

SENATE, No. 2243

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires health insurance consultants and carriers to provide certain information to certain local units, boards of education, and county colleges; requires local units, boards of education, and county colleges to review information.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning local unit, board of education, and county
2 college employee health insurance and supplementing chapter 10
3 of Title 40A and chapters 16 and 64A of Title 18A of the New
4 Jersey Statutes.

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

8
9 1. As used in sections 1 through 4 of P.L. , c. (C.)
10 (pending before the Legislature as this bill):

11 “Carrier” means an entity that contracts or offers to contract to
12 provide, deliver, arrange for, pay for, or reimburse any of the costs
13 of health care services under a health benefits plan, including: an
14 insurance company authorized to issue health benefits plans; a
15 health maintenance organization; a health, hospital, or medical
16 service corporation; a multiple employer welfare arrangement; an
17 entity under contract with the State Health Benefits Program to
18 administer a health benefits plan; or any other entity providing a
19 health benefits plan.

20 “Health benefits plan” means a benefits plan which pays or
21 provides hospital and medical expense benefits for covered
22 services, and is delivered or issued for delivery in this State by or
23 through a carrier. Health benefits plan includes, but is not limited
24 to, Medicare supplement coverage and risk contracts to the extent
25 not otherwise prohibited by federal law. “Health benefits plan”
26 shall not include the following plans, policies, or contracts: accident
27 only, credit, disability, long-term care, TRICARE supplement
28 coverage, coverage arising out of a workers’ compensation or
29 similar law, automobile medical payment insurance, personal injury
30 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1
31 et seq.), or hospital confinement indemnity coverage.

32 “Health care data” means aggregate claims experience data from
33 a carrier, including medical, dental, pharmacy, and behavioral
34 health claims.

35 “Insurance consultant” means a person, who for a commission,
36 brokerage fee, or other consideration, acts or holds himself out to
37 the public or any licensee as offering any advice, counsel, opinion
38 or service with respect to the benefits, advantages or disadvantages
39 under any insurance policy or contract that is or could be issued in
40 this State, but shall not include bank trust officers, attorneys-at-law
41 and certified public accountants who negotiate contracts on behalf
42 of others or provide general financial counsel if no commission or
43 brokerage fee is paid for those services.

44 “Local unit” means a county or municipality with at least 100
45 participants in its health benefits plan.

46 “Other forms of compensation” includes but is not limited to
47 incentive payments, bonuses, rebates, or any other thing of value,
48 whether provided directly or indirectly.

1 2. a. A contract for the provision of health insurance
2 consulting services shall require that the insurance consultant
3 provide to the local unit, no later than five months prior to the
4 introduction of the annual budget of the local unit, a certification of
5 the amount of commissions or other forms of compensation
6 accepted from a carrier during the prior calendar year for any
7 insurance consultant services provided in connection with any
8 contract awarded to the carrier by the local unit.

9 b. If an insurance consultant fails to provide a certification as
10 required by subsection a. of this section, the local unit shall be
11 entitled to terminate any contract with the insurance consultant and
12 the insurance consultant shall be liable to a civil penalty of \$2 per
13 employee covered under the local unit's health benefits plan for
14 each day the violation continues, which penalty may be collected in
15 a summary proceeding by the local unit pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
17 The remedies for a violation provided under this subsection shall be
18 in addition to any other remedies that may be provided by contract.
19

20 3. a. A contract for the provision of, delivery of, arrangement
21 for, payment for, or reimbursement of any of the costs of health
22 care services under a health benefits plan to the local unit's
23 employees shall require that the carrier report to the local unit on a
24 biannual basis health care data.

25 b. The carrier and local unit shall only provide or receive
26 health care data in a manner that complies with: (1) the applicable
27 provisions of the federal Health Insurance Portability and
28 Accountability Act of 1996, Pub.L.104-191 (HIPAA); (2) the
29 applicable provisions of the HIPAA privacy rules set forth in
30 sections 160 and 164 of Title 45, Code of Federal Regulations; and
31 (3) other proprietary requirements related to the collection and
32 release of health care data.

