

[Second Reprint]

SENATE, No. 3238

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

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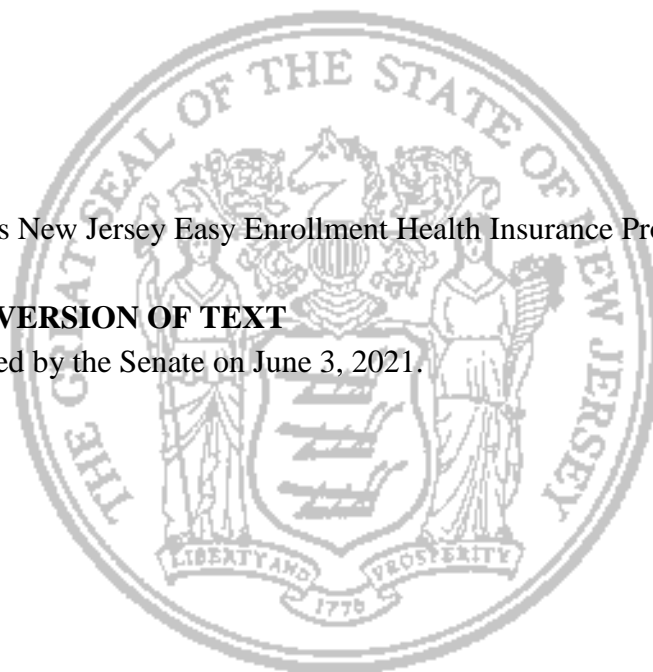
**Senator Weinberg, Assemblyman Benson, Assemblywoman Timberlake,
Assemblyman Conaway, Assemblywomen Jasey, Vainieri Huttle,
Assemblyman Houghtaling, Assemblywoman Swain, Assemblyman Tully
and Assemblywoman Lopez**

SYNOPSIS

Establishes New Jersey Easy Enrollment Health Insurance Program.

CURRENT VERSION OF TEXT

As amended by the Senate on June 3, 2021.



(Sponsorship Updated As Of: 6/21/2021)

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
16 P.L.1968, c.413 (C.30:4D-1 et seq.);

17 (2) the NJ FamilyCare Program established pursuant to
18 P.L.2005, 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.
24 s.1397jj(c)(5).

25 “Premium tax credits” means the tax credits described in section
26 36B of the Internal Revenue Code.

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

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

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

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

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

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

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 SCM committee amendments adopted January 21, 2021.

²Senate floor amendments adopted June 3, 2021.

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

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

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

17 (2) determine whether an individual who is interested in
18 obtaining minimum essential coverage qualifies for insurance
19 affordability assistance;

20 (3) proactively contact an individual who is interested in
21 obtaining minimum essential coverage to assist in enrolling the
22 individual in insurance affordability assistance and minimum
23 essential coverage; and

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

28 b. The Commissioner of Banking and Insurance, the
29 Commissioner of Human Services, ²the Commissioner of Labor and
30 Workforce Development,² and the State Treasurer shall develop and
31 implement systems, policies, and practices that encourage,
32 facilitate, and streamline determination of eligibility for insurance
33 affordability assistance and enrollment in minimum essential
34 coverage to achieve the purposes of the program.

35 c. To facilitate the most efficient implementation of the
36 program, the Commissioner of Banking and Insurance, the
37 Commissioner of Human Services, ²the Commissioner of Labor and
38 Workforce Development,² and the State Treasurer may enter into
39 agreements, adopt regulations and guidelines, establish accounts,
40 conduct trainings, provide public information, educate tax
41 preparers, and take any other steps as may be necessary to
42 accomplish the purpose of the program.

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

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

4
5 3. a. The Commissioner of Banking and Insurance shall
6 establish a New Jersey Easy Enrollment Health Insurance Program
7 Advisory Workgroup to provide ongoing advice regarding the
8 implementation of the program.

9 b. The workgroup shall include representation from:

- 10 (1) the commissioner;
11 (2) consumer groups;
12 (3) employers;
13 (4) insurers;
14 (5) health care providers;
15 (6) navigators or other consumer assisters;
16 (7) insurance brokers or agents;
17 (8) labor organizations;
18 (9) income tax preparers;
19 (10) national policy experts; ²[and]²
20 (11) ²federally qualified health centers; and
21 (12)² any other organizations or groups selected by the
22 commissioner.

