

[First Reprint]

SENATE, No. 2959

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 20, 2011

Sponsored by:

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Assemblyman DECLAN J. O'SCANLON, JR.

District 12 (Mercer and Monmouth)

Assemblyman GARY R. CHIUSANO

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Repeals requirement that public employers provide certain health benefit plans to public employees.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 23, 2011.



(Sponsorship Updated As Of: 6/24/2011)

1 AN ACT concerning the provision of health care benefits to public
2 employees and ¹[amending] repealing section 76 of¹ P.L. ,
3 c. (pending before the Legislature as Senate, No. 2937 of
4 2011, and Assembly, No. 4133 of 2011).

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

8
9 ¹[1. Section 76 of P.L. , c. (C.)(pending before the
10 Legislature as Senate, No. 2937 of 2011, and Assembly, No. 4133
11 of 2011) is amended to read as follows:

12 76. [a. As used in this section:

13 “emergency care” means immediate treatment provided in
14 response to a sudden, acute and unanticipated medical crisis in
15 order to avoid injury, impairment, or death.

16 “in-State health care provider” means an individual or entity,
17 including, but not limited to, a physician or other health care
18 professional licensed pursuant to Title 45 of the Revised Statutes,
19 and a hospital or other health care facility licensed pursuant to Title
20 26 of the Revised Statutes that is not an out-of-State health care
21 provider.

22 “out-of-State health care provider” means an individual or entity
23 providing health care services at a location outside the geographic
24 boundaries of this State.

25 “primary care” means the provision of preventive, diagnostic,
26 treatment, management, and reassessment services to individuals in
27 facilities providing family practice, general internal medicine,
28 general pediatrics, and routine obstetrics/gynecology.

29 “reasonably proximate” means a geographic distance from the
30 covered person's place of residence that does not exceed 25 miles.

31 “tertiary care” means specialized care performed by specialists
32 working in an inpatient or outpatient facility for special
33 investigation and treatment of complex diseases or conditions.

34 b. Notwithstanding the provisions of any other law to the
35 contrary, a carrier which offers health benefits coverage under the
36 State Health Benefits Program, School Employees’ Health Benefits
37 Program, or any self-insured plan or plan offered to public
38 employees or retirees outside the State Health Benefits Program or
39 the School Employees’ Health Benefits Program, to an employee or
40 retiree and any dependent eligible for such health care benefits
41 coverage, shall only provide coverage for medically necessary
42 health care services provided by an out-of-State health care provider
43 as specified in subsection c. of this subsection, except for coverage
44 authorized pursuant to subsection f. or g. of this section.

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:

¹Assembly floor amendments adopted June 23, 2011.

1 c. Medically necessary tertiary health care services may be
2 performed by an out-of-State specialty or subspecialty health care
3 provider when there is no in-State health care provider reasonably
4 available to treat the particular condition based on an expedited
5 determination by the carrier and the State Health Benefits
6 Commission, the School Employees' Health Benefits Commission
7 or the plan administrator, as the case may be, in consultation with
8 the Department of Health and Senior Services, that such service is
9 not otherwise available through an in-State health care provider or
10 where there is no in-network provider who is reasonably proximate
11 to the covered person's place of residence.

12 d. (1) The out-of-State health care provider shall receive
13 reimbursement for out-of-network charges at the lesser of the
14 contractual rate or a rate equal to 150% of the Medicare fee
15 schedule for those same services.

16 (2) The employee or retiree shall be responsible for the entire
17 balance of the out-of-State health provider's charges that exceed the
18 applicable out-of-network reimbursement.

19 e. The carrier shall establish preauthorization or review
20 requirements of the health benefits plan regarding the determination
21 of medical necessity for the employee, retiree, or covered dependent
22 to access out-of-State benefits, as set forth in writing pursuant to
23 section 5 of P.L.1997, c.192 (C.26:2S-5), with which the covered
24 person shall comply as a condition of receiving benefits pursuant to
25 this section.

26 f. This section shall not apply to: (1) emergency care; (2)
27 primary care; (3) an employee, retiree, or covered dependent who
28 has his or her principal residence outside of this State or is enrolled
29 as a full-time student at a school located outside this State and
30 resides outside this State while attending that school, or (4) such
31 other unusual and compelling circumstance determined by the State
32 Health Benefits Commission, School Employees' Health Benefits
33 Commission or the plan administrator, as the case may be, in
34 consultation with the Department of Health and Senior Services,
35 that warrants an individualized exception from the requirements of
36 this section. For the purposes of this subsection, a person will be
37 deemed to have his principal residence outside this State if all of the
38 following conditions are met: the person spends the majority of his
39 or her nonworking time outside the State, and resides at a location
40 outside the State which is clearly the center of his or her domestic
41 life, and has designated the out-of-State residence as his or her legal
42 address and legal residence for voting.

43 g. This section shall not apply to cases when it is medically
44 necessary for the employee, retiree, or covered dependent to
45 continue current treatment with the out-of-State health care provider
46 or under the following circumstances: (1) in cases of the pregnancy
47 through the postpartum evaluation, up to six weeks after delivery;
48 (2) in the case of post-operative care, up to six months following

1 the surgical procedure; (3) in the case of oncological treatment, up
2 to one year following the first date of treatment; and (4) in the case
3 of psychiatric treatment, up to one year following the first date of
4 treatment.

