

SENATE, No. 3238

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Establishes New Jersey Easy Enrollment Health Insurance Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/21/2020)

1 AN ACT establishing the New Jersey Easy Enrollment Health
2 Insurance Program and supplementing P.L.2019, c.141
3 (C.17B:27A-57 et seq.).
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 “Cost-sharing reduction” means a reduction described in Section
12 1402(c) of the Affordable Care Act.

13 “Department” means the Department of Banking and Insurance.

14 “Insurance affordability assistance” means:

15 (1) the State Medicaid program established pursuant to P.L.1968,
16 c.413 (C.30:4D-1 et seq.);

17 (2) the NJ FamilyCare Program established pursuant to P.L.2005,
18 c.156 (C.30:4J-8 et al.);

19 (3) premium tax credits; or

20 (4) cost-sharing reductions.

21 “Modified adjusted gross income” has the meaning stated in 42
22 U.S.C. s.1395r(i)(4)(A).

23 “Poverty line” has the meaning stated in 42 U.S.C. s.1397jj(c)(5).

24 “Premium tax credits” means the tax credits described in section
25 36B of the Internal Revenue Code.

26 “Proactively contact” means an attempt by the program to reach
27 an individual by:

28 (1) making multiple attempts to contact the individual as
29 requested on a State income tax return in accordance with section 8
30 of this act;

31 (2) if the attempts described in paragraph (1) of this definition do
32 not successfully reach the individual or if no specific methods for
33 contacting the individual were requested, making multiple attempts
34 to contact the individual through telephonic and electronic means;
35 and

36 (3) if the attempts described in paragraphs (1) and (2) of this
37 definition do not successfully reach the individual to obtain the
38 requested information, sending paper forms or notices to the
39 individual by mail.

40 “Program” means the New Jersey Easy Enrollment Health
41 Insurance Program established pursuant to this act.

42 “Individual” means an individual under the age of 65 years who is
43 identified through a State income tax return under section 8 of this
44 act as not having minimum essential coverage.

45 “Workgroup” means the New Jersey Easy Enrollment Health
46 Insurance Program Advisory Workgroup established pursuant to
47 section 3 of this act.

1 2. a. The Department of Banking and Insurance shall establish
2 and have the authority to operate the New Jersey Easy Enrollment
3 Health Insurance Program. The department shall integrate the
4 program with the State-based exchange established pursuant to
5 P.L.2019, c.141 (C.17B:27A-57 et seq.), and may enter into an
6 agreement with a third-party for operation of the program. The
7 purpose of the program shall be to:

8 (1) establish a State-based reporting system to provide
9 information about the health insurance status of State residents
10 through the use of State income tax returns to identify individuals
11 without minimum essential coverage and determine whether the
12 individual is interested in obtaining minimum essential coverage;

13 (2) determine whether an individual who is interested in
14 obtaining minimum essential coverage qualifies for insurance
15 affordability assistance;

16 (3) proactively contact an individual who is interested in
17 obtaining minimum essential coverage to assist in enrolling the
18 individual in insurance affordability assistance and minimum
19 essential coverage; and

20 (4) maximize enrollment of eligible individuals in insurance
21 affordability assistance and minimum essential coverage to improve
22 access to care and reduce insurance costs for all residents of the State.

23 b. The Commissioner of Banking and Insurance, the
24 Commissioner of Human Services, and the State Treasurer shall
25 develop and implement systems, policies, and practices that
26 encourage, facilitate, and streamline determination of eligibility for
27 insurance affordability assistance and enrollment in minimum
28 essential coverage to achieve the purposes of the program.

29 c. To facilitate the most efficient implementation of the
30 program, the Commissioner of Banking and Insurance, the
31 Commissioner of Human Services, and the State Treasurer may enter
32 into agreements, adopt regulations and guidelines, establish
33 accounts, conduct trainings, provide public information, educate tax
34 preparers, and take any other steps as may be necessary to accomplish
35 the purpose of the program.

36 d. Notwithstanding the provisions of subsection a. of R.S.54:50-
37 8 to the contrary, the State Treasurer may share with the
38 Commissioner of Banking and Insurance the taxpayer information
39 that is necessary for the purposes of this act.