33 c. If a carrier fails to report information as required by
34 subsection a. of this section, the carrier shall be liable to a civil
35 penalty of \$2 per employee covered under the local unit's health
36 benefits plan for each day the violation continues, which penalty
37 may be collected in a summary proceeding by the local unit
38 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
39 c.274 (C.2A:58-10 et seq.). If a carrier fails to report information
40 as required by subsection a. of this section, the local unit shall be
41 entitled to terminate any contract with the carrier. The remedies for
42 a violation provided under this subsection shall be in addition to
43 any other remedies that may be provided by contract.
44

45 4. The governing body of a local unit shall, no later than four
46 months prior to the introduction of the annual budget of the local
47 unit, review the information provided to the local unit pursuant to
48 sections 2 and 3 of P.L. , c. (C.) (pending before the

1 Legislature as this bill). The governing body shall certify that this
2 review has been completed in the annual budget of the local unit.
3 The Director of the Division of Local Government Services in the
4 Department of Community Affairs shall not certify approval of an
5 annual budget of a local unit if the annual budget does not contain
6 the certification required by this section.

7
8 5. As used in sections 5 through 8 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 “Board” means a local board of education.

11 “Carrier” means an entity that contracts or offers to contract to
12 provide, deliver, arrange for, pay for, or reimburse any of the costs
13 of health care services under a health benefits plan, including: an
14 insurance company authorized to issue health benefits plans; a
15 health maintenance organization; a health, hospital, or medical
16 service corporation; a multiple employer welfare arrangement; an
17 entity under contract with the State Health Benefits Program or
18 School Employees’ Health Benefits Program to administer a health
19 benefits plan; or any other entity providing a health benefits plan.

20 “District” means a school district.

21 “Health benefits plan” means a benefits plan which pays or
22 provides hospital and medical expense benefits for covered
23 services, and is delivered or issued for delivery in this State by or
24 through a carrier. Health benefits plan includes, but is not limited
25 to, Medicare supplement coverage and risk contracts to the extent
26 not otherwise prohibited by federal law. “Health benefits plan”
27 shall not include the following plans, policies, or contracts: accident
28 only, credit, disability, long-term care, TRICARE supplement
29 coverage, coverage arising out of a workers’ compensation or
30 similar law, automobile medical payment insurance, personal injury
31 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1
32 et seq.), or hospital confinement indemnity coverage.

33 “Health care data” means aggregate claims experience data from
34 a carrier, including medical, dental, pharmacy, and behavioral
35 health claims.

36 “Insurance consultant” means a person, who for a commission,
37 brokerage fee, or other consideration, acts or holds himself out to
38 the public or any licensee as offering any advice, counsel, opinion
39 or service with respect to the benefits, advantages or disadvantages
40 under any insurance policy or contract that is or could be issued to a
41 district in this State, but shall not include bank trust officers,
42 attorneys-at-law and certified public accountants who negotiate
43 contracts on behalf of others or provide general financial counsel if
44 no commission or brokerage fee is paid for those services.

45 “Other forms of compensation” includes but is not limited to
46 incentive payments, bonuses, rebates, or any other thing of value,
47 whether provided directly or indirectly.

1 6. a. A contract for the provision of health insurance
2 consulting services shall require that the insurance consultant
3 provide to the board of education, no later than five months prior to
4 the introduction of the annual budget of the district, a certification
5 of the amount of commissions or other forms of compensation
6 accepted from a carrier during the prior calendar year for any
7 insurance consultant services provided in connection with any
8 contract awarded to the carrier by the board.

9 b. If an insurance consultant fails to provide a certification as
10 required by subsection a. of this section, the board shall be entitled
11 to terminate any contract with the insurance consultant and the
12 insurance consultant shall be liable to a civil penalty of \$2 per
13 employee covered under the board's health benefits plan for each
14 day the violation continues, which penalty may be collected in a
15 summary proceeding by the board pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
17 The remedies for a violation provided under this subsection shall be
18 in addition to any other remedies that may be provided by contract.
19

20 7. a. A contract for the provision of, delivery of, arrangement
21 for, payment for, or reimbursement of any of the costs of health
22 care services under a health benefits plan to the board of
23 education's employees shall require that the carrier report to the
24 board on a biannual basis health care data.

