SENATE, No. 285

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:
Senator BERNARD F. KENNY, JR.
District 33 (Hudson)

SYNOPSIS
Makes changes in Primary Care Physician and Dentist Loan Redemption Program.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
AN ACT concerning loan redemptions for primary care practitioners, and amending and supplementing N.J.S.18A:71C-32 et seq.

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

1. N.J.S.18A:71C-32 is amended to read as follows:


"Approved site" means a site located within a State designated underserved area or a health professional shortage area or that has been determined by the Higher Education Student Assistance Authority, in consultation with the Department of Health and Senior Services, to serve medically underserved populations according to criteria determined by the authority, including, but not limited to, the percentage of medically underserved patients served.

"Authority" means the Higher Education Student Assistance Authority.

"Eligible [student] qualifying loan expenses" means the cumulative [total of the annual] outstanding balance of student loans covering the cost of attendance at an undergraduate institution of medical, dental, or other primary care professional education at the time an applicant is selected for the program. Interest paid or due on [student] qualifying loans that an applicant has taken out for use in paying the costs of undergraduate medical, dental, or other primary care professional education shall be considered eligible for reimbursement under the program. The authority may establish a limit on the total amount of [student] qualifying loans which may be redeemed for participants under the program, provided that the total redemption of [student] qualifying loans does not exceed $120,000, or the maximum amount authorized by the federal government, whichever is greater, either in State funds or the sum of federal, State, and other non-federal matching funds, pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable.

"Executive director" means the executive director of the Higher Education Student Assistance Authority.

"Health professional shortage area" (HPSA) means an urban or rural area, a population group or a public or non-profit private medical facility or other public facility which the Secretary of Health and Human Services determines has a health professional shortage pursuant to section 332 of the Public Health Service Act.

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.
"Primary care" means the practice of family medicine, general internal medicine, general pediatrics, general obstetrics, gynecology, and any other areas of medicine which the Commissioner of Health and Senior Services may define as primary care. Primary care also includes the practice of general dentistry and pedodontics, as well as the practice of a nurse-practitioner, certified nurse-midwife, and physician assistant.

"Primary care practitioner" means a State-licensed or certified health care professional who has obtained a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession at an undergraduate institution of medical, dental, or other primary care professional education, as applicable.

[“Primary Care Physician and Dentist Loan Redemption Program” means a program which provides for the redemption of the eligible student loan expenses of its participants.]

"Program" means the Primary Care Practitioner Loan Redemption Program established pursuant to N.J.S.18A:71C-33.

"Program participant" means a primary care practitioner who contracts with the authority to engage in the clinical practice of primary care at an approved site in exchange for the redemption of eligible qualifying loan expenses provided under the program.

"Qualifying loan" means a government or commercial loan for the actual costs paid for tuition and reasonable education and living expenses relating to the obtaining of a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession.

"State designated underserved area" means a geographic area in this State which has been ranked by the Commissioner of Health and Senior Services on the basis of health status and economic indicators as reflecting a medical or dental health professional shortage.

"Total and permanent disability" means a physical or mental disability that is expected to continue indefinitely or result in death and renders a participant in the program unable to perform that person's service obligation, as determined by the executive director or his designee.

"Undergraduate medical, dental, or other professional primary care professional education" means the period of time between entry into medical school, dental school, or other primary care professional training program and the award of the medical (M.D., D.O.) degree, the dental (D.M.D., D.D.S.) degree, or other primary care professional degree a degree in allopathic or osteopathic medicine, dentistry, or another primary care profession, respectively.

(cf: N.J.S.18A71C-32)
2. N.J.S.18A:71C-33 is amended to read as follows:

18A:71C-33. There is established a Primary Care Physician and Dentist Practitioner Loan Redemption Program within the Higher Education Student Assistance Authority. The program shall provide for the redemption of a portion of the eligible qualifying loan expenses of program participants for each year of service in a State designated underserved area at an approved site.