5 h. Notwithstanding the provisions of another law to the
6 contrary, the State Health Benefits Plan Design Committee, the
7 School Employees' Health Benefits Plan Design Committee, and
8 any public employer shall provide to employees the option to select
9 a single plan that shall not limit coverage for medically necessary
10 health care services provided by an out-of-State health care provider
11 pursuant to this section. Each employee or retiree who selects
12 coverage under the plan shall pay the additional portion of the
13 premium or periodic charge associated with selecting a plan that
14 does not limit coverage for medically necessary health care services
15 provided by an out-of-State health care provider for health care
16 benefits provided to the employee, retiree, and dependents covered
17 under the plan.

18 i. This section shall be operative January 1, 2012.】

19 a. Notwithstanding the provisions of any other law to the
20 contrary, beginning January 1, 2012, the State Health Benefits Plan
21 Design Committee, the School Employees' Health Benefits Plan
22 Design Committee, or any public employer that offers health benefit
23 plans to public employees, retirees, and any dependent thereof, shall
24 offer at least one health benefit plan to plan participants that shall
25 include only in-State health care providers and that shall be subject
26 to the requirements set forth in subsections b. through f. of this
27 section and shall offer at least one health benefit plan to plan
28 participants that shall include out-of-State health care providers and
29 that shall not be subject to the requirements set forth in subsections
30 b. through f. of this section. Each plan participant who selects
31 coverage under a plan that includes out-of-State health care
32 providers is not subject to the requirements of subsections b.
33 through f. of this section and shall pay any additional premium or
34 periodic charge associated with selecting that plan.

35 b. As used in this section: "emergency care" means immediate
36 treatment provided in response to a sudden, acute and unanticipated
37 medical crisis in order to avoid injury, impairment, or death.

38 "in-State health care provider" means an individual or entity,
39 including, but not limited to, a physician or other health care
40 professional licensed pursuant to Title 45 of the Revised Statutes,
41 and a hospital or other health care facility licensed pursuant to Title
42 26 of the Revised Statutes that is not an out-of-State health care
43 provider.

44 "out-of-State health care provider" means an individual or entity
45 providing health care services at a location outside the geographic
46 boundaries of this State.

1 “primary care” means the provision of preventive, diagnostic,
2 treatment, management, and reassessment services to individuals in
3 facilities providing family practice, general internal medicine,
4 general pediatrics, and routine obstetrics/gynecology.

5 “reasonably proximate” means a geographic distance from the
6 covered person's place of residence that does not exceed 25 miles.

7 “tertiary care” means specialized care performed by specialists
8 working in an inpatient or outpatient facility for special
9 investigation and treatment of complex diseases or conditions.

10 c. A carrier which offers health benefits coverage under an in-
11 State only plan shall only provide coverage for medically necessary
12 health care services provided by an out-of-State health care provider
13 as specified in subsection d. of this subsection, except for coverage
14 authorized pursuant to subsection e. or f. of this section.

15 d. Medically necessary tertiary health care services may be
16 performed by an out-of-State specialty or subspecialty health care
17 provider when there is no in-State health care provider reasonably
18 available to treat the particular condition based on a certification
19 from a physician licensed in New Jersey that expresses his or her
20 professional opinion that such medical care or technology is not
21 otherwise available through a qualified in-State health care
22 provider, or when there is no in-State health care provider who is
23 reasonably proximate to the covered person's place of residence.
24 A physician who knowingly signs a false certification in accordance
25 with this section shall be subject to disciplinary action and civil
26 penalties pursuant to sections 8 and 9 of P.L.1978, c.73 (C.45:1-21
27 and 22).

28 e. Subsections b. through d. of this section shall not apply to: (1)
29 emergency care; (2) primary care; or (3) such other unusual and
30 compelling circumstance determined by the State Health Benefits
31 Commission, School Employees' Health Benefits Commission or
32 the plan administrator, as the case may be, in consultation with the
33 Department of Health and Senior Services, that warrants an
34 individualized exception from the requirements of this section.

35 f. Subsections b. through e. of this section shall not apply to
36 cases when it is medically necessary for the employee, retiree, or
37 covered dependent to continue current treatment with the out-of-
38 State health care provider, or when the employee, retiree, or
39 covered dependent has been receiving tertiary care from an out-of-
40 State health care provider prior to the enactment of P.L. , c.
41 (now pending before the Legislature as this bill) until the course of
42 treatment is concluded.

43 (cf: P.L. , c. , s.76) (pending before the Legislature as Senate,
44 No. 2937 of 2011, and Assembly, No. 4133 of 2011).]'

S2959 [1R] SWEENEY, ALLEN

6

1 ¹1. Section 76 of P.L. , c. (pending before the Legislature
2 as Senate, No. 2937 of 2011, and Assembly, No. 4133 of 2011) is
3 repealed.¹

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5 2. This act shall take effect immediately.