

P.L. 2020, CHAPTER 61, *approved July 31, 2020*
Assembly, No. 4389 (*Second Reprint*)

1 AN ACT concerning an assessment on ²certain² entities authorized
2 to issue health benefits plans and supplementing Title 17B of the
3 New Jersey 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 “Commissioner” means the Commissioner of Banking and
10 Insurance.

11 “Entity subject to this act” or “entity” means ¹**[**an entity that is
12 subject to section 9010 of the Affordable Care Act and that is
13 subject to an assessment by the State, including ¹**]** an insurance
14 company, health service corporation, hospital service corporation,
15 medical service corporation, health maintenance organization,
16 ²**[**dental service corporation,²**]** or dental plan organization
17 authorized to issue health benefits or dental benefits plans in this
18 State. “Entity” shall include a multiple employer welfare
19 arrangement ²that is initially² registered pursuant to the "Self-
20 Funded Multiple Employer Welfare Arrangement Regulation Act,"
21 P.L.2001, c.352 (C.17B:27C-1 et seq.) ²after the date of enactment
22 of this act. “Entity” shall not include a dental service corporation or
23 a multiple employer welfare arrangement that is registered pursuant
24 to the "Self-Funded Multiple Employer Welfare Arrangement
25 Regulation Act," P.L.2001, c.352 (C.17B:27C-1 et seq.) as of the
26 date of enactment of this act².

27 "Health benefits plan" means a benefits plan which pays or
28 provides hospital and medical expense benefits for covered
29 services, and is delivered or issued for delivery in this State by or
30 through an entity subject to this act, including a vision or dental
31 plan as defined pursuant to section 1 of P.L.2014, c.70 (C.26:2S-
32 26). For the purposes of this act, "health benefits plan" shall not
33 include the following plans, policies or contracts: Medicaid,
34 Medicare, Medicare Advantage, ¹Medicare supplement,¹ accident
35 only, credit, disability, long-term care, TRICARE supplement
36 coverage, coverage arising out of a workers' compensation or
37 similar law, automobile medical payment insurance, personal injury

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 AFI committee amendments adopted July 23, 2020.

²Assembly AAP committee amendments adopted July 27, 2020.

1 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1
2 et seq.), ²small employer health benefits plans issued pursuant to
3 P.L.1992, c.162 (C.17B:27A-17),² and hospital confinement
4 indemnity coverage.

5 "Net written premiums" means the premiums earned in this State
6 on health benefits plans, less return premiums thereon and
7 dividends paid or credited to policy or contract holders on the
8 health benefits plan business. Net earned premium shall include the
9 aggregate premiums earned on the entity's insured group and
10 individual business, excluding premiums from any Medicaid or NJ
11 FamilyCare contracts.

12
13 2. a. An entity subject to this act shall annually file with the
14 commissioner its net written premiums for the preceding year, no
15 later than April 1 of each year.

16 b. The commissioner shall calculate and issue to the entity a
17 certified assessment, which shall be ²~~2.75%~~ 2.5%² of the entity's
18 net written premiums. ¹~~1~~The commissioner shall calculate the
19 assessment without regard to:

20 (1) the threshold limits established in section 9010(b)(2)(A) of
21 the Affordable Care Act; or

22 (2) the partial exclusion of net premiums provided for in section
23 9010(b)(2)(B) of the Affordable Care Act. ¹~~1~~

24 c. An entity shall annually pay the assessment issued pursuant
25 to subsection b. of this section to the State Treasurer no later than
26 May 1 of each year, as prescribed by the commissioner.

27 d. If the commissioner determines that the amount of the
28 assessment calculated pursuant to this section shall reduce the
29 State's total revenue, the commissioner may reduce the assessment.

30
31 3. a. There is established in the Department of the Treasury a
32 nonlapsing revolving fund to be known as the "Health Insurance
33 Affordability Fund." This fund shall be the repository for all
34 monies collected pursuant to this act. As directed by the
35 commissioner, ¹in consultation with the Commissioners of the
36 Department of Human Services and the Department of Health,¹ the
37 monies in the fund shall be used only for the purposes of increasing
38 affordability in the individual ²~~and small group markets~~ market²
39 and providing greater access to health insurance to the uninsured,
40 including minors, ¹with a primary focus on households with an
41 income below 400 percent of the federal poverty level, expanding
42 eligibility, or modifying the definition of affordability in ²~~those~~
43 ~~markets~~ the individual market^{2, 1} through subsidies, reinsurance,
44 tax policies, outreach and enrollment efforts, buy-in programs, such
45 as the NJ FamilyCare Advantage Program, or any other efforts that
46 can increase affordability for ²~~small employers and~~ ²individual

1 policyholders ²~~in those markets~~² ¹or that can reduce racial
2 disparities in coverage for the uninsured¹.

3 b. The monies in the fund shall be invested and reinvested by
4 the Director of the Division of Investment in the Department of the
5 Treasury to the same extent that other trust funds that are in the
6 custody of the State Treasurer are invested and reinvested, in the
7 manner provided by law. Interest received on the monies in the
8 fund shall be credited to the fund.

9 ¹c. The report required pursuant to section 3 of P.L.2019, c.141
10 shall set forth the impacts of the measures taken pursuant to this act
11 on affordability and reductions in racial disparities in health
12 insurance coverage, including impacts by income level, race, and
13 immigration status. The report shall make recommendations to
14 increase affordability and reduce the uninsured rate in New Jersey,
15 as appropriate, based on the data available to the department.

16 d. (1) The assessments collected pursuant to section 2 of this act
17 shall be deposited to the Health Insurance Affordability Fund and
18 shall be used for the purposes set forth in subsection a. of this
19 section. Beginning in State Fiscal Year 2021, and each State fiscal
20 year thereafter, if 100 percent of the money appropriated from the
21 Health Insurance Affordability Fund is not used for the purposes set
22 forth in subsection a. of this section on the effective date of an
23 annual appropriations act for the State fiscal year, or if an
24 amendment or supplement to an annual appropriations act for the
25 State fiscal year appropriates money from the Health Insurance
26 Affordability Fund to a purpose not set forth in subsection a. of this
27 section, the Director of the Division of Budget and Accounting in
28 the Department of the Treasury shall, not later than five days after
29 the enactment of the annual appropriations act, or an amendment or
30 supplement thereto, that appropriates money from the Health
31 Insurance Affordability Fund to a purpose not set forth in
32 subsection a. of this section, certify to the Director of the Division
33 of Taxation and the Commissioner of Banking and Insurance that
34 the requirements of this section have not been met.

35 (2) The Commissioner of Banking and Insurance shall, no later
36 than five days after certification by the Director of the Division of
37 Budget and Accounting in the Department of the Treasury pursuant
38 to paragraph (1) of this subsection that the requirements of this
39 section have not been met by the annual appropriations act, or an
40 amendment or supplement to the annual appropriations act, notify
41 each entity that the assessment imposed pursuant to section 2 of this
42 act shall no longer be paid or collected.¹

43

44 4. This act shall take effect on January 1, 2021, except the
45 commissioner may take any anticipatory administrative action in
46 advance as shall be necessary for the implementation of this act.

1 _____
2
3 Requires certain entities authorized to issue health benefits plans
4 to pay annual assessment.