(cf: N.J.S.18A:71C-33)

3. N.J.S.18A:71C-34 is amended to read as follows:

18A:71C-34. To be eligible to participate in the Primary Care Physician and Dentist Loan Redemption Program program, an applicant shall:

a. be a resident of the State;

b. be a graduate of a medical school approved by the State Board of Medical Examiners for the purpose of licensure and receive a recommendation from the school's medical staff concerning participation in the loan redemption program in the case of a physician; be a graduate of a dental school approved by the New Jersey State Board of Dentistry for the purpose of licensure and receive a recommendation from the school's dental staff concerning participation in the loan redemption program in the case of a dentist; or be a graduate of another state-approved primary care professional training program for the purpose of licensure or certification and receive a recommendation from the program's professional staff concerning participation in the loan redemption program in the case of another primary care practitioner; and

c. [in the case of a physician, have completed an accredited residency training program and received a recommendation from the director of the training program concerning participation in the loan redemption program; and] (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill).)

d. agree to practice primary care, as appropriate, [in a State designated underserved area] at an approved site under the terms and conditions provided in N.J.S.18A:71C-36 and the agreement issued thereunder.

(cf: N.J.S.18A:71C-34)

4. N.J.S.18A:71C-35 is amended to read as follows:

18A:71C-35. The Commissioner of Health and Senior Services, after consultation with the Commissioner of Corrections and the Commissioner of Human Services, shall designate and establish a ranking of State designated underserved areas. The criteria used by
the Commissioner of Health and Senior Services in designating areas shall include, but not be limited to:

a. the financial resources of the population under consideration, including the percentage of the population that is eligible for medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), P.L.1997, c.272 (C.30:4I-1 et seq.) and P.L.2000, c.71 (C.30:4J-1 et seq.), and the percentage of the population that does not have health insurance coverage;

b. the population's access to primary care services; and

c. appropriate physician, dentist, or other primary care staffing in State, county, municipal and private nonprofit health care facilities; and

d. the extent to which racial and ethnic disparities in health care in a geographic area, including, but not limited to, disparities in the incidence of cancer, cardiovascular disease, stroke, chemical dependency, diabetes, asthma, homicide, suicide, accidental injury, infant mortality, child immunization rates and HIV/AIDS, indicate the need to increase access to primary care services among racial and ethnic minority populations in that area.

The Commissioner of Health and Senior Services shall transmit the list of State designated underserved areas and the number of positions needed in each area to the executive director or designee.

(cf: N.J.S.18A:71C-35)

5. N.J.S.18A:71C-36 is amended to read as follows:

18A:71C-36. [A medical, dental, nursing, or other primary care student who is eligible and interested in participating in the loan redemption program shall sign a nonbinding agreement with the Higher Education Student Assistance Authority or its designated agent upon completion of the final year of undergraduate medical, dental, or other primary care training, as appropriate. At the end of the final year or residency training in the case of a physician; at the end of the final year of undergraduate dental training or residency training if the training is required in a primary care dental specialty in the case of a dentist; and at the end of the final year of other primary care training in the case of another primary care provider, the applicant shall sign a contractual agreement with the authority or its designated agent administering the program, the authority or its designated agent shall contract only with a primary care practitioner.

b. The contract shall require a program participant to:

(1) serve at least an initial two-year period at an approved site in the full-time clinical practice of that person's primary care profession;

(2) charge for professional services at the usual and customary rate prevailing in the area in which the approved site is located, but allow a patient who is unable to pay that charge to pay at a reduced rate or receive care at no charge;
(3) not discriminate against any patient in the provision of health care services on the basis of that person's ability to pay or source of payment; and
(4) agree not to impose any charge in excess of the limiting fee for a service, as determined by the United States Secretary of Health and Human Services, to a recipient of benefits under the federal Medicare program established pursuant to Pub.L. 89-97 (42 U.S.C.s.1395 et seq.).

A. The [agreement] contract shall also specify the applicant's dates of required service[, the initial period to cover a minimum of two years,] and the total amount of eligible [student] qualifying loan expenses to be redeemed by the State in return for service[. The agreement shall also][, and stipulate that the applicant has knowledge of and agrees to the six-month probationary period required prior to final acceptance into the program pursuant to N.J.S.18A:71C-38.
(cf: N.J.S.18A:71C-36)

6. N.J.S.18A:71C-37 is amended to read as follows:
18A:71C-37. a. Maximum redemption of loans under the loan redemption program shall amount to 18% of principal and interest of eligible [student] qualifying loan expenses in return for one full year of service [in a State designated medically underserved area] at an approved site, an additional 26% for a second full year of service, an additional 28% for a third full year of service and an additional 28% for a fourth full year of service for a total redemption of eligible [student] qualifying loan expenses of up to, but not to exceed, $120,000, or the maximum amount authorized by the federal government, whichever is greater, either (1) in State funds or (2) the sum of federal, State, and other non-federal funds pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable. [Service in a State designated underserved area shall begin within two years of completion of the medical residency training program in the case of a physician; within two years of completion of undergraduate dental training or residency training if the training is required in a primary care dental specialty in the case of a dentist; and within two years of completion of other primary care professional training if the training is required in the case of another primary care provider] No amount of eligible qualifying loan expenses shall be redeemed for services performed for less than a full year.

