

# SENATE, No. 3808

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 30, 2019

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Repeals statute authorizing offering of “Basic and Essential” health benefits plans under individual health benefits and small employer health benefits plans and other statutes concerning basic health plans; makes conforming amendments.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain individual and small employer health  
2 benefits plans, amending P.L.1992, c.161 and repealing parts of  
3 statutory law.

4

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

7

8 1. The following are repealed:

9 P.L.2001, c.368 (C.17B:27A-4.4 through C.17B:27A-4.7 and  
10 C.17B:27A-19.11);

11 Section 49 of P.L.1991, c.187 (*not compiled*);

12 Sections 50 and 51 of P.L.1991, c.187 (C.17:48-6.13 and  
13 C.17:48-6.14);

14 Sections 52 and 53 of P.L.1991, c.187 (C.17:48A-6.8 and  
15 C.17:48A-6.9);

16 Sections 54 and 55 of P.L.1991, c.187 (C.17:48E-22.1 and  
17 C.17:48E-22.2);

18 Sections 56 and 57 of P.L.1991, c.187 (C.17B:26B-1 and  
19 C.17B:26B-2);

20 Sections 58 and 59 of P.L.1991, c.187 (C.26:2J-4.2 and C.26:2J-  
21 4.3).

22

23 2. Section 3 of P.L.1992, c.161 (C.17B:27A-4 is amended to  
24 read as follows:

25 3. a. No later than 180 days after the effective date of this  
26 section of P.L.2008, c.38, a carrier shall, as a condition of issuing  
27 small employer health benefits plans in this State, also offer  
28 individual health benefits plans. The plans shall be offered on an  
29 open enrollment, modified community rated basis, pursuant to the  
30 provisions of this act and P.L.2008, c.38. Every carrier that issues  
31 small employer health benefits plans pursuant to P.L.1992, c.162  
32 (C.17B:27A-17 et seq.) shall make a good faith effort to market  
33 individual health benefits plans.

34 b. A carrier shall offer to an eligible person a choice of at least  
35 three individual health benefits plans established by the board  
36 pursuant to section 6 of P.L.1992, c.161 (C.17B:27A-7). **【One plan**  
37 **shall be a basic health benefits plan.】** A carrier may elect to  
38 convert any individual contract or policy forms in force on the  
39 effective date of P.L.2008, c.38 to any of the benefit plans, except  
40 that the carrier may not convert more than 25% of existing contracts  
41 or policies each year, and the replacement plan shall be of no less  
42 actuarial value than the policy or contract being replaced.

43 **【Notwithstanding the provisions of this subsection to the**  
44 **contrary, a health maintenance organization which is a qualified**

**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.**

1 health maintenance organization pursuant to the "Health  
2 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.  
3 s.300e et seq.) shall be permitted to offer a basic health benefits  
4 plan in accordance with the provisions of that law in lieu of the  
5 plans required pursuant to this subsection.】

6 c. (1) 【A basic health benefits plan shall provide the benefits  
7 set forth in section 55 of P.L.1991, c.187 (C.17:48E-22.2), section  
8 57 of P.L.1991, c.187 (C.17B:26B-2) or section 59 of P.L.1991,  
9 c.187 (C.26:2J-4.3), as the case may be.】 (Deleted by amendment,  
10 P. L. , c. (Pending before the Legislature as this bill).

11 (2) 【Notwithstanding the provisions of this subsection or any  
12 other law to the contrary, a carrier may, with the approval of the  
13 board, modify the coverage provided for in sections 55, 57, and 59  
14 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3,  
15 respectively) or provide alternative benefits or services from those  
16 required by this subsection if they are within the intent of this act or  
17 if the board changes the benefits included in the basic health  
18 benefits plan.】 (Deleted by amendment, P. L. , c. (Pending  
19 before the Legislature as this bill).

20 (3) 【A contract or policy for a basic health benefits plan  
21 provided for in this section may contain or provide for coinsurance  
22 or deductibles, or both, except that no deductible shall be payable in  
23 excess of a total of \$250 by an individual or \$500 by a family unit  
24 during any benefit year; and no coinsurance shall be payable in  
25 excess of a total of \$500 by an individual or by a family unit during  
26 any benefit year.】 (Deleted by amendment, P. L. , c. (Pending  
27 before the Legislature as this bill).

28 (4) 【Notwithstanding the provisions of paragraph (3) of this  
29 subsection or any other law to the contrary, a carrier may provide  
30 for increased deductibles or coinsurance for a basic health benefits  
31 plan if approved by the board or if the board increases deductibles  
32 or coinsurance included in the basic health benefits plan.】 (Deleted  
33 by amendment, P. L. , c. (Pending before the Legislature as this  
34 bill).

35 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
36 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
37 with respect to the filing of policy forms shall not apply to health  
38 plans issued on or after the effective date of this act.

39 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
40 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
41 rate filings shall not apply to individual health plans issued on or  
42 after the effective date of this act.

43 d. Every group conversion contract or policy issued after the  
44 effective date of this act shall be issued pursuant to this section;  
45 except that this requirement shall not apply to any group conversion  
46 contract or policy in which a portion of the premium is chargeable

1 to, or subsidized by, the group policy from which the conversion is  
2 made.

3 e. (Deleted by amendment, P.L.2008, c.38).

4 f. In addition to the rider packages provided for in subsection  
5 c. of section 6 of P.L.1992, c.161 (C.17B:27A-7), every carrier may  
6 offer, in connection with the health benefits plans required to be  
7 offered by this section, any number of riders which may add  
8 benefits or increase the actuarial value of any of the plans. Any  
9 such rider or amendment thereof shall be filed with the board for  
10 informational purposes before the rider may be sold. The added  
11 premium for each rider shall be listed separately from the premium  
12 for the standard plan.

13 The commissioner shall disapprove any rider filed pursuant to  
14 this subsection that is unjust, unfair, inequitable, unreasonably  
15 discriminatory, misleading, contrary to law or the public policy of  
16 this State. The commissioner's determination shall be in writing and  
17 shall be appealable.

18 (cf: P.L.2008, c.38, s.11)

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20 3. This act shall take effect immediately.

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#### STATEMENT

24

25 This bill repeals the statute which authorizes health insurance  
26 carriers to offer "Basic and Essential" health benefits plans in the  
27 individual and small employer health benefits markets.

28 Under New Jersey law, the Basic and Essential Plan (B&E Plan)  
29 is authorized as an option under both the individual and small  
30 employer health benefits plans. Enacted in 2002, the B&E Plan was  
31 designed as a reduced benefit plan to encourage additional  
32 individuals and small employers to purchase at least an "entry  
33 level" health benefits plan. The B&E Plan fails to meet the  
34 requirements of the federal Affordable Care Act's (ACA) Essential  
35 Health Benefits in multiple ways. Because of the interaction of the  
36 State and federal law, it was determined that the State requirement  
37 to offer the B&E Plan was preempted, and carriers had to stop  
38 offering B&E plans. Without this repeal, if the ACA is eliminated  
39 at the federal level, carriers would again be required to offer the  
40 B&E Plan in accordance with New Jersey law.

41 The bill also repeals another statute, enacted prior to the 2002  
42 law, that required the offering of a "basic health benefits plan" and  
43 makes some conforming amendments elsewhere in the statutes, to  
44 eliminate any confusion.