46.11).

25 d. Benefits under the contract or contracts purchased as
26 authorized by the School Employees' Health Benefits Program Act
27 may be subject to such limitations, exclusions, or waiting periods as
28 the commission finds to be necessary or desirable to avoid inequity,
29 unnecessary utilization, duplication of services or benefits
30 otherwise available, including coverage afforded under the laws of
31 the United States, such as the federal Medicare program, or for
32 other reasons.

33 e. The initial term of any contract purchased by the
34 commission under the authority of the School Employees' Health
35 Benefits Program Act shall be for such period to which the
36 commission and the carrier may agree, but permission may be made
37 for automatic renewal in the absence of notice of termination by the
38 commission. Subsequent terms for which any contract may be
39 renewed as herein provided shall each be limited to a period not to
40 exceed one year.

41 f. Any carrier with which the commission contracts for the
42 provision of hospital, surgical, obstetrical, and other covered health
43 care services and benefits pursuant to this section shall ²[grant]
44 provide² to the third-party ¹[administrator] medical claims
45 reviewer¹, procured pursuant to section 2 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), ²[access to any]
47 information in that carrier's² provider network ²[contract]

1 contracts² , ²[and provider health care services] such as claims
 2 information² and contractual discounts provided thereunder, ²that
 3 are² applicable to a health benefits plan offered under the School
 4 Employees' Health Benefits Program.

5 ¹Documents, materials and other information in the possession or
 6 control of the State, or the third-party medical claims reviewer, that
 7 are obtained or created by, or disclosed to, the State or any other
 8 person pursuant to this subsection shall be recognized by this State
 9 as being proprietary and containing trade secrets. All such
 10 documents, materials or other information shall be confidential by
 11 law and privileged, ²and² shall not be subject to
 12 P.L.1963, c.71 (C.47:1A-1 et seq.) ²[, shall not be subject to
 13 subpoena, and shall not be subject to discovery or admissible in
 14 evidence in any private civil action]²; except that the State is
 15 authorized to use the documents, materials or other information in
 16 the furtherance of any regulatory or legal action brought as a part of
 17 the commission's or third-party medical claims reviewer's official
 18 duties. The State and the third-party medical claims reviewer shall
 19 not disclose, sell, or transfer the documents, materials or other
 20 information without the prior written consent of the carrier. This
 21 subsection shall not be construed as pertaining to medical claims
 22 data.

23 g. A contract entered into ²with a carrier² pursuant to this
 24 section shall ²[reserve to the State] include therein² the ²State's
 25 existing² right to withhold payment for administrative services or
 26 to pursue any other remedy deemed appropriate by the State
 27 Treasurer if the carrier is found by the State upon information
 28 provided by the third-party medical claims reviewer to have
 29 committed errors resulting in a loss to the State in a quantity or
 30 value, or both, beyond a certain threshold, as shall be provided in
 31 the contract or by rules promulgated by the State Treasurer. The
 32 contract shall permit the State to recover any loss resulting from
 33 errors identified by the third-party medical claims reviewer.¹

34 (cf: P.L.2007, c.103, s.35)

35

36 6. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended
 37 to read as follows:

38 39. a. For each active covered employee and for the eligible
 39 dependents the employee may have enrolled at the employee's
 40 option, from funds appropriated therefor, the employer shall pay to
 41 the commission the premium or periodic charges for the benefits
 42 provided under the contract in amounts equal to the premium or
 43 periodic charges for the benefits provided under such a contract
 44 covering the employee and the employee's enrolled dependents.

45 b. The obligations of any employer to pay the premium or
 46 periodic charges for health benefits coverage provided under the
 47 School Employees' Health Benefits Program Act, sections 31

1 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-
2 17.46.11), may be determined by means of a binding collective
3 negotiations agreement, including any agreement in force at the
4 time the employer commences participation in the School
5 Employees' Health Benefits Program. With respect to employees for
6 whom there is no majority representative for collective negotiations
7 purposes, the employer may, in its sole discretion, modify the
8 respective payment obligations set forth in law for the employer and
9 such employees in a manner consistent with the terms of any
10 collective negotiations agreement binding on the employer.

