

ASSEMBLY, No. 481

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

“The New Jersey Healthcare Choice Act”; permits health insurers licensed in other states to provide coverage in New Jersey under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the purchase of health insurance coverage and
2 supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. This act shall be known and may be cited as “The New
8 Jersey Healthcare Choice Act.”

9

10 2. As used in this act:

11 “Commissioner” means the Commissioner of Banking and
12 Insurance.

13 “Department” means the Department of Banking and Insurance.

14 “Foreign health insurer” means a foreign individual health
15 insurer or a foreign small employer health insurer.

16 “Foreign individual health insurer” means an insurer licensed to
17 sell individual health benefits plans in any other state.

18 “Foreign small employer health insurer” means an insurer
19 licensed to sell small employer health benefits plans in any other
20 state.

21 “Hazardous financial condition” means that, based on its present
22 or reasonably anticipated financial condition, a foreign health
23 insurer is unlikely to be able to meet obligations to policy holders
24 with respect to known claims or to any other obligations in the
25 normal course of business.

26 “Health care provider” means an individual or entity, which,
27 acting within the scope of its licensure or certification, provides
28 health care services, and includes, but is not limited to, a physician,
29 dentist, nurse or other health care professional whose professional
30 practice is regulated pursuant to Title 45 of the Revised Statutes,
31 and a health care facility licensed pursuant to P.L.1971, c.136
32 (C.26:2H-1 et seq.).

33 “Individual health benefits plan” means a benefits plan for
34 persons and their dependents which pays or provides for hospital
35 and medical expense benefits for covered services.

36 “Resident” means a person whose primary residence is in New
37 Jersey and who is present in New Jersey for at least six months of
38 the calendar year.

39 “Small employer health benefits plan” means a group benefits
40 plan for persons and their dependents which pays or provides for
41 hospital and medical expense benefits for covered services, offered
42 by any person, firm, corporation or partnership actively engaged in
43 a business that employs at least two but not more than 50
44 employees, who work a normal work week of 25 or more hours.

45

46 3. a. Notwithstanding any other law, rule, or regulation to the
47 contrary, a foreign individual health insurer may offer and provide

1 individual health benefits plans to residents in this State, if that
2 insurer:

3 (1) offers the same individual health benefits plans in its
4 domiciliary state and is in compliance with all applicable laws,
5 regulations, and other requirements of its domiciliary state;

6 (2) obtains a certificate of authority to do business as a foreign
7 health insurer in this State, pursuant to section 4 of this act; and

8 (3) participates, on a nondiscriminatory basis, in the “New
9 Jersey Life and Health Guaranty Association” established pursuant
10 to P.L.1991, c. 208 (C.17B:32A-1 et seq.).

11 b. Notwithstanding any other law to the contrary, a foreign
12 small employer health insurer may offer and provide small
13 employer health benefits plans to employers in this State, if that
14 insurer:

15 (1) offers the same small employer health benefit plans in its
16 domiciliary state and is in compliance with all applicable laws,
17 regulations and other requirements of its domiciliary state; and

18 (2) obtains a certificate of authority to do business as a foreign
19 health insurer in this State, pursuant to section 4 of this act; and

20 (3) participates, on a nondiscriminatory basis, in the “New
21 Jersey Life and Health Insurance Guaranty Association;”
22 established pursuant to P.L.1991, c. 208 (C.17B:32A-1 et seq.)
23

24 4. a. A foreign health insurer may apply for a certificate of
25 authority to do business as a foreign health insurer in this State,
26 using a form prescribed by the commissioner. Upon application,
27 the commissioner shall issue a certificate of authority to the foreign
28 health insurer unless the commissioner determines that the insurer:

29 (1) will not provide health insurance services in compliance
30 with the provisions of this act;

31 (2) is in a hazardous financial condition, as determined by an
32 examination by the commissioner conducted in accordance with the
33 Financial Analysis Handbook of the National Association of
34 Insurance Commissioners; or

35 (3) has not adopted procedures to ensure compliance with all
36 federal laws and State laws, including applicable provisions of
37 P.L.1985, c.179 (C.17:23A-1 et seq.), governing the confidentially
38 of its records with respect to providers and covered persons.

