

SENATE, No. 3733

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2021

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Requires health insurance carriers to offer clear cost share plans for individual health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning healthcare costs and individual health benefits
2 plans, supplementing P.L.1992, c.161 and amending P.L.2019,
3 c.141.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. (New Section) In consultation with the board and the
9 advisory committee established pursuant to P.L.2019, c.141
10 (C.17B:27A-58), the commissioner shall develop a clear cost share
11 plan for individual health benefits plans that provide for
12 standardized cost-sharing for covered health services. The design
13 of the clear cost share plan shall take into consideration the
14 following:

15 (1) the ability of a health plan to conform to actuarial value
16 ranges;

17 (2) focusing consumer choice to make the process of selecting a
18 health plan more transparent and quality-based;

19 (3) limiting out-of-pocket costs that serve as a financial barrier
20 to accessing high-value care; and

21 (4) fostering quality improvement through the promotion of
22 benefits with a high value and a focus on the consumer.

23 The commissioner shall develop at least one clear cost share plan
24 for each tier of health insurance plan designated as bronze, silver,
25 and gold, in accordance with the federal Patient Protection and
26 Affordable Care Act, 42 U.S.C. s.18001 et. seq. A carrier shall
27 offer at least one clear cost share plan from each metal tier in order
28 to participate in the exchange pursuant to P.L.2019, c.141
29 (C.17B:27A-58).

30 b. The commissioner, in consultation with the board and the
31 advisory committee established pursuant to P.L.2019, c.141
32 (C.17B:27A-58), shall evaluate annually whether to revise,
33 discontinue, or add any clear cost share plan for use by a carrier,
34 which includes, but is not limited to, considering whether a
35 deductible or copayment level should be changed to reflect medical
36 inflation and actuarial values.

37 c. The commissioner, in consultation with the board and
38 advisory committee, shall also submit a report annually to the
39 Governor, and the Legislature pursuant to section 2 of P.L.1991,
40 c.164 (C.52:14-19.1), concerning the number of consumers
41 enrolling in a clear cost share plan compared to other health plans.
42 The report shall additionally include an assessment of the clear cost
43 share plan's ability to improve access to high-value health care
44 services, which include, but are not limited to, primary care and
45 chronic disease management. Further, the report shall compare out-

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.

1 of-pocket expenses, network adequacy, and quality of services in
2 the cost share plans developed by the commissioner with other
3 health plans available within the same metal tier.

4 d. A 60-day public comment period shall be provided as part of
5 the evaluation process in subsections b. and c. of this act, and
6 sufficient public notice shall be provided as to the commencement
7 of the comment period.

8 e. In addition to the clear cost share plans developed pursuant
9 to this section, a carrier may offer up to three health benefits plans
10 at each metal level that modify one or more parameters in a clear
11 cost share plan if the carrier submits, and the commissioner
12 approves, an actuarial certification, that the alternative share plan
13 offers significant consumer benefits and does not result in an
14 adverse selection by the consumer. The commissioner shall ensure
15 that the exchange's website prioritizes unmodified clear cost share
16 plans and that a comparison be available to display the similarities
17 and differences in coverage between modified and unmodified clear
18 cost share plans.

19 f. The commissioner shall adopt rules and regulations pursuant
20 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
21 1 et seq.), to effectuate the purposes of P.L. , c. (C.)
22 (pending before the legislature as this bill).

23 g. As used in this section, "clear cost share plan" means a set
24 of annual copayments, coinsurance, and deductibles for all or a
25 designated subset of health benefits.