11 Commencing on the effective date of P.L.2010, c.2 and upon the
12 expiration of any applicable binding collective negotiations
13 agreement in force on that effective date, employees shall pay 1.5
14 percent of base salary, through the withholding of the contribution,
15 for health benefits coverage provided under P.L.2007, c.103
16 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that
17 may be required additionally pursuant to this subsection by means
18 of a binding collective negotiations agreement or the modification
19 of payment obligations.

20 c. There is hereby established a School Employee Health
21 Benefits Program fund consisting of all contributions to premiums
22 and periodic charges remitted to the State treasury by participating
23 employers for employee coverage. All such contributions shall be
24 deposited in the fund and the fund shall be used to pay the portion
25 of the premium and periodic charges attributable to employee and
26 dependent coverage.

27 d. The fund shall contain a dedicated subaccount reserved for
28 payment of claims and other health services fees for covered health
29 services and prescription drug benefits provided to covered
30 employees and their enrolled eligible dependents. No person shall
31 use or authorize the use of the assets in the subaccount, or the
32 investment earnings thereon, for any purpose other than for the
33 provision of benefits in accordance with the terms of the School
34 Employees' Health Benefits Program and for defraying the
35 reasonable costs of administering the subaccount.

36 A third-party ¹[administrator] medical claims reviewer¹ ,
37 procured pursuant to section 2 of P.L. , c. (C.) (pending
38 before the Legislature as this bill), ¹[shall serve as a fiduciary of
39 the subaccount in accordance with fiduciary standards equivalent to
40 those under the "Employee Retirement Income Security Act of
41 1974" (29 U.S.C. s.1001 et seq.) and¹ shall, in the performance of
42 ¹[administrative]¹ services for the program, act in the best
43 ¹[interest] interests¹ of ¹the State, participating employers, and¹
44 covered employees and their enrolled eligible dependents. Nothing
45 in this subsection shall be construed as subjecting the program, its
46 plans, ¹[or]¹ the State ¹, or any participating employer¹ to the

1 provisions of the “Employee Retirement Income Security Act of
2 1974” (29 U.S.C. s.1001 et seq.).

3 The third-party ¹【administrator】 medical claims reviewer¹ shall
4 ¹【be responsible for overseeing and coordinating the payment of
5 claims and other health services fees for which the State is
6 responsible on a self-funded basis. The third-party administrator
7 shall provide adjudication of claims for health care services
8 provided under the program, process direct payments of adjudicated
9 claims for covered health care services and other health care
10 services fees from the subaccount to health care providers and
11 facilities in accordance with the terms of the program, process
12 payments for prescription drug benefits in accordance with the
13 adjudicative technology procured or provided by the State, and
14 provide related services for the program as required herein. The
15 submission of such claims and payments shall be governed by and
16 occur within the timeframe allotted by the rules and regulations
17 issued by the State Treasurer pursuant to this subsection. The third-
18 party administrator shall take all necessary action to reduce the
19 administrative costs of the program. The third-party administrator
20 shall promptly inform the commission and the State Treasurer if
21 moneys are not, or cannot reasonably be, expected to be collected or
22 disbursed in the appropriate amounts or if any fund reserve
23 established by the commission has fallen below the required level.

