SENATE, No. 3798 **STATE OF NEW JERSEY** 219th LEGISLATURE

INTRODUCED MAY 20, 2021

Sponsored by: Senator JOSEPH F. VITALE District 19 (Middlesex)

SYNOPSIS

Eliminates premiums and waiting periods for certain NJ FamilyCare enrollees; directs DHS to implement additional targeted outreach initiatives to increase enrollment; revises reporting requirements; appropriates \$20 million.

CURRENT VERSION OF TEXT

As introduced.



S3798 VITALE

2

1 AN ACT concerning NJ FamilyCare, amending P.L.2005, c.156 and 2 P.L.2008, c.38, and making an appropriation. 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. Section 5 of P.L.2005, c.156 (C.30:4J-12) is amended to 8 read as follows: 9 5. a. The purpose of the program shall be to provide 10 subsidized health insurance coverage, and other health care benefits 11 as determined by the commissioner, to children under 19 years of 12 age and their parents or caretakers and to adults without dependent 13 children, within the limits of funds appropriated or otherwise made 14 available for the program. 15 The program [shall] may require families to pay copayments and make premium contributions, based upon a sliding income 16 17 scale]. The program shall include the provision of well-child and 18 other preventive services, hospitalization, physician care, laboratory 19 and x-ray services, prescription drugs, mental health services, and 20 other services as determined by the commissioner. 21 b. The commissioner shall take such actions as are necessary to 22 implement and operate the program in accordance with the State 23 Children's Health Insurance Program established pursuant to 42 24 U.S.C.s.1397aa et seq. 25 c. The commissioner: 26 (1) shall, by regulation, establish standards for determining eligibility and other program requirements [, including, but not 27 limited to, restrictions on voluntary disenrollments from existing 28 29 health insurance coverage]; 30 (2) shall require that a parent or caretaker who is a qualified applicant purchase coverage, if available, through an employer-31 32 sponsored health insurance plan which is determined to be cost-33 effective and is approved by the commissioner, and shall provide 34 assistance to the qualified applicant to purchase that coverage, 35 except that the provisions of this paragraph shall not be construed to 36 require an employer to provide health insurance coverage for any 37 employee or employee's spouse or dependent child; 38 (3) may, by regulation, establish plans of coverage and benefits 39 to be covered under the program, except that the provisions of this 40 section shall not apply to coverage for medications used exclusively to treat AIDS or HIV infection; and 41 42 (4) shall establish, by regulation, other requirements for the program, including, but not limited to, [premium payments and] 43 44 copayments [, and] . Except as may be required for the NJ 45 FamilyCare Advantage program established pursuant to subsection

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 <u>thus</u> is new matter.

3

j. of this section, premiums shall not be established within the
program. The commissioner may contract with one or more
appropriate entities, including managed care organizations, to assist
in administering the program. The period for which eligibility for
the program is determined shall be the maximum period permitted
under federal law.

d. The commissioner shall establish procedures for determining
eligibility, which shall include, at a minimum, the following
enrollment simplification practices:

(1) A streamlined application form as established pursuant tosubsection k. of this section;

12 (2) Require new applicants to submit one recent pay stub from the applicant's employer, or, if the applicant has more than one 13 14 employer, one from each of the applicant's employers, to verify 15 income. In the event the applicant cannot provide a recent pay stub, 16 the applicant may submit another form of income verification as 17 deemed appropriate by the commissioner. If an applicant does not 18 submit income verification in a timely manner, before determining 19 the applicant ineligible for the program, the commissioner shall 20 seek to verify the applicant's income by reviewing available 21 Department of the Treasury and Department of Labor and 22 Workforce Development records concerning the applicant, and such 23 other records as the commissioner determines appropriate.

The commissioner shall establish retrospective auditing or income verification procedures, such as sample auditing and matching reported income with records of the Department of the Treasury and the Department of Labor and Workforce Development and such other records as the commissioner determines appropriate.

29 In matching reported income with confidential records of the 30 Department of the Treasury, the commissioner shall require an 31 applicant to provide written authorization for the Division of 32 Taxation in the Department of the Treasury to release applicable tax 33 information to the commissioner for the purposes of establishing 34 income eligibility for the program. The authorization, which shall 35 be included on the program application form, shall be developed by the commissioner, in consultation with the State Treasurer; 36

37 (3) Online enrollment and renewal, in addition to enrollment
38 and renewal by mail. The online enrollment and renewal forms
39 shall include electronic links to other State and federal health and
40 social services programs;

(4) Continuous enrollment;

41

(5) Simplified renewal by sending an enrollee a preprinted
renewal form and requiring the enrollee to sign and return the form,
with any applicable changes in the information provided in the
form, prior to the date the enrollee's annual eligibility expires. The
commissioner shall establish such auditing or income verification
procedures, as provided in paragraph (2) of this subsection; [and]

