

**SENATE, No. 1944**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 25, 2020

**Sponsored by:**  
**Senator NIA H. GILL**  
**District 34 (Essex and Passaic)**

**SYNOPSIS**

Requires carriers to disclose selection standards for placement of health care providers in tiered health benefits plan network; establishes oversight monitor to review compliance.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning tiered health insurance networks and  
2 supplementing P.L.1997, c.192 (C.26:2S-1 et al.).  
3

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

7 1. a. A carrier that offers a managed care plan that provides for  
8 in-network benefits and for a tiered network, shall:

9 (1) use quality of performance and cost-efficiency measurements  
10 as selection standards to determine the placement of health care  
11 providers in a tier: and

12 (2) make written disclosures regarding the selection standards  
13 used to determine the placement of health care providers in a tier in  
14 accordance with the provisions of this act.

15 b. For the purposes of this act, “tiered network” means a  
16 managed care plan provider network with more than one level or  
17 tier of in-network benefits, based on different levels of  
18 reimbursement and cost sharing accepted by the health care  
19 providers in that network.  
20

21 2. The carrier shall also comply with the following  
22 requirements:

23 a. With respect to disclosures required pursuant to sections 3, 4  
24 and 5 of this act, provide a description of how individual scores for  
25 quality of performance and cost-efficiency are calculated and to the  
26 extent the individual scores for quality of performance and cost-  
27 efficiency are combined for a total ranking, the proportion of each  
28 measure shall be clearly disclosed.

29 b. In evaluating health care provider performance, the carrier  
30 shall seek to achieve the goals of safe, timely, effective, efficient,  
31 equitable, and patient-centered care, to the extent possible, and shall  
32 seek to include patient experience as a measure of patient-  
33 centeredness.

34 c. In evaluating cost-efficiency performance of a health care  
35 provider, the carrier shall use appropriate and comprehensive  
36 episode of care software and shall ensure that any appropriate risk  
37 adjustment occurs as follows:

38 (1) in measuring cost-efficiency, the carrier shall compare health  
39 care providers within the same specialty within an appropriate  
40 geographical market; and

41 (2) the carrier shall fully disclose the basis and data used, and its  
42 relative weight or relevance to the overall evaluation.

43 d. The carrier shall describe the statistical basis for the number  
44 of patients for each disease state or specialty and use accurate,  
45 reliable and valid measurements of a health care provider’s quality  
46 of performance.

47 e. The carrier shall describe the statistical basis for the number  
48 of patient episodes of care and use accurate, reliable and valid

1 measurements of a health care provider's cost-efficiency  
2 performance.

3 f. In determining a health care provider's performance for  
4 quality and cost-efficiency, the carrier shall use appropriate risk  
5 adjustment to account for the characteristics of the health care  
6 provider's patient population, such as case mix, severity of the  
7 patient's condition, co-morbidities, outlier episodes and other  
8 factors.

9 g. In deciding health care provider attribution for quality  
10 measurement, the carrier shall determine which health care provider  
11 should be held reasonably accountable for a patient's care and shall  
12 fully disclose the methodology used for attribution.

13 h. With respect to any changes in the use of performance  
14 quality or cost-efficiency measures, the carrier shall provide to the  
15 affected health care providers, at least 45 days before implementing  
16 the change, notice of the proposed change, an explanation of and  
17 access to data used for a particular health care provider, the  
18 methodology and measures used to assess health care providers, and  
19 an explanation of a health care provider's right to appeal in  
20 accordance with the appeal process provided pursuant to section 5  
21 of this act.

22 i. With respect to data collection used for the purposes of  
23 performance measurements, the carrier shall:

24 (1) use the most current claims or other data to measure health  
25 care provider performance, consistent with the time period needed  
26 to attain adequate sample sizes and to comply with the provisions of  
27 this act; and

28 (2) use its best efforts to ensure the data it relies upon is  
29 accurate, including a consideration of whether some medical record  
30 verification is appropriate and necessary.

31 j. As part of its reporting to the oversight monitor pursuant to  
32 section 3 of this act, the carrier shall provide the oversight monitor  
33 with a plan to use aggregated (pooled) data, validated as  
34 appropriate, as a supplement to test its own data, in a manner and a  
35 time frame to be determined by the Commissioner of Banking and  
36 Insurance.

37 k. The carrier shall cooperate with the oversight monitor in  
38 developing standardized quality of performance and cost-efficiency  
39 measures.  
40

41 3. a. The carrier shall disclose to the oversight monitor,  
42 appointed pursuant to section 6 of this act, as to each plan that  
43 provides for a tiered network, a description of:

44 (1) the quality of performance and cost-efficiency measurements  
45 used as selection standards to determine the placement of health  
46 care providers in a tier;

47 (2) the data and methodology used to establish the performance  
48 measurements;

1 (3) the formulas or methods used to determine the weight given  
2 to any factors used to establish the performance measurements;

3 (4) the extent to which nationally recognized evidence-based or  
4 consensus-based clinical recommendations or guidelines are used to  
5 establish the performance measurements;

6 (5) the extent to which data concerning patient episodes of care  
7 is used to establish the performance measurements;

8 (6) the extent to which patient treatment outcomes or patient  
9 satisfaction surveys are used to establish the performance  
10 measurements; and

11 (7) any limitations of the data, methodology, formulas or  
12 methods used to establish the performance measurements.