25 b. The carrier and board shall only provide or receive health
26 care data in a manner that complies with: (1) the privacy
27 requirements of the federal "Health Insurance Portability and
28 Accountability Act of 1996," Pub.L.104-191 (HIPAA); (2) the
29 applicable provisions of the HIPAA privacy rules set forth in
30 sections 160 and 164 of Title 45, Code of Federal Regulations; and
31 (3) other proprietary requirements related to the collection and
32 release of health care data.

33 c. If a carrier fails to report information as required by
34 subsection a. of this section, the carrier shall be liable to a civil
35 penalty of \$2 per employee covered under the board's health
36 benefits plan for each day the violation continues, which penalty
37 may be collected in a summary proceeding by the board pursuant to
38 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
39 10 et seq.). If a carrier fails to report information as required by
40 subsection a. of this section, the board shall be entitled to terminate
41 any contract with the carrier. The remedies for a violation provided
42 under this subsection shall be in addition to any other remedies that
43 may be provided by contract.
44

45 8. The board of education shall, no later than four months prior
46 to the introduction of the annual budget of the district, review the
47 information provided to the board pursuant to sections 6 and 7 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 The board shall certify that this review has been completed in the
2 annual budget of the district. The executive county superintendent
3 shall not certify approval of an annual budget of a district if the
4 annual budget does not contain the certification required by this
5 section.

6
7 9. As used in sections 9 through 12 of P.L. , c. (C.)
8 (pending before the Legislature as this bill):

9 “County college” means an educational institution established by
10 one or more counties, pursuant to chapter 64A of Title 18A of the
11 New Jersey Statutes.

12 “Carrier” means an entity that contracts or offers to contract to
13 provide, deliver, arrange for, pay for, or reimburse any of the costs
14 of health care services under a health benefits plan, including: an
15 insurance company authorized to issue health benefits plans; a
16 health maintenance organization; a health, hospital, or medical
17 service corporation; a multiple employer welfare arrangement; an
18 entity under contract with the State Health Benefits Program or
19 School Employees’ Health Benefits Program to administer a health
20 benefits plan; or any other entity providing a health benefits plan.

21 “Health benefits plan” means a benefits plan which pays or
22 provides hospital and medical expense benefits for covered
23 services, and is delivered or issued for delivery in this State by or
24 through a carrier. Health benefits plan includes, but is not limited
25 to, Medicare supplement coverage and risk contracts to the extent
26 not otherwise prohibited by federal law. “Health benefits plan”
27 shall not include the following plans, policies, or contracts: accident
28 only, credit, disability, long-term care, TRICARE supplement
29 coverage, coverage arising out of a workers’ compensation or
30 similar law, automobile medical payment insurance, personal injury
31 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1
32 et seq.), or hospital confinement indemnity coverage.

33 “Health care data” means aggregate claims experience data from
34 a carrier, including medical, dental, pharmacy, and behavioral
35 health claims.

36 “Insurance consultant” means a person, who for a commission,
37 brokerage fee, or other consideration, acts or holds himself out to
38 the public or any licensee as offering any advice, counsel, opinion
39 or service with respect to the benefits, advantages or disadvantages
40 under any insurance policy or contract that is or could be issued to a
41 county college in this State, but shall not include bank trust officers,
42 attorneys-at-law and certified public accountants who negotiate
43 contracts on behalf of others or provide general financial counsel if
44 no commission or brokerage fee is paid for those services.

45 “Other forms of compensation” includes but is not limited to
46 incentive payments, bonuses, rebates, or any other thing of value,
47 whether provided directly or indirectly.

1 10. a. A contract for the provision of health insurance
2 consulting services shall require that the insurance consultant
3 provide to the county college, no later than five months prior to the
4 introduction of the annual budget of the college, a certification of
5 the amount of commissions or other forms of compensation
6 accepted from a carrier during the prior calendar year for any
7 insurance consultant services provided in connection with any
8 contract awarded to the carrier by the college.