39 b. A certificate of authority issued pursuant to this section shall
40 be valid for three years from the date of issuance by the
41 commissioner.

42 c. The commissioner shall establish by regulation:

43 (1) procedures for a foreign health insurer to renew a certificate
44 of authority, pursuant to and consistent with the provisions of this
45 act; and

46 (2) certificate of authority application and renewal fees, the
47 amount of which shall be no greater than is reasonably necessary to
48 enable the department to carry out the provisions of this act.

1 5. a. Each individual health benefits plan provided by a foreign
2 individual health insurer to a resident of this State, and each
3 application for the plan, shall disclose in plain language the
4 following:

5 (1) the differences between the individual health benefits plan
6 issued by the foreign health insurer, and a policy issued through the
7 New Jersey Individual Health Coverage Program, pursuant to
8 P.L.1992, c.161 (C.17B:27A-2 et seq.), using at least 14 point bold
9 type to describe the differences that relate to: underwriting
10 standards; premium rating; preexisting conditions; renewability;
11 portability; and cancellation.

12 (2) an explanation of which state's laws govern the issuance of,
13 and requirements under, the individual health benefits plan offered
14 under this act.

15 b. Each group health benefits plan provided by a foreign small
16 employer health insurer to an employer in this State, and each
17 application for the plan, shall disclose in plain language the
18 following:

19 (1) the differences between the small employer health benefits
20 plan issued by the foreign health insurer, and a plan issued through
21 the New Jersey Small Employer Health Benefits Program, pursuant
22 to P.L.1992, c.162 (C.17B:27A-17 et seq.); and

23 (2) an explanation of which state's laws govern the issuance of,
24 and requirements under, the small employer health benefits plan
25 offered under this act.

26

27 6. a. The commissioner may deny, revoke, or suspend, after
28 notice and opportunity to be heard, a certificate of authority issued
29 to a foreign health insurer pursuant to this act for a violation of the
30 provisions of this act, including any finding by the commissioner
31 that a foreign health insurer is no longer in compliance with any of
32 the conditions for issuance of a certificate of authority set forth in
33 paragraphs (1), (2), or (3) of subsection a. of section 4 of this act, or
34 the rules and regulations adopted pursuant to this act. The
35 commissioner shall provide for an appropriate and timely right of
36 appeal for the foreign health insurer whose certificate is denied,
37 revoked, or suspended.

38 b. The commissioner shall establish grievance and independent
39 claims review procedures with respect to claims by a health care
40 provider or a covered person with which a foreign health insurer
41 shall comply as a condition of issuing policies in this State. The
42 procedures shall be consistent with those set forth in sections 11
43 through 14 of P.L.1997, c.192, (C.26:2S-11 through 26:2S-14),
44 which establishes the Independent Health Care Appeals Program.

45 c. (1) The commissioner shall establish fair marketing
46 standards for marketing materials used by foreign health insurers to
47 market individual health benefits plans to residents in the State,
48 which standards shall be consistent with those applicable to insurers

1 that offer individual health benefits plans through the New Jersey
2 Individual Health Coverage Program pursuant to P.L.1992, c.161
3 (C.17B:27A-2 et seq.).

4 (2) The commissioner shall establish fair marketing standards
5 for marketing materials used by foreign health insurers to market
6 small employer benefits plans to small employers in the State,
7 which standards shall be consistent with those applicable to insurers
8 that offer small employer health benefits plans through the New
9 Jersey Small Employer Health Benefits Program pursuant to
10 P.L.1992, c.162 (C.17B:27A-17 et seq.).

11 d. The procedures and standards established under subsections
12 b. and c. of this section shall be applied on a nondiscriminatory
13 basis so as not to place greater responsibilities on foreign health
14 insurers than the responsibilities placed on other health insurers
15 doing business in this State.

16

17 7. A foreign health insurer offering individual or small
18 employer health benefits plans pursuant to this act shall comply
19 with:

20 a. protections for insureds from unfair claims or trade practices
21 applicable to health insurers pursuant to P.L.1947, c.379 (C.17:29B-
22 1 et seq.);

23 b. applicable provisions of the "New Jersey Life and Health
24 Insurance Guaranty Association Act," P.L.1991, c.208 (C:17B:32A-
25 1 et seq.); and

26 c. the capital and surplus requirements set forth in section 2 of
27 P.L.1995, c. 235, as determined to be applicable to foreign health
28 insurers by the commissioner.