40 e. The Commissioner of Human Services may pursue any
41 necessary waivers from the federal Department of Health and Human
42 Services in order to implement the provisions of this act.

43
44 3. a. The Commissioner of Banking and Insurance shall
45 establish a New Jersey Easy Enrollment Health Insurance Program
46 Advisory Workgroup to provide ongoing advice regarding the
47 implementation of the program.

- 1 b. The workgroup shall include representation from:
2 (1) the commissioner;
3 (2) consumer groups;
4 (3) employers;
5 (4) insurers;
6 (5) health care providers;
7 (6) navigators or other consumer assisters;
8 (7) insurance brokers or agents;
9 (8) labor organizations;
10 (9) income tax preparers;
11 (10) national policy experts; and
12 (11) any other organizations or groups selected by the
13 commissioner.
- 14 c. The workgroup shall meet at least once every six months.
- 15 d. This section shall not be construed to prevent the
16 commissioner from convening other formal or informal working or
17 advisory groups to facilitate the implementation of the program.
18
- 19 4. a. The New Jersey Easy Enrollment Health Insurance
20 Program shall determine eligibility for insurance affordability
21 assistance as soon as possible after an individual files a State income
22 tax return on which the individual indicates pursuant to paragraph (3)
23 of subsection c. of section 8 of this act, that the individual is seeking
24 coverage.
- 25 b. (1) To the extent practicable, the program shall verify an
26 individual's eligibility for insurance affordability assistance with
27 information on a State income tax return and other data from third-
28 party data sources, including data described in section 1413 of the
29 Affordable Care Act or available pursuant to section 8 of this act,
30 without requesting additional information from the individual.
- 31 (2) If additional documentation from an individual is required to
32 establish eligibility for insurance affordability assistance, the
33 program shall take steps to limit the burden on the individual,
34 including:
- 35 (a) proactively contacting the individual who filed the tax return
36 or the individual;
- 37 (b) recording, by telephonic or electronic means, documentation
38 provided by the individual who filed the tax return or the individual;
39 and
- 40 (c) if the documentation required to determine eligibility is not
41 obtained using the steps described in subparagraphs (a) and (b) of
42 this paragraph, facilitating the selection of an authorized
43 representative for the individual.
- 44 c. (1) Before determining eligibility of an individual for
45 insurance affordability assistance, the program shall attempt to verify
46 the citizenship status of the individual and each household member
47 listed on the State income tax return, based on the information

1 available from the return and reliable third-party sources of
2 citizenship data.

3 (2) If the process described in paragraph (1) of this subsection
4 does not confirm that the individual and each household member
5 listed on the State income tax return is a United States citizen, the
6 program shall not seek additional verification or take other steps to
7 determine eligibility for insurance affordability assistance until the
8 individual provides affirmative consent using forms and procedures
9 approved by the program.

10 (3) The affirmative consent required under paragraph (2) of this
11 subsection may be satisfied through the procedures described in 42
12 U.S.C. s.1320b-7(d).

13 (4) If citizenship is not verified and affirmative consent is not
14 provided in accordance with paragraph (2) of this subsection, the
15 program shall not take any further steps to determine an individual's
16 eligibility for insurance affordability assistance.

17

18 5. a. The program shall make a determination of eligibility, in
19 accordance with section 4 of this act, for the State Medicaid program
20 or the NJ FamilyCare Program under this section, before determining
21 eligibility for any other insurance affordability assistance.

22 b. (1) If an individual is determined to be eligible for the State
23 Medicaid program or the NJ FamilyCare Program, the procedures
24 described in this section and guidelines established by the
25 Department of Human Services, to implement this subsection shall
26 apply.

27 (2) If an individual fails to select a managed care organization
28 plan within a period of time established by the program, the program
29 may assign the individual to and promptly enroll the individual in a
30 managed care organization plan.

31 (3) Before the program assigns an individual to a managed care
32 organization plan, the individual shall receive:

33 (a) advance notice;

34 (b) an opportunity to select another managed care organization
35 plan within the period of time established by the program; and

36 (c) an opportunity to opt out of coverage.

