

CHAPTER 8

AN ACT concerning health care benefits and certain other benefits for public employees, amending P.L.1961, c.49 and P.L.1964, c.125, and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) The term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and foster children provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents:

(1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.Law 89-97 (42 U.S.C. §1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

2. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to read as follows:

C.52:14-17.27 State Health Benefits Commission.

3. There is hereby created a State Health Benefits Commission, consisting of the State Treasurer, the Commissioner of Insurance, and the Commissioner of Personnel. The treasurer shall be chairman of the commission and the health benefits program authorized by this act shall be administered in the Treasury Department. The Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission shall establish a health benefits program for the employees of the State, the cost of which shall be paid as specified in section 6 of this act. The commission shall establish rules and regulations as may be deemed reasonable and necessary for the administration of this act.

The Attorney General shall be the legal advisor of the commission.

The commission shall publish annually a report showing the fiscal transactions of the program for the preceding year and stating other facts pertaining to the plan. The commission shall submit the report to the Governor and furnish a copy to every employer for use of the participants and the public.

3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to read as follows:

C.52:14-17.30 State payment of premium.

6. (A) For each active covered State employee and for the eligible dependents the employee may have enrolled at the employee's option the State, from funds appropriated therefor, shall pay the premium or periodic charges for the benefits provided under the contract in amounts equal to the premium or periodic charges for the benefits provided under such a contract covering the employee and the employee's enrolled dependents.

(B) An employee may, on an optional basis, enroll the employee's dependents for coverage under the contract subject to such regulations and conditions as the commission and the carrier may prescribe. There is hereby created a health benefits fund. Said fund shall be used to pay the premiums or periodic charges for which the State is responsible under this act.

4. Section 7 of P.L.1964, c.125 (C.52:14-17.38) is amended to read as follows:

C.52:14-17.38 Certification of premium rates, charges; Medicare premiums.

7. The Division of Pensions and Benefits shall certify to the certifying agent of each employer electing participation under the program the premium rates and periodic charges applicable to the coverage provided for employees and dependents. The participating employer shall remit to the division all contributions to premiums and periodic charges in advance of their due dates, subject to the rules and regulations of the commission.

From funds allocated therefor, the employer other than the State may pay the premium or

periodic charges for the benefits provided to a retired employee and the employee's dependents covered under the program, if such employee retired from a State or locally-administered retirement system on a benefit based on 25 years or more of service credited in such retirement system, excepting the employee who elected deferred retirement, but including the employee who retired on a disability pension based on fewer years of service credited in such retirement system, and may also reimburse such retired employee for the employee's premium charges under Part B of Medicare covering the retired employee and the employee's spouse. "Retired employee and the employee's dependents" may, upon adoption of an appropriate resolution therefor by the participating employer, also include otherwise eligible employees, and their dependents, who retired from a State or locally-administered retirement system prior to the date that the employer became a participating employer in the New Jersey State Health Benefits Program. The term may also, upon adoption of an appropriate resolution therefor by the participating employer, include otherwise eligible employees, and their dependents, who did not elect to continue coverage in the program during such time after the employer became a participating employer that the employer did not pay premium or periodic charges for benefits to retired employees and their dependents pursuant to this section. Eligibility and enrollment of such employees and dependents shall be in accordance with such rules and regulations as may be adopted by the State Health Benefits Commission.

The employer other than the State may, by resolution, pay the premium or periodic charges for the benefits provided to the surviving spouse of a retired employee and the employee's dependents covered under the program as provided in this section.

5. Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended to read as follows:

C.52:14-17.31 Effective date of coverage; rules and regulations; furnishing of information to Division of Pensions and Benefits.

7. The coverage provided solely for employees shall, subject to the provisions below, automatically become effective for all eligible employees from the first day on or after the effective date of the program on which they satisfy the definition of "employee" contained in this act. The commission shall establish the rules and regulations governing the enrollment and effective dates of coverage of dependents of employees it deems necessary or desirable. The rules and regulations shall not defer coverage with respect to any qualified dependent an employee has on the date the employee's employer becomes a participating employer, provided the employee was, immediately prior to the date, insured with respect to the dependent under a group major medical insurance plan of the employer which was in effect immediately prior to the date. Under the rules and regulations established by the commission, each employee shall be given the opportunity to enroll for coverage for dependents as of the earliest date the employee becomes eligible for enrollment. An employee may elect to enroll dependents for both basic coverage and major medical expense coverage but may not enroll for either coverage alone.

If, on the date coverage for an employee would become effective, the employee is not actively at work full-time at the customary place of employment or other location to which the employment requires the employee to travel, the employee shall not be covered until the employee is so actively at work, except the employee shall be covered, if on the date the employee's employer becomes a participating employer, the employee was, immediately prior to that date, insured under a group major medical insurance plan of the employer which was in effect immediately prior to that date.