24 The third-party administrator shall】 collect,¹ store and maintain
25 a secure archive of medical and prescription drug claims data and
26 other health services payment information and provide such data
27 and other reports in compliance with applicable State and federal
28 laws, including the “Health Insurance Portability and
29 Accountability Act of 1996,” Pub.L.104-191, to document the cost
30 and nature of claims incurred, demographic information on the
31 covered population, emerging utilization and demographic trends,
32 and such other information as may be available to assist in the
33 governance of the program and in timely response to any requests
34 from the Governor, the State Treasurer, the Division of Pensions
35 and Benefits, the School Employees’ Health Benefits Commission,
36 the School Employees’ Health Benefits Plan Design Committee, the
37 President of the Senate, and the Speaker of the General Assembly.
38 ¹Such claims data shall include, but not be limited to, for each
39 claim, the claim number, provider ²【name and contact】²
40 information, amount charged, amount paid, and the Current
41 Procedural Terminology (CPT) code.¹ The School Employees’
42 Health Benefits Commission ¹【or】 ,¹ the School Employees’ Health
43 Benefits Plan Design Committee ¹, the State Treasurer, or the
44 Division of Pensions and Benefits¹ may direct the third-party
45 ¹【administrator】 medical claims reviewer¹ to provide appropriate
46 medical and prescription drug claims and other health services
47 payment data to a health care services provider or other authorized

1 entity, in compliance with applicable State and federal laws,
2 including the “Health Insurance Portability and Accountability Act
3 of 1996,” Pub.L.104-191, for the specific purpose of improving the
4 quality and value of health care services delivered to ¹**[plan]**
5 program¹ participants.

6 The State Treasurer shall deposit into the subaccount the moneys
7 necessary to accomplish the purposes of this subsection ¹**[as are**
8 appropriated by State law therefor, paid by employers participating
9 in the program, and contributed by covered employees and
10 retirees]^{1 2}, including moneys paid by employers participating in
11 the program, and contributed by employees and retirees of the State
12 and employees and retirees of employers other than the State
13 participating in the program². Deposits and contributions to the
14 subaccount shall be ¹**[irrevocable and]**¹ applied to the distribution
15 of payments for the costs of health care services and prescription
16 drug benefits and to fund the reasonable costs of administering the
17 subaccount. Assets in the subaccount shall be expended or
18 withdrawn, and deposits and withdrawals shall be reconciled, in
19 accordance with regulations and procedures adopted pursuant to this
20 subsection.

21 Moneys in the subaccount shall be invested in permitted
22 investments or shall be held in interest-bearing accounts in such
23 depositories as the State Treasurer may select, and may be invested
24 and reinvested in permitted investments or invested and reinvested
25 in the same manner as other accounts in the custody of the State
26 Treasurer as provided by law. All interest or other income or
27 earnings derived from the investment or reinvestment of moneys in
28 the subaccount shall be credited thereto and shall be determined on
29 an aggregate basis for all participating employers.

30 The State Treasurer shall adopt, pursuant to the “Administrative
31 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
32 and regulations as may be necessary to implement the provisions of
33 this ¹**[subsection]** act, P.L. , c. (C.) (pending before the
34 Legislature as this bill)¹ .

35 e. Notwithstanding any law to the contrary and except as
36 provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78,
37 the payment in full of premium or periodic charges for eligible
38 retirees and their dependents pursuant to section 3 of P.L.1987,
39 c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-
40 17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be
41 continued without alteration or interruption and there shall be no
42 premium sharing or periodic charges for certain school employees
43 in retirement once they have met the criteria for vesting for pension
44 benefits, which criteria for purposes of this subsection only shall
45 mean the criteria for vesting in the Teachers' Pension and Annuity
46 Fund. For purposes of this subsection, "premium sharing or periodic

1 charges" shall mean payments by eligible retirees based upon a
2 proportion of the premiums for health care benefits.

3 (cf: P.L.2011, c.78, s.54)

4

5 7. ~~1~~ ~~Sections 1 and 2 of this~~ This¹ act shall take effect
6 immediately, ~~1~~ ~~and~~ except that¹ sections ~~1~~ ~~3 through 6~~ 4 and 5¹
7 shall take effect after the expiration of all contracts in effect on the
8 date of enactment of this act purchased pursuant to subsections a. of
9 section 4 of P.L.1961, c.49 (C.52:14-17.28) and of section 35 of
10 P.L.2007, c.103 (C.52:14-17.46.5), respectively,¹ but the
11 Department of the Treasury and the commissions may take such
12 anticipatory administrative action prior thereto as may be necessary
13 to effectuate the purposes of this act.