

[First Reprint]

SENATE, No. 3733

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

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District 35 (Bergen and Passaic)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on June 16, 2021, with amendments.



(Sponsorship Updated As Of: 6/30/2021)

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 ¹and the
9 advisory committee established pursuant to P.L.2019, c.141
10 (C.17B:27A-58)¹, the commissioner shall develop a clear cost
11 share plan for individual health benefits plans that provide for
12 standardized ¹benefits and¹ cost-sharing for covered health services.
13 The design of the clear cost share plan shall take into consideration
14 the 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 ¹offer at least one ¹make available ¹any¹ clear cost share plan ¹that
28 is developed pursuant to this section¹ from each metal tier in order to
29 participate in the ¹exchange pursuant to P.L.2019, c.141
30 (C.17B:27A-58)¹ individual market¹.

31 b. The commissioner, in consultation with the board ¹and the
32 advisory committee established pursuant to P.L.2019, c.141
33 (C.17B:27A-58)¹, shall evaluate annually whether to revise,
34 discontinue, or add any clear cost share plan for use by a carrier,
35 which includes, but is not limited to, considering whether a
36 deductible or copayment level should be changed to reflect medical
37 inflation and actuarial values.

38 ¹c. The commissioner, in consultation with the board and
39 advisory committee, shall also submit a report annually to the
40 Governor, and the Legislature pursuant to section 2 of P.L.1991,
41 c.164 (C.52:14-19.1), concerning the number of consumers
42 enrolling in a clear cost share plan compared to other health plans.
43 The report shall additionally include an assessment of the clear cost
44 share plan's ability to improve access to high-value health care
45 services, which include, but are not limited to, primary care and

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 June 16, 2021.

1 chronic disease management. Further, the report shall compare out
2 of-pocket expenses, network adequacy, and quality of services in
3 the cost share plans developed by the commissioner with other
4 health plans available within the same metal tier.

5 d. c.¹ A 60-day public comment period shall be provided as
6 part of the evaluation process in ¹~~subsections b. and c.~~ subsection
7 b.¹ of this act, and sufficient public notice shall be provided as to
8 the commencement of the comment period.

9 ¹~~e.~~ d.¹ In addition to the clear cost share plans developed
10 pursuant to this section, a carrier may offer up to three health
11 benefits plans at each metal level that modify one or more
12 parameters in a clear cost share plan if the carrier submits, and the
13 commissioner approves, an actuarial certification, that the
14 alternative share plan offers significant consumer benefits and does
15 not result in an adverse selection by the consumer. The
16 commissioner shall ensure that the exchange's website prioritizes
17 unmodified clear cost share plans and that a comparison be
18 available to display the similarities and differences in coverage
19 between modified and unmodified clear cost share plans.

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

24 ¹~~g.~~ f.¹ As used in this section, "clear cost share plan" means
25 ¹a plan design that includes¹ a set of annual copayments,
26 coinsurance, and deductibles for all or a designated subset of health
27 benefits.

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

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

1 established P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ
2 FamilyCare Program established pursuant to P.L.2005, c.156
3 (C.30:4J-8 et al.) to determine eligibility for those programs as soon
4 as practicable.

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

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

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

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

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

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

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

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

39

40 3. This act shall take effect immediately and shall be applicable
41 to individual health benefits plans issued on or after January 1,
42 2023.