23 c. The workgroup shall meet at least once every six months.

24 d. This section shall not be construed to prevent the
25 commissioner from convening other formal or informal working or
26 advisory groups to facilitate the implementation of the program.

27

28 4. a. The New Jersey Easy Enrollment Health Insurance
29 Program shall determine eligibility for insurance affordability
30 assistance as soon as possible after an individual files a State
31 income tax return on which the individual indicates pursuant to
32 paragraph (3) of subsection c. of section 8 of this act, that the
33 individual is seeking coverage.

34 b. (1) To the extent practicable, the program shall verify an
35 individual's eligibility for insurance affordability assistance with
36 information on a State income tax return and other data from third-
37 party data sources, including data described in section 1413 of the
38 Affordable Care Act or available pursuant to section 8 of this act,
39 without requesting additional information from the individual.

40 (2) If additional documentation from an individual is required to
41 establish eligibility for insurance affordability assistance, the
42 program shall take steps to limit the burden on the individual,
43 including:

44 (a) proactively contacting the individual who filed the tax return
45 or the individual;

1 (b) recording, by telephonic or electronic means, documentation
2 provided by the individual who filed the tax return or the
3 individual; and

4 (c) if the documentation required to determine eligibility is not
5 obtained using the steps described in subparagraphs (a) and (b) of
6 this paragraph, facilitating the selection of an authorized
7 representative for the individual.

8 c. (1) Before determining eligibility of an individual for
9 insurance affordability assistance, the program shall attempt to
10 verify the citizenship status of the individual and each household
11 member listed on the State income tax return, based on the
12 information available from the return and reliable third-party
13 sources of citizenship data.

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

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

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

28

29 5. a. The program shall make a determination of eligibility, in
30 accordance with section 4 of this act, for the State Medicaid
31 program or the NJ FamilyCare Program under this section, before
32 determining eligibility for any other insurance affordability
33 assistance.

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

39 (2) If an individual fails to select a managed care organization
40 plan within a period of time established by the program, the
41 program may assign the individual to and promptly enroll the
42 individual in a managed care organization plan.

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

45 (a) advance notice;

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

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

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

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

12 b. (1) A special enrollment period for the New Jersey
13 Individual Health Coverage Program shall begin on the date ²[an
14 income tax return is filed by or on behalf of an individual that
15 indicates an individual is seeking coverage pursuant to paragraph
16 (3) of subsection c. of section 8 of this act] the program sends
17 notice of eligibility to the individual².

18 (2) The enrollment period described in this section shall last for
19 a period of time, to be determined by the Department of Banking
20 and Insurance before the start of the calendar year, that ²[may]
21 shall² not be shorter than ²[14] 30² days.

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

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

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

38
39 7. a. The Department of Banking and Insurance shall develop
40 data privacy and data security safeguards to govern the conveyance,
41 storage, and utilization of data under the program.

42 b. The safeguards developed under subsection a. of this section
43 shall ensure that the conveyance, storage, and utilization of data
44 under the program comply with applicable requirements of federal
45 and State law.

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

5 (1) the age of each individual;

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

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

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

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

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

15 (4) notification of the potential waiver ¹of¹ the State shared
16 responsibility tax pursuant to subsection d. of this section.

17 b. For an individual who files a tax return and chooses the
18 checkoff box described in paragraph (3) of subsection c. of this
19 section, the return shall give the individual who filed the tax return the
20 option to indicate the individual's preferred method for the program to
21 contact the individual who filed the tax return to facilitate either
22 determination of eligibility for insurance affordability assistance or
23 enrollment in health coverage.

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

28 (2) The separate form shall include two checkoff boxes as
29 described in paragraphs (3) and (4) of this subsection and the
30 information described in paragraphs (2) and (3) of subsection a. of this
31 section.