b. A participant who enters an agreement to fulfill service in a State designated underserved area that is also a [federal] HPSA shall be permitted a total redemption of eligible [student] qualifying
loan expenses for four years of service up to, but not to exceed, the
sum of federal, State and other non-federal matching funds provided
pursuant to section 338I of the Public Health Service Act (42
U.S.C.s.254q-1).

c. A program participant who enters an agreement to fulfill
service in a State designated underserved area that is not also a
HPSA shall be permitted a total redemption of eligible qualifying
loan expenses for four years of service up to, but not to exceed,
$120,000, or the maximum amount authorized by the federal
government, whichever is greater, in State funds.

d. A program participant who has engaged in full-time clinical
practice during the participant's initial two years of participation in
the program shall be permitted to fulfill the program participant's
subsequent service obligations on a part-time basis with the
approval of the authority or its designee and the program
participant's employer in a State designated underserved area, with
the program participant's redemption credit accruing on a pro rata
basis. The program participant may be permitted a total redemption
of eligible qualifying loan expenses for the equivalent of four years
of full-time service.
(cf: N.J.S.18A:71C-37)

7. N.J.S.18A:71C-38 is amended to read as follows:
18A:71C-38. Each program participant shall serve a six-month
probationary period upon initial placement [in a service site within
the State designated underserved area] at an approved site. During
that period, the [medical or dental] primary care staff of the
[service] approved site, as appropriate, together with the program
participant and the executive director or his designee, shall evaluate
the suitability of the placement for the program participant. At the
end of the probationary period, the [medical or dental] primary care
staff shall recommend the continuation of the program participant's
present placement, a change in placement, or its determination that
the program participant is an unsuitable candidate for the [loan
redemption] program. If the [medical or dental] primary care staff
of the [service] approved site recommends a change in placement,
the executive director or a designee shall [place the program
participant in] approve an alternate placement [within a State
designated underserved area] at an approved site. If the [medical or
dental] primary care staff determines that the program participant is
not a suitable candidate for the program, the executive director or
his designee shall take this recommendation into consideration in
regard to the program participant's final acceptance into the
program. No loan redemption payment shall be made during the
six-month probationary period; however, a program participant shall receive credit for the six-month period in calculating the first year of required service under the loan redemption contract. (cf: N.J.S.18A:71C-38)

8. N.J.S.18A:71C-39 is amended to read as follows:
   18A:71C-39. The executive director or his designee, in consultation with the Commissioner of Health and Senior Services, shall match program participants to State designated underserved areas [based upon the ranking of the underserved areas established by the commissioner and on the basis of participant preference] or HPSAs.
   (cf: N.J.S.18A:71C-39)

9. N.J.S.18A:71C-40 is amended to read as follows:
   18A:71C-40. The executive director or his designee shall annually determine the number of program positions available on the basis of the need for primary care physicians, dentists, and other primary care providers in State designated underserved areas as determined by the Commissioner of Health and Senior Services and the State and federal funds available for the program. Once the number of program positions has been determined, the executive director or designee shall select the program participants from among those [students who have applied to the program and] applicants who meet the eligibility criteria established pursuant to N.J.S.18A:71C-34, subject to available funds and available approved sites. In selecting program participants, the event that there are insufficient funds or approved sites to select all of the applicants who meet the eligibility criteria, the executive director or his designee shall accord priority to applicants in the following manner:
   a. first, to any applicant who is completing a fourth, third or second year of a loan redemption contract;
   b. second, to any applicant [whose residence in the State at the time of entry into postsecondary education was within a State designated underserved area] according to the severity of the physician, dentist, or other primary care provider shortage in the area selected by the applicant; and
   c. third, to any applicant [according to the severity of the physician, dentist, or other primary care provider shortage in the area selected by the applicant] whose residence in the State at the time of entry into postsecondary education was within a State designated underserved area.
   In the event that there are more applicants who have the same
priority than there are program positions, the executive director or his designee shall select program participants by means of a lottery or other form of random selection.

