

CHAPTER 193

AN ACT establishing the Mandated Health Benefits Advisory Commission and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:27D-1 Findings, declarations relative to mandated health benefits.

1. The Legislature finds and declares that:

a. Health benefits coverage, while providing important protection for individuals, is costly for individuals and businesses that insure their employees;

b. Mandated health benefits have social, financial and medical implications for patients, providers and health benefits plans; and

c. It is, therefore, in the public interest to conduct a review of proposed mandated health benefits by an expert body to provide the Legislature with adequate and independent documentation defining the social and financial impact and medical efficacy of the proposed mandate.

C.17B:27D-2 Definitions relative to mandated health benefits.

2. As used in this act:

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State.

"Commission" means the Mandated Health Benefits Advisory Commission established pursuant to this act.

"Health benefits plan" means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. For the purposes of this act, health benefits plan shall not include the following plans, policies or contracts: accident only, credit, disability, long-term care, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement indemnity coverage.

"Mandated health benefit" or "mandate" means: a benefit or coverage that is required by law to be provided by a carrier and includes: coverage for specific health care services, treatments or practices; or direct reimbursement to specific health care providers.

C.17B:27D-3 Mandated Health Benefits Advisory Commission.

3. There is established the Mandated Health Benefits Advisory Commission to study the social, financial and medical impact of proposed mandated health benefits.

C.17B:27D-4 Membership; terms; vacancies.

4. The commission shall consist of 17 voting members as follows: the Commissioners of Health and Senior Services, Human Services and Banking and Insurance or their designees, who shall serve ex officio; three public members appointed by the President of the Senate, who shall include a representative of a commercial health insurance company, a physician licensed in this State who is a member of the Medical Society of New Jersey, and a representative of the New Jersey Business and Industry Association, no more than two of whom shall be from the same political party; three public members appointed by the Speaker of the General Assembly, who shall include a representative of a health service corporation, a physician licensed in this State, and a representative of organized labor, no more than two of whom shall be from the same political party; and eight public members appointed by the Governor, who shall include a medical educator from the University of Medicine and Dentistry of New Jersey whose major field of expertise is the study and evaluation of the cost of health care and health insurance, a representative of the New Jersey Association of Health Plans, a representative of the New Jersey Hospital Association, a representative of the New Jersey State Nurses Association, a representative of the New Jersey Dental Association, a representative of a consumer advocacy organization and two representatives of the general public who are knowledgeable about health benefits plans.

The President of the Senate may appoint two members of the Senate, no more than one of

whom shall be from the same political party, to serve as nonvoting members of the commission. The Speaker of the General Assembly may appoint two members of the General Assembly, no more than one of whom shall be from the same political party, to serve as nonvoting members of the commission. The legislative members shall serve during their legislative term of office.

Of the voting members first appointed, four shall serve for a term of two years, four for a term of three years and three for a term of four years.

Voting members appointed thereafter shall serve four-year terms, and any vacancy shall be filled by appointment for the unexpired term only. A member is eligible for reappointment. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

C.17B:27D-5 Election of chairman, vice chairman, appointment of secretary; meetings.

5. a. The commission shall organize and hold its first meeting within 90 days after the appointment of its members and shall elect a chairman and a vice chairman from among its members. The commission may appoint a secretary, who need not be a member of the commission.

b. The members of the commission shall serve without compensation but may be allowed their actual and necessary expenses incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to the commission for this purpose.

c. The Department of Banking and Insurance, in consultation with the Department of Health and Senior Services, shall assist the commission in the performance of its duties.

d. The commission shall be entitled to call upon the services of any State, county or municipal department, board, commission or agency as it may require and as may be available to it for these purposes, and to incur such traveling and other miscellaneous expenses as it may deem necessary for the proper execution of its duties and as may be within the limit of funds appropriated or otherwise made available to it for these purposes.

e. The commission shall meet regularly, and at a minimum of four times per year. Special meetings may be called by the chairman of the commission.

C.17B:27D-6 Duties of commission relative to review of bills.

6. It shall be the duty of the commission to review any bill introduced in either House of the Legislature that would require a carrier to provide a mandated health benefit, as provided in this section.

a. Whenever a bill containing a mandated health benefit is introduced in the Legislature, the chairman of the standing reference committee to which the bill has been referred in the House in which it was introduced shall, upon introduction of the bill, request the commission to prepare a written report that assesses the social and financial effects and the medical efficacy of the proposed mandated health benefit.

If the bill is subsequently amended, a prime sponsor or the presiding officer of the House in which the bill is pending may request the commission to amend or revise its report to reflect the changes made by the amendment.

b. (1) For the period ending December 31, 2003, the commission shall complete its review of a bill within 90 days after the date the review is requested, and provide its comments and recommendations in writing to the prime sponsor, committee chairman and presiding officer of the House in which the bill is pending. The commission may request an extension prior to the 90th day, in which case the presiding officer of the House in which the bill is pending may grant an extension of up to 45 days for the commission to complete its review.