37 c. The program may utilize any information provided to the
38 Department of Banking and Insurance or the Department of Human
39 Services in making determinations pursuant to this section.

40

41 6. a. If an individual is not determined to be eligible for the
42 State Medicaid program or the NJ FamilyCare Program pursuant to
43 section 5 of this act, the program shall determine, in accordance with
44 section 4 of this act, whether the individual is eligible for premium
45 tax credits or cost-sharing reductions as determined under this
46 section.

1 b. (1) A special enrollment period for the New Jersey Individual
2 Health Coverage Program shall begin on the date an income tax
3 return is filed by or on behalf of an individual that indicates an
4 individual is seeking coverage pursuant to paragraph (3) of
5 subsection c. of section 8 of this act.

6 (2) The enrollment period described in this section shall last for
7 a period of time, to be determined by the Department of Banking and
8 Insurance before the start of the calendar year, that may not be shorter
9 than 14 days.

10 c. (1) Information about the enrollment period described in
11 subsection b. of this section shall be communicated to the public and
12 affected individuals through measures that may include language in
13 the instructions for the State individual income tax return, if inclusion
14 of the language is approved by the State Treasurer.

15 (2) The Department of Banking and Insurance shall conduct
16 outreach to individuals described in paragraph (1) of this subsection,
17 using methods that may include written notices and the provision of
18 individualized assistance by insurance agents and brokers,
19 navigators, tax preparers, and contractors and staff.

20 (3) Notwithstanding any other provision of this act, the
21 Department of Banking and Insurance may compensate an entity for
22 outreach described in paragraph (2) of this subsection in a manner
23 that reflects, in whole or in part, the number of individuals enrolled
24 under this section and section 4 of this act by that entity.

25
26 7. a. The Department of Banking and Insurance shall develop
27 data privacy and data security safeguards to govern the conveyance,
28 storage, and utilization of data under the program.

29 b. The safeguards developed under subsection a. of this section
30 shall ensure that the conveyance, storage, and utilization of data
31 under the program comply with applicable requirements of federal
32 and State law.

33
34 8. a. If a State income tax return indicates that an individual is
35 uninsured at the time the tax return is filed, consistent with the
36 provisions of P.L.2018, c.31 (C.54A:11-1 et seq.), the tax return shall
37 include the following information as to the uninsured individual:

38 (1) the age of each individual;

39 (2) election by the individual filing the tax return of one of the
40 two checkoff boxes described in subsection c. of this section;

41 (3) if the individual who files a tax return chooses the checkoff
42 box described in paragraph (3) of subsection c. of this section, any
43 information determined by the program as essential to determining
44 eligibility for insurance affordability assistance, if the information:

45 (a) is not available from a reliable third-party data source;

46 (b) is not otherwise required to be provided on the return; and

47 (c) does not pertain to citizenship or immigration status; and

1 (4) notification of the potential waiver the State shared
2 responsibility tax pursuant to subsection d. of this section.

3 b. For an individual who files a tax return and chooses the
4 checkoff box described in paragraph (3) of subsection c. of this
5 section, the return shall give the individual who filed the tax return
6 the option to indicate the individual's preferred method for the
7 program to contact the individual who filed the tax return to facilitate
8 either determination of eligibility for insurance affordability
9 assistance or enrollment in health coverage.

10 c. (1) In accordance with this section, the State Treasurer shall
11 include with the income tax return form a separate form that is
12 required only for individuals who file a tax return indicating that an
13 individual is uninsured at the time the tax return is filed.

14 (2) The separate form shall include two checkoff boxes as
15 described in paragraphs (3) and (4) of this subsection and the
16 information described in paragraphs (2) and (3) of subsection a. of
17 this section.

18 (3) One checkoff box shall give an individual who files a tax
19 return the choice to have the program:

20 (a) based on information in the individual's tax return, determine
21 the individual's eligibility for insurance affordability assistance; and

22 (b) obtain additional data that may be relevant to determine the
23 individual's eligibility for insurance affordability assistance.

24 (4) One checkoff box shall allow an individual who files a tax
25 return the choice to not have the program make the determination
26 described in paragraph (3) of this subsection.