29

30 8. The Department of Banking and Insurance shall adopt,
31 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), rules and regulations to effectuate the
33 purposes of this act, provided, however, that the rules and
34 regulations shall not:

35 a. Directly or indirectly require a foreign health insurer to,
36 directly or indirectly, modify coverage or benefit requirements, or
37 restrict underwriting requirements or premium ratings, in any way
38 that conflicts with the insurer's domiciliary state's laws or
39 regulations;

40 b. Provide for regulatory requirements that are more stringent
41 than those applicable to carriers that are licensed by the
42 commissioner to provide health benefits plans in this State; or

43 c. Require any individual health benefits plan or small
44 employer health benefits plan issued by the foreign health insurer to
45 be countersigned by an insurance agent or broker residing in this
46 State.

1 9. This act shall take effect on the 180th day following
2 enactment.

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STATEMENT

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7 This bill allows health insurers licensed in other states to provide
8 individual health benefits plans and small employer health benefits
9 plans to New Jersey residents and to employers in New Jersey
10 under certain conditions and under the oversight of the
11 Commissioner of Banking and Insurance.

12 In order to offer plans in the State, the foreign health insurer
13 would have to offer these plans in its domiciliary state and
14 otherwise be in compliance with all applicable laws in that state. In
15 addition, the foreign health insurer must apply for and obtain a
16 certificate of authority to do business as a foreign health insurer
17 from the Commissioner of Banking and Insurance. The
18 commissioner shall issue the certificate if the commissioner
19 determines that the foreign health insurer meets certain conditions
20 as specified in the bill.

21 Foreign health insurers who provide individual health benefits
22 plans or small employer health benefits plans in the State must
23 make certain disclosures to individual residents or employers,
24 related to the differences between these plans and plans currently
25 permitted to be offered in the State.

26 The bill provides that the commissioner may deny, revoke or
27 suspend a certificate of authority to do business as a foreign health
28 insurer, after notice and an opportunity to be heard, and the
29 commissioner must establish review procedures to handle claims by
30 health care providers and covered persons against foreign health
31 insurers.

32 The bill requires the commissioner to establish grievance and
33 independent claims review procedures with respect to claims by a
34 health care provider or a covered person, with which a foreign
35 health insurer shall comply as a condition of issuing policies in this
36 State.

37 The bill also requires the commissioner to establish fair
38 marketing standards for marketing materials used by foreign health
39 insurers to market individual health benefits plans and small
40 employer health benefits plans in the State.

41 The bill requires foreign health insurers to comply with all
42 applicable requirements of P.L.1947, c.379 (C.17:29B-1 et seq.)
43 (relating to trade practices); P.L.1991, c.208 (C:17B:32A-1 et seq.)
44 (relating to the New Jersey Life and Health Guaranty Association);
45 and the capital and surplus requirements set forth in section 2 of
46 P.L.1995, c.235, as determined to be applicable to foreign health
47 insurers by the commissioner.

1 Finally, the bill requires the Department of Banking and
2 Insurance to adopt regulations to effectuate the purposes of the bill.
3 However, the department's regulations shall not: (1) require a
4 foreign health insurer to modify coverage or benefit requirements,
5 or restrict underwriting requirements or premium ratings, in any
6 way that conflicts with the insurer's domiciliary state's laws or
7 regulations; (2) provide for an expansion of the commissioner's
8 authority over foreign health insurers in a way that conflicts with
9 the provisions of this bill; or (3) require any individual health
10 benefits plan or small employer health benefits plan issued by the
11 foreign health insurer to be countersigned by an insurance agent or
12 broker residing in this State.

13 Health insurance regulations vary from state to state and, as a
14 result, the cost for individual health coverage and small employer
15 health coverage also varies widely. By allowing insurers licensed
16 in other states to offer coverage to individuals and employers in this
17 State, the intent of the bill is to provide New Jersey residents with
18 access to a wider range of affordable health benefits plans.