13 b. The quality of performance measurements used to determine  
14 the placement of health care providers in a tier shall be those  
15 endorsed by the National Quality Forum, the AQA, or shall be  
16 measures based on other bona fide nationally-recognized guidelines.

17 c. The carrier shall disclose this information in a manner to be  
18 determined by the oversight monitor on at least an annual basis and  
19 otherwise as frequently as the oversight monitor deems necessary.  
20

21 4. a. A carrier shall disclose to consumers, as to each plan that  
22 provides for a tiered network:

23 (1) the names of each health care provider in the network and  
24 the tier in which the provider is placed;

25 (2) a summary of the information regarding performance  
26 measurements required to be disclosed to the oversight monitor  
27 pursuant to section 3 of this act, which shall include information on  
28 how performance measurements are used as selection standards to  
29 determine the placement of health care providers in a tier;

30 (3) a notice that the health care provider performance  
31 measurements are only a guide to choosing a health care provider  
32 and that consumers should confer with their primary care physician  
33 before selecting other health care providers;

34 (4) any limitations of the data, methodology, or performance  
35 measurements used by the carrier, and that the performance  
36 measurements may have a risk of error and should not be used as  
37 the sole basis for selecting another health care provider; and

38 (5) information on how a consumer can register a complaint  
39 with the carrier and the oversight monitor with respect to any aspect  
40 of a health care provider's placement in a tier or any disclosure  
41 required pursuant to this section.

42 b. The carrier shall disclose this information on its website and  
43 in accordance with any other requirements to be determined by the  
44 oversight monitor.  
45

46 5. a. A carrier shall disclose to a health care provider, as to  
47 each plan that provides for a tiered network:

1 (1) the information provided to the oversight monitor  
2 concerning quality of performance and cost-efficiency  
3 measurements used as selection standards to determine the  
4 placement of health care providers in a tier, as required pursuant to  
5 section 3 of this act;

6 (2) a notice that a health care provider has a right to seek review  
7 from, and provide additional information to, the carrier with respect  
8 to any quality of performance and cost-efficiency measurements  
9 used as selection standards to determine the placement of the health  
10 care provider in a tier, and the data, methodology, formulas or  
11 methods used to establish the performance measurements, and to  
12 request the carrier to correct errors and to consider additional  
13 information; and

14 (3) a notice that a health care provider has a right to appeal the  
15 carrier's placement of the health care provider in a tier, through an  
16 appeal process that shall be developed by the Commissioner of  
17 Banking and Insurance.

18 b. The carrier shall disclose this information in a manner to be  
19 determined by the oversight monitor on at least an annual basis and  
20 otherwise as frequently as the oversight monitor deems necessary.

21  
22 6. a. The Commissioner of Banking and Insurance shall  
23 appoint, and contract with, an independent, nationally recognized  
24 standard-setting organization as an oversight monitor to review and  
25 evaluate the disclosure processes required to be maintained by  
26 carriers pursuant to this act. The commissioner shall select a non-  
27 profit organization that is tax exempt pursuant to 29 U.S.C. s.501(3)  
28 of the Internal Revenue Code of 1986 and that has experience in the  
29 processes and methodologies used in health care provider  
30 performance measurement systems and in monitoring those  
31 systems.

32 b. The contract shall provide that the oversight monitor shall:

33 (1) review and evaluate on an ongoing basis each carrier's  
34 disclosures pursuant to this act and report to the commissioner on  
35 the extent to which each carrier has complied with the disclosure  
36 requirements; and

37 (2) in consultation with the commissioner, develop a process to  
38 review and evaluate consumer complaints related to the placement  
39 of a health care provider in a tier or any disclosure required  
40 pursuant to the provisions of this act.

41  
42 7. The Commissioner of Banking and Insurance shall apply,  
43 and periodically revise as necessary, an annual surcharge on all  
44 health benefits plans in the State that offer a tiered network plan, to  
45 pay for the costs that the department incurs in entering into the  
46 contract with the oversight monitor and any other administrative  
47 and operational costs as the commissioner deems necessary to  
48 effectuate the purposes of this act.

1       8. If any person violates any provision of this act, the  
2 Commissioner of Banking and Insurance shall have the authority to  
3 assess penalties and take any other action provided for in section 16  
4 of P.L.1997, c.192 (C.26:2S-16).

5  
6       9. This act shall take effect on the 90<sup>th</sup> day next following  
7 enactment.