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

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

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

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

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

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

45 (b) develop language for the instructions for the State income tax
46 return that includes a description of the effects of choosing the
47 checkoff boxes described in paragraphs (3) and (4) of this subsection,

1 including the purposes for which the information disclosed under this
2 section may be used; and

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

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

9 d. The State Treasurer shall waive the State shared responsibility
10 tax imposed pursuant to section 3 of P.L.2018, c.31 (C.54A:11-3) for
11 any taxpayer who chooses the checkoff box described in paragraph (3)
12 of subsection c. of this section. If the taxpayer fails to enroll in health
13 benefits coverage and maintain that coverage in each month following
14 the enrollment period, the taxpayer shall be liable for any payments to
15 which the taxpayer would have otherwise been subject.

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

19

20 29. a. An individual that consents to share information through
21 the system established pursuant to section 10 of this act shall be
22 eligible for a special enrollment period pursuant to subsection b. of
23 this section. The program shall determine, in accordance with
24 sections 4 through 6 of this act, whether the individual is eligible
25 for the State Medicaid program or the NJ FamilyCare Program,
26 premium tax credits, or cost-sharing reductions.

27 b. (1) A special enrollment period for the New Jersey
28 Individual Health Coverage Program shall begin on the date the
29 program sends notice of eligibility to the individual.

30 (2) The enrollment period described in this section shall last for
31 a period of time, to be determined by the Department of Banking
32 and Insurance before the start of the calendar year, that shall not be
33 shorter than 30 days.

34 c. (1) The Department of Banking and Insurance shall conduct
35 outreach to affected individuals, using methods that may include
36 written notices and the provision of individualized assistance by
37 insurance agents and brokers, navigators, tax preparers, and
38 contractors and staff.

39 (2) Notwithstanding any other provision of this act, the
40 Department of Banking and Insurance may compensate an entity for
41 outreach described in paragraph (1) of this subsection in a manner
42 that reflects, in whole or in part, the number of individuals enrolled
43 under this section by that entity.

44

45 10. a. On or before September 1, 2021, the Department of Labor
46 and Workforce Development shall begin implementing a system
47 through which an individual who has filed a claim for

1 unemployment insurance benefits may consent, as part of a weekly
2 claim certification, to the sharing of relevant information collected
3 by the Department of Labor and Workforce Development with the
4 program, the State-based exchange established pursuant to
5 P.L.2019, c.141 (C.17B:27A-57 et seq.), the Department of Banking
6 and Insurance, and the Department of Human Services to determine
7 whether the individual qualifies for the State Medicaid program or
8 the NJ FamilyCare Program, or any other insurance affordability
9 assistance.

10 b. The Department of Labor and Workforce Development shall
11 enter into an agreement with the State-based exchange, the
12 Department of Banking and Insurance, and the Department of
13 Human Services, before the system described in subsection a. of
14 this section begins to operate, that enables the system to operate in
15 compliance with all applicable State and federal requirements
16 related to privacy, data security, and funding.

17 c. The consent request described in subsection a. of this section
18 shall be prominently placed on the weekly claim certification form,
19 in clear and understandable language that is easy to read.

20 d. The Department of Labor and Workforce Development shall
21 cooperate with the State-based exchange, the Department of
22 Banking and Insurance, and the Department of Human Services to
23 claim the maximum amount of available federal funding for the
24 establishment and operation of the system established pursuant to
25 this section.

26 e. To facilitate the most efficient implementation of the system,
27 the Commissioner of Banking and Insurance, the Commissioner of
28 Human Services, and the Commissioner of Labor and Workforce
29 Development may enter into agreements, adopt regulations and
30 guidelines, establish accounts, conduct trainings, provide public
31 information, educate tax preparers, and take any other steps as may
32 be necessary to accomplish the purpose of the system.²

33
34 ²[9.] 11.² a. Except as provided in subsection b. of this section,
35 this act shall take effect immediately and shall apply to returns filed
36 for taxable years beginning after December 31, 2020.

37 b. If the State Treasurer determines, after consultation with the
38 Department of Banking and Insurance ²and the Department of
39 Labor and Workforce Development², that the implementation of
40 this act is not administratively feasible for taxable years beginning
41 after December 31, 2020, the Treasurer may delay implementation
42 of this act to taxable years beginning after December 31, 2021.