(cf: N.J.S.18A:71C-40)

10. (New section) a. A program participant, as a condition of participation, shall be required to adhere to performance standards established by the executive director or his designee.

b. The standards shall include, but not be limited to, requirements that a participant:

(1) maintain residency in the State;
(2) maintain a license or certification to practice a primary care profession in the State;
(3) remain current with payments on student loans;
(4) enter into a mutually acceptable contract with an approved site;
(5) maintain satisfactory performance of services rendered at an approved site; and
(6) report to the authority or its designee, on a form and in a manner prescribed by the authority or its designee, on the program participant's performance of services rendered at an approved site prior to repayment of the annual amount eligible for redemption.

11. N.J.S.18A:71C-41 is amended to read as follows:

18A:71C-41. A [physician, dentist, or other primary care provider] program participant who has previously entered into a contract with the authority may nullify the agreement by notifying the authority in writing and reassuming full responsibility for the remaining outstanding balance of the loan debt. In no event shall service [in a State designated underserved area] at an approved site for less than the full calendar year of each period of service entitle the program participant to any benefits under the [loan redemption] program. A program participant seeking to nullify the contract before completing a second full year of service shall be required to pay 50% of the redeemed portion of indebtedness in not more than one year following nullification of the agreement.

(cf: N.J.S.18A:71C-41)

12. N.J.S.18A:71C-42 is amended to read as follows:

18A:71C-42. In case of a program participant's death or total and permanent disability, the authority or its designee shall nullify the service obligation of the [student] program participant. The nullification shall terminate the authority's obligations under the loan redemption contract, except in the event that a program participant's death or total and permanent disability occurs [after]
during the second year of service, the authority shall [redeem the
current year of service] not require repayment of the prior redeemed
portion of indebtedness. When continued enforcement of the
contract may result in extreme hardship, the authority or its
designee may nullify or suspend the service obligation of the
[student] program participant.
(cf: N.J.S.18A:71C-42)

13. (New section) A person who knowingly or willfully
furnishes any false or misleading information for the purpose of
receiving loan redemption benefits under the program is guilty of a
crime of the fourth degree.

14. N.J.S.18A:71C-43 is amended to read as follows:
18A:71C-43. a. In the case of:
(1) a program participant's conviction of a crime or an act of
gross negligence in the performance of service obligations [or
when];
(2) suspension or revocation of the program participant's license
or certification to practice [has been suspended or revoked]; or
(3) a program participant's breach of the performance standards
established pursuant to section 10 of P.L. , c. (C. )(pending
before the Legislature as this bill);
the executive director or his designee [shall have the authority] is
authorized to terminate the program participant's service in the
program [and require forfeiture of the amount redeemed for the
current year of service].

b. A program participant who fails to repay an amount due the
authority under the program may be subject to actions initiated by
the authority or its designee, which may include, but are not limited
to, recovery of the amount due by an action brought in a court of
competent jurisdiction or through the offset of State tax refunds or
rebates, making this information available to credit reporting
agencies, and exclusion from eligibility for any student assistance
benefits administered by the authority, as well as action by the
federal government, to the extent that loan redemption benefits are
federally funded, to recover any amount due it as permitted by
federal law. In any action brought by the authority or its designee
in a court of competent jurisdiction pursuant to this subsection, the
program participant shall be liable for: the debt incurred, interest
on the debt at the maximum legal prevailing rate as determined by
the United States Treasurer, and the administrative and court costs
associated with collection of the debt.
(cf: N.J.S.18A:71C-43)
15. N.J.S.18A:71C-44 is amended to read as follows:

18A:71C-44. A student who is participating in the federally administered National Health Service Corps Loan Repayment Program, section 338B of the Public Health Service Act (42 U.S.C.s.254 l-1), shall not be eligible to participate simultaneously in the Primary Care [Physician and Dentist] Practitioner Loan Redemption Program.

(cf: N.J.S.18A:71C-44)

16. (New section) The executive director or his designee may, within the limits of available funds and in accordance with eligibility criteria determined by the executive director or his designee, make payments in a reasonable amount, as determined by the executive director or his designee, to reimburse a program participant for all or part of any increased tax liability incurred by the participant, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., which results from the redemption of eligible qualifying loan expenses under the program.