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27 2. Section 2 of P.L.2019, c.141 (C.17B:27A-58) is amended to
28 read as follows:

29 2. a. Notwithstanding any other law to the contrary, the
30 Department of Banking and Insurance shall have the authority to
31 operate a State-based exchange and coordinate the operations of the
32 exchange with the operations of the New Jersey Individual Health
33 Coverage Program and the New Jersey Small Employer Health
34 Benefits Program, including reorganization of the boards, as the
35 commissioner deems appropriate. The department's authority to
36 regulate the insurance market shall be separate and distinct from the
37 department's duty to oversee exchange operations, to ensure the
38 best interests of and protection for consumers of the State. The
39 commissioner may require that all plans in the individual and small
40 employer markets be made available for comparison on the State-
41 based exchange, but nothing in this section shall allow the
42 commissioner to require all plans in the individual and small
43 employer markets to be purchased exclusively on the State-based
44 exchange. The department shall coordinate the operations of the
45 exchange with the operations of the State Medicaid program
46 established P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ
47 FamilyCare Program established pursuant to P.L.2005, c.156

1 (C.30:4J-8 et al.) to determine eligibility for those programs as soon
2 as practicable.

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

12 c. The Commissioner of Banking and Insurance shall [have the
13 authority to], in compliance with the requirements of P.L., c.
14 (C.) (pending before the Legislature as this bill), require that
15 plans offered on the exchange conform with standardized plan
16 designs that provide for standardized cost-sharing for covered
17 health services.

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

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

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

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

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

36 (cf: P.L.2019, c.141, s.2)

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38 3. This act shall take effect immediately and shall be applicable
39 to individual health benefits plans issued on or after January 1,
40 2023.

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43 STATEMENT

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45 This bill requires health insurance carriers to offer a clear cost
46 share plan for individual health benefits plans.

47 A clear cost share plan is a set of annual copayments,
48 coinsurance, and deductibles for all or a designated subset of

1 benefits within a health benefits plan. Under this bill, the
2 commissioner of the Department of Banking and Insurance, in
3 consultation with the board of directors of the Individual Health
4 Coverage Program and the advisory committee on the operation of
5 the State-based health insurance exchange, will be required to
6 develop a clear cost share plan for individual health benefits plans.
7 When creating the share plan, the commissioner will take into
8 consideration the following:

9 (1) the ability of a health plan to conform to actuarial value
10 ranges;

11 (2) focusing consumer choice to make the process of selecting a
12 health plan more transparent and quality-based;

13 (3) limiting out-of-pocket costs that serve as a financial barrier
14 to accessing high-value care; and

15 (4) fostering quality improvement through the promotion of
16 benefits with a high value and a focus on the consumer.

17 The commissioner will also be required to develop at least one
18 clear cost share plan for each tier of a health insurance plan
19 designated as bronze, silver, and gold in accordance with the federal
20 Patient Protection and Affordable Care Act. A carrier will be
21 required to offer at least one clear cost share plan from each metal
22 tier in order to participate in the Program.

23 Once created, the commissioner will evaluate annually whether
24 to revise, discontinue, or add any clear cost share plan for use by a
25 carrier, which includes, but is not limited to, considering whether a
26 deductible or copayment level should be changed to reflect medical
27 inflation and actuarial values. The commissioner will also be
28 required to submit an annual report to the Governor and the
29 Legislature concerning the following: the number of consumers
30 enrolling in a clear cost share plan compared to other health plans;
31 whether the clear cost share plans offered improve access to high-
32 value health care services, which include, but are not limited to,
33 primary care and chronic disease management; and a comparison of
34 out-of-pocket expenses, network adequacy, and quality of services
35 in cost share plans developed by the commissioner with other health
36 plans available within the same metal tier.

37 Additionally, a carrier will be able to offer up to three health
38 benefits plans that modify one or more parameters in a clear cost
39 share plan created by the commissioner if the carrier submits, and
40 the commissioner approves, an actuarial certification stating that the
41 alternative share plan offers significant consumer benefits and will
42 not result in an adverse selection for the consumer. The
43 commissioner will also ensure that the exchange's website
44 prioritizes unmodified clear cost share plans and that a comparison
45 be available to display the similarities and differences in coverage
46 between modified and unmodified clear cost share plans. Finally,
47 the commissioner will require that plans offered on the exchange

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- 1 conform with standardized plan designs that provide for
- 2 standardized cost-sharing for covered health services.