27 (5) The State Treasurer, in consultation with the Department of
28 Banking and Insurance and with the advice of the workgroup, shall:

29 (a) develop language for the checkoff boxes described in
30 paragraphs (3) and (4) of this subsection;

31 (b) develop language for the instructions for the State income tax
32 return that includes a description of the effects of choosing the
33 checkoff boxes described in paragraphs (3) and (4) of this subsection,
34 including the purposes for which the information disclosed under this
35 section may be used; and

36 (c) ensure that the language developed under subparagraph (a) of
37 this paragraph is as simple, clear, and easy to understand as possible.

38 (6) If an individual who files a tax return makes the election
39 described in paragraph (3) of this subsection, the State Treasurer shall
40 convey to the program all insurance-relevant information contained
41 on the return.

42 d. The State Treasurer shall waive the State shared responsibility
43 tax imposed pursuant to section 3 of P.L.2018, c.31 (C.54A:11-3) for
44 any taxpayer who chooses the checkoff box described in paragraph
45 (3) of subsection c. of this section. If the taxpayer fails to enroll in
46 health benefits coverage and maintain that coverage in each month

1 following the enrollment period, the taxpayer shall be liable for any
2 payments to which the taxpayer would have otherwise been subject.

3 e. The State Treasurer shall coordinate the requirements of this
4 subsection with the requirements of the "New Jersey Health
5 Insurance Market Preservation Act," P.L.2018, c.31 (C.54A:11-
6 1 et seq.).

7
8 9. a. Except as provided in subsection b. of this section, this act
9 shall take effect immediately and shall apply to returns filed for
10 taxable years beginning after December 31, 2020.

11 b. If the State Treasurer determines, after consultation with the
12 Department of Banking and Insurance, that the implementation of
13 this act is not administratively feasible for taxable years beginning
14 after December 31, 2020, the Treasurer may delay implementation of
15 this act to taxable years beginning after December 31, 2021.

16 17 18 STATEMENT

19
20 This bill requires the Department of Banking and Insurance to
21 establish and operate the New Jersey Easy Enrollment Health
22 Insurance Program (the program). The department is required to
23 integrate the program with the State-based health insurance
24 exchange, and may enter into an agreement with a third-party for
25 operation of the program. The purpose of the program is to:

26 (1) establish a State-based reporting system to provide
27 information about the health insurance status of State residents
28 through the use of State income tax returns to identify individuals
29 and determine whether an individual is interested in obtaining
30 minimum essential coverage;

31 (2) determine whether an individual who is interested in
32 obtaining minimum essential coverage qualifies for insurance
33 affordability assistance;

34 (3) proactively contact an individual who is interested in
35 obtaining minimum essential coverage to assist in enrolling the
36 individual in insurance affordability assistance and minimum
37 essential coverage; and

38 (4) maximize enrollment of eligible individuals in insurance
39 affordability assistance and minimum essential coverage to improve
40 access to care and reduce insurance costs for all residents of the State.

41 The bill requires the Commissioner of Banking and Insurance, the
42 Commissioner of Human Services, and the State Treasurer to develop
43 and implement systems, policies, and practices that encourage,
44 facilitate, and streamline determination of eligibility for insurance
45 affordability assistance and enrollment in minimum essential
46 coverage to achieve the purposes of the program.

1 The bill requires the Commissioner of Banking and Insurance to
2 establish a New Jersey Easy Enrollment Health Insurance Program
3 Advisory Workgroup to provide ongoing advice regarding the
4 implementation of the program, which is to include representation
5 from various organizations. The workgroup is required to meet at
6 least once every six months.

7 The program is required to determine eligibility for insurance
8 affordability assistance as soon as possible after an individual files a
9 State income tax return on which the individual indicates that the
10 individual is seeking health benefits coverage.

11 To the extent practicable, the program must verify an individual's
12 eligibility for insurance affordability assistance with information on
13 a State income tax return and other data from third-party data sources,
14 without requesting additional information from the individual.

15 The bill provides that if additional documentation from an
16 individual is required to establish eligibility for insurance
17 affordability assistance, the program must take certain steps to limit
18 the burden on the individual.