17. N.J.S.18A:71C-45 is repealed.

18. This act shall take effect immediately.

STATEMENT

This bill makes a number of changes in regard to the Primary Care Physician and Dentist Loan Redemption Program established within the Higher Education Student Assistance Authority (HESAA) under N.J.S.18A:71C-32 et seq. Specifically, the bill:

* renames the program as the Primary Care Practitioner Loan Redemption Program;
* provides for the participation in the program of primary care practitioners who contract with the HESAA to engage in the clinical practice of primary care at an approved site in exchange for the redemption of eligible qualifying loan expenses provided under the program;
* provides for the redemption of a portion of the eligible student loan expenses of program participants for each year of service at an approved site in a State designated underserved area or a health professional shortage area (HPSA);
* requires a program participant to:
  -- serve at least an initial two-year period at an approved site in the full-time clinical practice of that person's primary care profession;
  -- charge for professional services at the usual and customary
rate prevailing in the area in which the approved site is located, but allow a patient who is unable to pay that charge to pay at a reduced rate or receive care at no charge; 

-- not discriminate against any patient in the provision of health care services on the basis of that person's ability to pay or source of payment; and 

-- agree not to impose any charge in excess of the limiting fee for a service, as determined by the United States Secretary of Health and Human Services, to a Medicare recipient; 

* precludes any loan redemption benefits under the program for services performed for less than a full year; 

* permits a program participant who has completed full-time clinical practice during the participant's initial two years in the program to fulfill subsequent service obligations on a part-time basis with the approval of the HESAA and the program participant's employer in a State designated underserved area, with the participant's redemption credit accruing on a pro rata basis and subject to a total redemption of eligible qualifying loan expenses for the equivalent of four years of full-time service; 

* require the HESAA, in the event that there are insufficient funds or approved sites to select all of the program applicants who meet the eligibility criteria, to accord priority to applicants in the following manner: 

-- first, to those completing a fourth, third or second year of a loan redemption contract; 

-- second, based on the severity of the primary care provider shortage in the area selected by the applicant; and 

-- third, to those whose residence at the time of entry into postsecondary education was in a State designated underserved area; 

* requires a program participant to adhere to performance standards that include, but are not limited to, requirements that a participant: 

-- maintain residency in the State; 

-- maintain a license or certification to practice a primary care profession in the State; 

-- remain current with payments on student loans; 

-- enter into a mutually acceptable contract with an approved site; 

-- maintain satisfactory performance of services rendered at an approved site; and 

-- report to the HESAA on the participant's performance of services at an approved site prior to repayment of the annual amount eligible for redemption; 

* provides that when the HESAA nullifies the service obligation of a program participant who has died or incurred a total and permanent disability, the nullification terminates the HESAA's obligations under the loan redemption contract; and, if
the participant’s death or total and permanent disability occurs
during the second year of service, the HESAA will not require
repayment of the prior redeemed portion of indebtedness;
* makes the knowing or willful furnishing of false or
misleading information for the purpose of receiving loan
redemption benefits under the program a crime of the fourth
degree (punishable by a fine of up to $10,000 or imprisonment
for up to 18 months, or both);
* permits the HESAA to terminate a program participant’s
service in the program if the participant has:
-- been convicted of a crime or an act of gross negligence in the
performance of service obligations;
-- incurred a suspension or revocation of the participant’s license
or certification to practice; or
-- committed a breach of the performance standards established
pursuant to the bill;
* makes a program participant who fails to repay an amount
due the HESAA under the program subject to actions initiated by
the HESAA, which may include, but are not limited to, recovery
through litigation or through the offset of State tax refunds or
rebates, making this information available to credit reporting
agencies, and exclusion from eligibility for any student
assistance benefits administered by the HESAA, as well as action
by the federal government, to the extent that loan redemption
benefits are federally funded, to recover any amount due it as
permitted by federal law;
* provides for reimbursement by the HESAA, within the limits
of available funds and in accordance with eligibility criteria
determined by the executive director or his designee, to a
program participant for all or part of any increased State income
tax liability resulting from the receipt of loan redemption
benefits under the program; and
* repeals N.J.S.18A:71C-45 (which requires program
participant reports to the HESAA on the participant’s
performance of service), because its provisions are incorporated
elsewhere in the bill.

The bill also expands the criteria to be used by the Commissioner
of Health and Senior Services to designate State designated
underserved areas for the purposes of the Primary Care Practitioner
Loan Redemption Program, to include:
* the percentage of the population that is eligible for the
Medicaid and NJ FamilyCare program, and the percentage of the
population that does not have health insurance coverage; and
* the extent to which racial and ethnic disparities in health
care in a geographic area, including, but not limited to,
disparities in the incidence of cancer, cardiovascular disease,
stroke, chemical dependency, diabetes, asthma, homicide,
suicide, accidental injury, infant mortality, child immunization
rates and HIV/AIDS, indicate the need to increase access to primary care services among racial and ethnic minority populations in that area.