(2) Beginning January 1, 2004, the commission shall complete its review of a bill within 60 days after the date the review is requested, and provide its comments and recommendations in writing to the prime sponsor, committee chairman and presiding officer of the House in which the bill is pending. The commission may request an extension prior to the 60th day, in which case the presiding officer of the House in which the bill is pending may grant an extension of up to 45 days for the commission to complete its review.

c. The House or standing reference committee, as applicable, shall not consider or vote upon the bill until either: (1) the commission completes its review and provides its comments

and recommendations in writing to the prime sponsor, committee chairman and presiding officer of the House in which the bill is pending, or (2) the 90th or 60th day, as applicable, after the date the review is requested, if no extension was granted, or the designated day for the end of the extension period, whichever is later.

d. (1) If the presiding officer of the House in which the bill is pending determines that the bill is an urgent matter, the presiding officer shall so notify in writing the commission and the chairman of the standing reference committee to which the bill was referred, and the House or committee may consider and vote upon the bill as soon as practicable.

(2) If the chairman of the standing reference committee to which the bill is referred, in consultation with the Commissioner of Health and Senior Services, determines that the bill is of such an urgent nature that it would seriously impair the public health to wait for the commission to issue its report, the chairman shall so notify in writing the presiding officer of the House in which the bill is pending, and the commission, of that determination, and the standing reference committee, with the agreement of the presiding officer of the House, may consider and vote upon the bill as soon as practicable.

C.17B:27D-7 Contents of review of bill.

7. The review of a bill containing a proposed mandated health benefit by the commission shall include the following:

a. The social impact of mandating the health benefit, which shall include:

(1) the extent to which the proposed mandated health benefit and the services it would provide are needed by, available to and utilized by the population of New Jersey;

(2) the extent to which insurance coverage for the proposed mandated health benefit already exists or, if no coverage exists, the extent to which the lack of coverage results in inadequate health care or financial hardship for the affected population of New Jersey;

(3) the demand for the proposed mandated health benefit from the public and the source and extent of opposition to mandating the health benefit;

(4) relevant findings bearing on the social impact of the lack of the proposed mandated health benefit; and

(5) such other information with respect to the social impact as the commission deems appropriate.

b. The financial impact of mandating the health benefit, which shall include:

(1) the extent to which the proposed mandated health benefit would increase or decrease the cost for treatment or service;

(2) the extent to which similar mandated health benefits in other states have affected charges, costs and payments for services;

(3) the extent to which the proposed mandated health benefit would increase the appropriate use of the treatment or service;

(4) the impact of the proposed mandated health benefit on total costs to carriers and on administrative costs;

(5) the impact of the proposed mandated health benefit on total costs to purchasers and benefit costs;

(6) the impact of the proposed mandated health benefit on the total cost of health care within New Jersey; and

(7) such other information with respect to the financial impact as the commission deems appropriate.

c. The medical efficacy of mandating the health benefit, which shall include:

(1) if the proposed health benefit mandates coverage of a particular treatment or therapy, the recommendation of a clinical study or review article in a major peer-reviewed professional journal;

(2) if the proposed benefit mandates coverage of the services provided by an additional class of practitioners, the results of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and the practitioners already covered by benefits;

(3) the results of other research;

(4) the impact of the proposed benefit on the general availability of health benefits coverage in New Jersey; and

(5) such other information with respect to the medical efficacy as the commission deems appropriate.

d. The effects of balancing the social, economic and medical efficacy considerations, which shall include, but not be limited to:

(1) the extent to which the need for coverage outweighs the costs of mandating the health benefit; and

(2) the extent to which the problem of coverage may be solved by mandating the availability of the coverage as an option under a health benefits plan.

e. An analysis of information collected from various sources, including, but not limited to:

(1) a State data collection system;

(2) the Departments of Health and Senior Services and Banking and Insurance;

(3) health planning organizations;

(4) proponents and opponents of the proposed health benefit mandate, who shall be encouraged to provide appropriate documentation supporting their positions. The commission shall examine such documentation to determine whether:

(a) the documentation is complete;

(b) the assumptions upon which the research is based are valid; (c) the research cited in the documentation meets professional standards;

(d) all relevant research respecting the proposed benefit has been cited in the documentation;

(e) the conclusions and interpretations in the documentation are consistent with the data submitted; and

(5) such other data sources as the commission deems appropriate. In analyzing information from the various sources, the commission shall give substantial weight to the documentation provided by the proponents and opponents of the mandate to the extent that such documentation is made available to them.

C.17B:27D-8 Development of system of data collection; review, comment.

8. In the course of studying and evaluating proposed mandated health benefits, the commission shall:

a. develop criteria for a system and program of data collection, for use by the Departments of Health and Senior Services and Banking and Insurance, to assess the impact of mandated health benefits, including the cost to employers and carriers, impact of treatment, cost savings in the health care system, number of providers and other data as may be appropriate; and

b. review and comment to any State department, board, bureau, commission or agency, with respect to any order or regulations proposed or implemented thereby that affect mandated health benefits.

C.17B:27D-9 Report to Governor, Legislature.

9. The commission shall report to the Governor and Legislature three years from the effective date of this act on its activities. The report shall include a summary of the bills reviewed by the commission and the commission's findings, and any recommendations the commission may have regarding the review process required pursuant to this act.

10. This act shall take effect immediately.

Approved November 21, 2003.