19 Before determining eligibility of an individual for insurance
20 affordability assistance, the program is required to attempt to verify
21 the citizenship status of the individual and each household member
22 listed on the State income tax return, based on the information
23 available from the return and reliable third-party sources of
24 citizenship data. If this process does not confirm that the individual
25 and each household member listed on the State income tax return is
26 a United States citizen, the program may not seek additional
27 verification or take other steps to determine eligibility for or enroll
28 the individual in insurance affordability assistance until the
29 individual provides affirmative consent using forms and procedures
30 approved by the program.

31 If citizenship is not verified and affirmative consent is not
32 provided in accordance with the bill, the program may not take any
33 further steps to determine an individual's eligibility for or enroll an
34 individual in insurance affordability assistance.

35 The bill requires the program to make a determination of
36 eligibility for the State Medicaid program or the NJ FamilyCare
37 Program before determining eligibility for any other insurance
38 affordability assistance. If an individual is determined to be eligible
39 for the State Medicaid program or the NJ FamilyCare Program, the
40 procedures described in the bill and the guidelines established by the
41 program to implement the bill apply.

42 If an individual fails to select a managed care organization plan
43 within a period of time established by the program, the program may
44 assign the individual to and promptly enroll the individual in a
45 managed care organization plan.

46 Before an individual is assigned to a managed care organization
47 plan, the individual is required to receive advance notice, an

1 opportunity to select another managed care organization plan, and an
2 opportunity to opt out of coverage.

3 If an individual is determined to not be eligible for the State
4 Medicaid program or the NJ FamilyCare Program, the program is
5 required to determine whether the individual is eligible for premium
6 tax credits or cost-sharing reductions.

7 The bill provides that a special enrollment period for the New
8 Jersey Individual Health Coverage Program will begin on the date an
9 income tax return is filed by or on behalf of an individual that
10 indicates the individual is seeking insurance coverage. The
11 enrollment period is to last for a period of time, to be determined by
12 the program before the start of the calendar year, that may not be
13 shorter than 14 days.

14 Information about the enrollment period described in the bill must
15 be communicated to the public and affected individuals through
16 measures that may include language in the instructions for the State
17 individual income tax return, if inclusion of the language is approved
18 by the State Treasurer.

19 The bill requires the Department of Banking and Insurance to
20 develop data privacy and data security safeguards to govern the
21 conveyance, storage, and utilization of data under the program.

22 The bill requires the State Treasurer to include on the individual
23 income tax return form a checkoff box for indicating whether the
24 individual, or each spouse in the case of a joint return, and any
25 individual claimed as a dependent on the tax return is uninsured at
26 the time the tax return is filed.

27 The bill requires the State Treasurer to include with the income
28 tax return form a separate form that is required only for individuals
29 who file a tax return indicating that an individual is uninsured at the
30 time the tax return is filed.

31 The form is required to include two checkoff boxes. One checkoff
32 box shall give an individual who files a tax return the choice to have
33 the program determine the individual's eligibility for insurance
34 affordability assistance, and obtain additional data that may be
35 relevant to determine the individual's eligibility for insurance
36 affordability assistance. The other checkoff box shall allow an
37 individual who files a tax return the choice to not have the program
38 make that determination.

39 The bill requires the State Treasurer to waive the State shared
40 responsibility tax for any taxpayer who chooses the checkoff box
41 indicating the taxpayer wishes the program to determine the
42 individual's eligibility for insurance affordability assistance. If the
43 taxpayer fails to enroll in health benefits coverage and maintain that
44 coverage in each month following the enrollment period, the taxpayer
45 is liable for any payments to which the taxpayer would have
46 otherwise been subject.

1 The bill takes effect immediately and applies to tax returns filed
2 for taxable years beginning after December 31, 2020, unless the State
3 Treasurer determines, after consultation with the Department of
4 Banking and Insurance, that the implementation of the bill is not
5 administratively feasible for taxable years beginning after December
6 31, 2020, in which case the Treasurer may delay implementation to
7 taxable years beginning after December 31, 2021.