In the event that the group major medical plan which covered an employee or dependents immediately prior to the date the employee's employer becomes a participating employer provides, after termination of coverage thereunder, any continuation of benefits for medical expenses for hospitalization, surgery, medical treatment or any related service or supply, or would so provide in the absence of coverage pursuant to this act, no coverage shall be afforded pursuant to this act for any such expenses (i) which are covered, or which would be covered in the absence of coverage pursuant to this act, in whole or in part, by the prior insurance plan or (ii) which may be used in satisfaction of any deductible requirement under the prior insurance plan to establish entitlement to the continuation of benefits.

Each employee shall furnish the Division of Pensions and Benefits, in the prescribed form, the information necessary on account of the employee's own coverage and necessary to enroll

dependents. Any employee not desiring coverage at the time the employee first becomes eligible, shall give the division written notice of that fact in the form prescribed by the division. The employee may not enroll thereafter except at the times and under the conditions prescribed by the commission.

If an employee of an employer other than the State eligible for coverage has a spouse who is also an employee of an employer other than the State eligible for coverage, the spouse may elect single coverage as an employee and to enroll as a dependent, in which event no coverage shall be provided for such spouse as an employee while covered as a dependent. The employee of an employer other than the State, who has enrolled such spouse, and who is required to pay the full cost of dependent coverage, may receive a refund from the State Division of Pensions and Benefits equivalent in amount to the employer's cost for an employee's coverage. When both husband and wife are covered as employees, only one may enroll for their children as dependents.

A similar refund shall be authorized pursuant to such rules and regulations as the commission deems necessary or desirable in the case of an employee of an employer other than the State who is paying the full cost of dependent coverage for a spouse who is an employee of the State and eligible for coverage.

If a husband and wife are both eligible for coverage under the program as employees:

a. each may elect coverage for himself or herself as an employee and for their qualified dependents, including the spouse, under the traditional plan or the State managed care plan, but only one may elect coverage for himself or herself and for their qualified dependents, including the spouse, in a participating health maintenance organization; and

b. each may elect single coverage in any participating health maintenance organization, provided that he or she is not covered under the participating health maintenance organization as a dependent of his or her spouse.

Any person employed as a substitute teacher by a school district and who provides evidence of coverage under another health benefits program may waive coverage for the current school year on or after the date on which the person becomes an employee eligible for coverage.

C.52:14-17.28b Determination of obligation of State, agencies to pay premium, periodic charges.

6. a. Notwithstanding the provisions of any other law to the contrary, the obligations of the State or an independent State authority, board, commission, corporation, agency, or organization to pay the premium or periodic charges for health benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et seq.) may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of P.L.1996, c.8. With respect to State employees for whom there is no majority representative for collective negotiations purposes, the commission may, in its sole discretion, modify the respective payment obligations set forth in P.L.1961, c.49 for the State and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the State. With respect to employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective payment obligations set forth in P.L.1961, c.49 for such employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on such employer. The provisions of this subsection shall also apply to employees deemed or considered to be employees of the State pursuant to subsection (c) of section 2 of P.L.1961, c.49 (C.52:14-17.26).

b. (1) Notwithstanding the provisions of any other law to the contrary, for each State employee who accrues 25 years of service credit in a State-administered retirement system before July 1, 1997, excepting the employee who elects deferred retirement, the State, upon the employee's retirement, shall pay the full cost of the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall also reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse.

(2) Notwithstanding the provisions of any other law to the contrary, for each State employee who accrues 25 years of service credit in a State-administered retirement system on or after July 1, 1997, excepting the employee who elects deferred retirement, the State, upon the employee's retirement, shall pay the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse: (a) in accordance with the provisions, if any, concerning health benefits coverage in retirement which are in the collective negotiations agreement applicable to the employee at the time of the employee's accrual of 25 years of service credit in the retirement system, or (b) if the employee has no majority representative for collective negotiations purposes, in a manner consistent with the terms, if any, concerning health benefits coverage in retirement which are in any collective negotiations agreement deemed applicable by the State Health Benefits Commission to that employee at the time of the employee's accrual of 25 years of service credit in the retirement system.

C.52:14-15.1a Establishment of cafeteria plan; payroll deductions.

7. Notwithstanding the provisions of any other law to the contrary, the State Treasurer on behalf of the State, and the governing body of an independent State authority, board, commission, corporation, agency or organization may establish as an employer a cafeteria plan for its employees pursuant to section 125 of the federal Internal Revenue Code, 26 U.S.C. § 125. The plan may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and dependent care expenses as provided in section 129 of the code, 26 U.S.C. § 129, and such other benefits as are consistent with section 125 which are included under the plan. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

8. This act shall take effect immediately.

Approved March 21, 1996.