

[First Reprint]

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2507

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED DECEMBER 17, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Prohibits sale or lease of access to certain dental provider network contracts.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 20, 2019,
with amendments.



(Sponsorship Updated As Of: 6/21/2019)

1 **AN ACT** concerning certain dental provider networks, and
2 supplementing chapter 30 of Title 17B of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 “Contracting entity” means any person or entity that enters into
10 direct contracts with providers for the delivery of dental services in
11 the ordinary course of business, including a third party
12 administrator as defined by section 1 of P.L.2001, c.267
13 (C.17B:27B-1) and a dental carrier.

14 “Covered person” means an individual who is covered under a
15 dental benefits or health benefits plan for dental services.

16 “Dental benefits plan” means a benefits plan which pays or
17 provides dental expense benefits for covered dental services and is
18 delivered or issued for delivery in this State by or through a dental
19 carrier on a stand-alone basis.

20 “Dental carrier” means a dental insurance company, dental
21 service corporation, or dental plan organization authorized to
22 provide a dental benefits plan in New Jersey or a health benefits
23 plan in New Jersey that includes coverage for dental services.

24 “Dental services” means services for the diagnosis, prevention,
25 treatment, or cure of a dental condition, illness, injury, or disease.
26 Dental services shall not include those services delivered by a
27 provider under a health benefits plan that are billed as medical
28 services under that plan.

29 “Health benefits plan” means any hospital and medical expense
30 incurred policy, health maintenance organization subscriber
31 contract, or any other health care plan or arrangement that pays for
32 or furnishes medical, dental, or health care services, whether by
33 insurance or otherwise. Health benefits plan shall include a dental
34 benefits plan. “Health benefits plan” shall not include one or more,
35 or any combination of, the following: coverage only for accident, or
36 disability income insurance; coverage issued as a supplement to
37 liability insurance; liability insurance, including general liability
38 insurance and private passenger automobile insurance; workers’
39 compensation or similar insurance; automobile medical payment
40 insurance; credit-only insurance; coverage for on-site medical
41 clinics; coverage similar to the foregoing as specified in federal
42 regulations issued pursuant to the federal “Health Insurance
43 Portability and Accountability Act of 1996,” P.L.104-191, under
44 which benefits for medical care are secondary or incidental to other

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 AAP committee amendments adopted May 20, 2019.

1 insurance benefits; benefits for long-term care, nursing home care,
2 home health care, or community-based care; specified disease or
3 illness coverage, hospital indemnity or other fixed indemnity
4 insurance, or such other similar, limited benefits as are specified in
5 regulations; Medicare supplemental health insurance as defined
6 under section 1882(g)(1) of the federal Social Security Act (42
7 U.S.C. s.1395ss(g)(1)); coverage supplemental to the coverage
8 provided under chapter 55 of title 10, United States Code (10
9 U.S.C. s.1071 et seq.); or other similar limited benefit supplemental
10 coverages.

11 "Provider" means an individual or entity which, acting within the
12 scope of its licensure or certification, provides dental services or
13 supplies defined by the health benefits or dental benefits plan.
14 Provider includes, but is not limited to, a dentist, physician or other
15 health care professionals licensed pursuant to Title 45 of the
16 Revised Statutes acting within the scope of his or her licensure.
17 "Provider" shall not include a physician organization or physician
18 hospital organization that leases or rents the physician
19 organization's or physician hospital organization's network to a
20 third party.

21 "Provider network contract" means a contract between a
22 contracting entity and a provider specifying the rights and
23 responsibilities of the contracting entity and providing for the
24 delivery of and payment for dental services to covered persons.

25 "Third party" means a person or entity that enters into a contract
26 with a contracting entity or with another third party to gain access
27 to the dental services or contractual discounts of a provider network
28 contract. "Third party" shall not include any employer or other
29 group for whom the contracting entity or dental carrier provides
30 administrative services, including at least the payment of claims.