8  
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10                   STATEMENT

11  
12       This bill supplements the “Health Care Quality Act” to require  
13 health insurance carriers to disclose selection standards for  
14 placement of health care providers in tiered health benefits plan  
15 networks and provides for the appointment of an oversight monitor  
16 to review compliance with the bill’s requirements. With respect to  
17 those various selection standards and other data, the bill provides  
18 guidelines and details as to how those standards and data shall be  
19 calculated. For the purposes of the bill, “tiered network” means a  
20 managed care plan provider network with more than one level or  
21 tier of in-network benefits, based on different levels of  
22 reimbursement and cost sharing accepted by the health care  
23 providers in that network.

24       The bill requires the carrier to disclose to the oversight monitor,  
25 as to each plan that provides for a tiered network, a description of:

26       (1) any quality of performance and cost-efficiency  
27 measurements used as selection standards to determine the  
28 placement of health care providers in a tier;

29       (2) the data and methodology used to establish the performance  
30 measurements;

31       (3) the formulas or methods used to determine the weight given  
32 to any factors used to establish the performance measurements;

33       (4) the extent to which nationally recognized evidence-based or  
34 consensus-based clinical recommendations or guidelines are used to  
35 establish the performance measurements;

36       (5) the extent to which data concerning patient episodes of care  
37 is used to establish the performance measurements;

38       (6) the extent to which patient treatment outcomes or patient  
39 satisfaction surveys are used to establish the performance  
40 measurements; and

41       (7) any limitations of the data, methodology, formulas or  
42 methods used to establish the performance measurements.

43       The carrier shall disclose this information in a manner to be  
44 determined by the oversight monitor and on at least an annual basis  
45 and otherwise as frequently as the oversight monitor deems  
46 necessary.

47       The bill further requires a carrier to disclose to consumers, as to  
48 each plan that provides for a tiered network:

1 (1) the names of each health care provider in the network and  
2 the tier in which the provider is placed;

3 (2) a summary of the information regarding performance  
4 measurements required to be disclosed to the oversight monitor  
5 pursuant to section 2 of this bill, which shall include information on  
6 and how performance measurements are used as selection standards  
7 to determine the placement of health care providers in a tier;

8 (3) a notice that the health care provider performance  
9 measurements are only a guide to choosing a health care provider  
10 and that consumers should confer with their primary care physician  
11 before selecting other health care providers;

12 (4) any limitations of the data, methodology, or performance  
13 measurements used by the carrier, and that the performance  
14 measurements may have a risk of error and should not be used as  
15 the sole basis for selecting another health care provider; and

16 (5) information on how a consumer can register a complaint  
17 with the carrier and the oversight monitor with respect to any aspect  
18 of a health care provider's placement in a tier or any disclosure  
19 required pursuant to this section.

20 The carrier shall disclose this information on its website and in  
21 accordance with any other requirements to be determined by the  
22 oversight monitor.

23 The bill also requires a carrier to disclose to a health care  
24 provider, as to each plan that provides for a tiered network:

25 (1) the information provided to the oversight monitor  
26 concerning quality of performance and cost-efficiency  
27 measurements used as selection standards to determine the  
28 placement of health care providers in a tier, as required pursuant to  
29 section 3 of this bill;

30 (2) a notice that a health care provider has a right to seek review  
31 from, and provide additional information to, the carrier with respect  
32 to any quality of performance and cost-efficiency measurements  
33 used as selection standards to determine the placement of the health  
34 care provider in a tier, and the data, methodology, formulas or  
35 methods used to establish the performance measurements, and to  
36 request the carrier to correct errors and to consider additional  
37 information;

38 (3) a notice that a health care provider has a right to appeal the  
39 carrier's placement of the health care provider in a tier, through an  
40 appeal process that shall be developed by the Commissioner of  
41 Banking and Insurance.

42 The carrier shall disclose this information in a manner to be  
43 determined by the oversight monitor on at least an annual basis and  
44 otherwise as frequently as the oversight monitor deems necessary.

45 The bill further requires the Commissioner of Banking and  
46 Insurance to appoint, and contract with, an independent, nationally  
47 recognized standard-setting organization as an oversight monitor to  
48 review and evaluate the disclosure processes required to be

1 maintained by carriers pursuant to the bill. The commissioner shall  
2 select a non-profit organization that is tax exempt pursuant to 29  
3 U.S.C. s.501(3) of the Internal Revenue Code of 1986 and that has  
4 experience in the processes and methodologies used in health care  
5 provider performance measurement systems and in monitoring  
6 those systems.

7 The bill requires that the contract specify the responsibilities of  
8 the oversight monitor, including the monitoring of each carrier's  
9 disclosures, the developing of an appeals process for health care  
10 providers as to their placement in a tier, and the developing of a  
11 process to evaluate consumer complaints.

12 Finally, the bill also provides the Commissioner of Banking and  
13 Insurance with the authority to apply an annual surcharge to health  
14 benefits plans to pay for the expenses incurred for the oversight  
15 monitor and other expenses, and with the authority to assess  
16 penalties and take other actions for violations of the bill's  
17 provisions.