9 b. If an insurance consultant fails to provide a certification as
10 required by subsection a. of this section, the county college shall be
11 entitled to terminate any contract with the insurance consultant and
12 the insurance consultant shall be liable to a civil penalty of \$2 per
13 employee covered under the college's health benefits plan for each
14 day the violation continues, which penalty may be collected in a
15 summary proceeding by the board pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
17 The remedies for a violation provided under this subsection shall be
18 in addition to any other remedies that may be provided by contract.
19

20 11. a. A contract for the provision of, delivery of, arrangement
21 for, payment for, or reimbursement of any of the costs of health
22 care services under a health benefits plan to the county college's
23 employees shall require that the carrier report to the county college
24 on a biannual basis health care data.

25 b. The carrier and college shall only provide or receive health
26 care data in a manner that complies with: (1) the privacy
27 requirements of the federal "Health Insurance Portability and
28 Accountability Act of 1996," Pub.L.104-191 (HIPAA); (2) the
29 applicable provisions of the HIPAA privacy rules set forth in
30 sections 160 and 164 of Title 45, Code of Federal Regulations; and
31 (3) other proprietary requirements related to the collection and
32 release of health care data.

33 c. If a carrier fails to report information as required by
34 subsection a. of this section, the carrier shall be liable to a civil
35 penalty of \$2 per employee covered under the college's health
36 benefits plan for each day the violation continues, which penalty
37 may be collected in a summary proceeding by the college pursuant
38 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
39 (C.2A:58-10 et seq.). If a carrier fails to report information as
40 required by subsection a. of this section, the county college shall be
41 entitled to terminate any contract with the carrier. The remedies for
42 a violation provided under this subsection shall be in addition to
43 any other remedies that may be provided by contract.
44

45 12. The county college shall, no later than four months prior to
46 the introduction of the annual budget of the college, review the
47 information provided to the college pursuant to sections 10 and 11
48 of P.L. , c. (C.) (pending before the Legislature as this

1 bill). The board shall certify that this review has been completed in
2 the annual budget of the district. The county college shall not
3 certify approval of an annual budget of the college if the annual
4 budget does not contain the certification required by this section.

5
6 13. This act shall take effect immediately.
7

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9 STATEMENT
10

11 This bill would require health insurance consultants and carriers
12 to provide certain health insurance information to local units, school
13 boards, and county colleges, and require this information to be
14 reviewed in advance of the preparation of their annual budgets.
15 Health insurance is a major expense for local units, school boards,
16 and county colleges. By requiring greater transparency in health
17 insurance usage and costs as well as requiring review of this
18 information, this bill would help local units, school boards, and
19 county colleges ensure that taxpayer funds are being spent on their
20 employees' health insurance in a cost-effective manner.

21 Under the bill, a health insurance consultant that contracts with a
22 local unit, school board, or county college would be required to
23 annually disclose to the unit, board, or college the amount of
24 compensation received in the prior year from a carrier for any
25 insurance consultant services provided in connection with a contract
26 awarded to the carrier by the unit or the board. The bill would
27 make the compensation disclosure requirement a part of the contract
28 between the health insurance consultant and the unit, board, or
29 college. If a health insurance consultant fails to make a required
30 annual disclosure, the unit, board, or college would be permitted to
31 terminate any contract with the consultant and collect a civil penalty
32 from the consultant in addition to any other remedies that may be
33 provided by contract.

34 The bill would also require a carrier that contracts with a local
35 unit, school board, or county college to provide health care data on
36 a biannual basis. The carrier, local unit, school board, and county
37 college would be required to comply with the applicable provisions
38 of federal health privacy rules, and with other proprietary
39 requirements related to the collection and release of health care
40 data. The bill would make these reporting requirements a part of
41 the contract between a carrier and the unit, board, or college. If a
42 carrier fails to meet a biannual reporting requirement, the unit,
43 board, or college would be permitted to collect a civil penalty from
44 the carrier and to terminate any contract with the carrier, in addition
45 to any other remedies that may be provided by contract.

46 The local units that would be subject to this bill are counties and
47 municipalities with at least 100 participants covered under their
48 health insurance plans.