31

32 2. a. A contracting entity shall not grant to a third party access
33 to a provider network contract, or a provider's dental services or
34 contractual discounts, or both, pursuant to a provider network
35 contract, unless the contracting entity meets the requirements of
36 subsections b. and c. of this section.

37 b. A dental carrier may grant access to its provider network
38 contract to a third party if, at the time the contract is entered into,
39 and at any time the contract is renewed, the dental carrier allows
40 any provider which is part of the carrier's provider network to
41 choose not to participate in third party access to the contract. The
42 third party access provision of any provider contract shall be clearly
43 identified in the provider contract. A dental carrier shall not grant
44 third party access to the contract of any provider that does not
45 participate in third party access.

46 c. A contracting entity may grant a third party access to a
47 provider network contract, or services or discounts pursuant to a
48 provider network contract, if:

1 (1) The contract specifically states that the contracting entity
2 may enter into an agreement with third parties allowing the third
3 parties to obtain the contracting entity's rights and responsibilities
4 as if the third party were the contracting entity, and when the
5 contracting entity is a dental carrier, the provider chose to
6 participate in third party access at the time the provider network
7 contract was entered into or renewed;

8 (2) The third party accessing the contract agrees to comply with
9 all of the contract's terms;

10 (3) The contracting entity identifies, in writing or electronic
11 form to the provider, all third parties in existence as of the date the
12 contract is entered into or renewed;

13 (4) The contracting entity includes on its website a listing,
14 updated no less frequently than every 90 days, identifying all third
15 parties;

16 (5) The contracting entity requires each third party to identify
17 the source of the discount on all remittance advices or explanations
18 of payment under which a discount is taken ¹, except this
19 requirement shall not apply to electronic transactions mandated
20 under the "Health Insurance Portability and Accountability Act of
21 1996," Pub.L.104-191¹;

22 (6) The contracting entity notifies the third party of the
23 termination of a provider network contract no later than 30 days
24 from the termination date with the contracting entity;

25 (7) A third party ceases its right to a provider's discounted rate
26 as of the date of termination of the provider's contract with the
27 contracting entity; and

28 (8) The contracting entity delivers to participating providers a
29 copy of the provider network contract relied on in the adjudication
30 of a claim within 30 days after the date of a request from the
31 provider.

32 d. No provider shall be bound by or required to perform dental
33 treatment or services under a provider network contract that has
34 been granted to a third party in violation of this act.

35
36 3. This act shall not apply to:

37 a. a provider network contract for dental services provided to
38 beneficiaries of the Medicaid program established pursuant to
39 P.L.1968, c.413 (C.30:4D-1 et seq.), the Medicare program
40 established pursuant to the federal Social Security Act, (42 U.S.C.
41 s.1395 et seq.), the State Health Benefits Program, the School
42 Employees' Health Benefits Program, or the NJ FamilyCare
43 Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.);
44 and

45 b. situations in which access to a provider network contract is
46 granted to a contracting entity or dental carrier operating under the
47 same brand licensee program as the contracting entity or to an
48 entity that is an affiliate of the contracting entity. A listing of all

1 affiliates of the contracting entity shall be made available to the
2 provider, in writing or electronic form, prior to access being granted
3 as provided in subsection b. of section 2 of this act.
4

5 4. The Commissioner of Banking and Insurance shall, pursuant
6 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
7 1 et seq.), adopt rules and regulations necessary to effectuate the
8 purpose of this act. The commissioner shall ensure the rules and
9 regulations for this act include penalty provisions for contracting
10 entities and dental carriers that violate the provisions of this act.
11

12 5. This act shall take effect on January 1, 2020 and shall apply
13 to all provider network contracts that are delivered, issued, executed
14 or renewed in this State on or after the effective date. The
15 commissioner may take any anticipatory administrative action in
16 advance of January 1, 2020 as shall be necessary for the
17 implementation of this act.