1 (6) Provision of program eligibility-identification cards that are 2 issued no more frequently than once a year; and 3 (7) Provision of information regarding other health care programs for which an enrollee may be eligible to any enrollee 4 5 terminated from the program. e. The commissioner shall take, or cause to be taken, any 6 7 action necessary to secure for the State the maximum amount of 8 federal financial participation available with respect to the program, 9 subject to the constraints of fiscal responsibility and within the 10 limits of available funding in any fiscal year. In this regard, notwithstanding the definition of "qualified applicant," the 11 12 commissioner may enroll in the program such children or their 13 parents or caretakers who may otherwise be eligible for the 14 Medicaid program in order to maximize use of federal funds that 15 may be available pursuant to 42 U.S.C. s.1397aa et seq. 16 f. [Subject to federal approval, a child shall be determined 17 ineligible for the program if the child was voluntarily disenrolled 18 from employer-sponsored group insurance coverage within six 19 months prior to application to the program] No child who applies 20 for enrollment in the program who otherwise meets the eligibility 21 criteria for enrollment shall be denied immediate enrollment for any 22 reason. In no case shall any qualified applicant for enrollment be 23 subject to a waiting period prior to enrollment. 24 g. The commissioner shall provide, by regulation, for 25 presumptive eligibility for the program in accordance with the 26 following provisions: 27 (1) A child who presents [himself] for treatment at a general hospital, federally qualified or community health center, local 28 29 health department that provides primary care, or other State 30 licensed community-based primary care provider shall be deemed 31 presumptively eligible for the program if a preliminary 32 determination by hospital, health center, local health department or 33 licensed health care provider staff indicates that the child meets 34 program eligibility standards and is a member of a household with an income that does not exceed [350%] <u>350 percent</u> of the poverty 35 36 level: 37 (2) The provisions of paragraph (1) of this subsection shall also 38 apply to a child who is deemed presumptively eligible for Medicaid 39 coverage pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.); 40 (3) The parent or caretaker of a child deemed presumptively 41 eligible pursuant to this subsection shall be required to submit a 42 completed application for the program no later than the end of the 43 month following the month in which presumptive eligibility is 44 determined: 45 (4) A child shall be eligible to receive all services covered by 46 the program during the period in which the child is presumptively

47 eligible; and

5

(5) The commissioner may, by regulation, establish a limit on
 the number of times a child may be deemed presumptively eligible
 for NJ FamilyCare.

h. The commissioner, in consultation with the Commissioner of
Education, shall administer an ongoing enrollment initiative to
provide outreach to children throughout the State who may be
eligible for the program.

8 (1) With respect to school-age children, the commissioner, in 9 consultation with the Commissioner of Education and the Secretary 10 of Agriculture, shall develop a form that provides information about 11 the NJ FamilyCare and Medicaid programs and provides an 12 opportunity for the parent or guardian who signs the school lunch 13 application form to give consent for information to be shared with 14 the Department of Human Services for the purpose of determining 15 eligibility for the programs. The form shall be attached to, included 16 with, or incorporated into, the school lunch application form.

17 The commissioner, in consultation with the Commissioner of 18 Education, shall establish procedures for schools to transmit 19 information attached to, included with, or provided on the school 20 lunch application form regarding the NJ FamilyCare and Medicaid 21 programs to the Department of Human Services, in order to enable 22 the department to determine eligibility for the programs.

23 (2) The commissioner or the Commissioner of Education, as24 applicable, shall:

(a) make available to each elementary and secondary school,
licensed child care center, registered family day care home, unified
child care agency, local health department that provides primary
care, and community-based primary care provider, informational
materials about the program, including instructions for applying
online or by mail, as well as copies of the program application
form.

The entity shall make the informational and application materialsavailable, upon request, to persons interested in the program; and

34 (b) request each entity to distribute a notice at least annually, as 35 developed by the commissioner, to households of children attending 36 or receiving its services or care, informing them about the program 37 and the availability of informational and application materials. In 38 the case of elementary and secondary schools, the information 39 attached to, included with, or incorporated into, the school lunch 40 application form for school-age children pursuant to this 41 subparagraph shall be deemed to meet the requirements of this 42 paragraph.

i. Subject to federal approval, the commissioner shall, by
regulation, establish that in determining income eligibility for a
child, any gross family income above [200%] 200 percent of the
poverty level, up to a maximum of [350%] 350 percent of the
poverty level, shall be disregarded.

1 The commissioner shall establish a NJ FamilyCare coverage j. 2 buy-in program [through which a parent or caretaker whose family income exceeds 350% of the poverty level may purchase coverage 3 4 under NJ FamilyCare for a child under the age of 19, who is 5 uninsured and was not voluntarily disenrolled from employer-6 sponsored group insurance coverage within six months prior to 7 application to the program. The program], which shall be known 8 as NJ FamilyCare Advantage.

9 The commissioner shall establish the premium and cost sharing 10 amounts required to purchase coverage, except that the premium 11 shall not exceed the amount the program pays per month to a 12 managed care organization under NJ FamilyCare for a child of 13 comparable age whose family income is [between 200% and 14 350%] less than 350 percent of the poverty level, plus a reasonable 15 processing fee.

k. The commissioner, in consultation with the Rutgers Center
for State Health Policy, shall develop a streamlined application
form for the NJ FamilyCare and Medicaid programs.

19 1. [Subject to federal approval, the] The Commissioner of 20 Human Services shall establish a hardship waiver for part or all of 21 [the] <u>any</u> premium [for an eligible child under the NJ FamilyCare 22 program] <u>authorized under this section</u>. A parent or caretaker may 23 apply to the commissioner for a hardship waiver in a manner and 24 form established by the commissioner. If the parent or caretaker 25 can demonstrate to the satisfaction of the commissioner, pursuant to 26 regulations adopted by the commissioner, that payment of all or part 27 of the premium for the parent or caretaker's child presents a 28 hardship, the commissioner shall grant the waiver for a prescribed 29 period of time.

30 (cf: P.L.2008, c.53, s.2)

31

32 2. Section 11 of P.L.2005, c.156 (C.30:4J-14) is amended to 33 read as follows:

11. The Commissioner of Human Services shall [report to the
Chairman of the Senate Health, Human Services and Senior
Citizens Committee and the Chairmen of the Assembly Health and
Human Services and Assembly Family, Women and Children's
Issues committees on the implementation of this act.

The commissioner shall] issue an interim report six months after the effective date of [this act] P.L. , c. (C.) (pending before the Legislature as this bill) and shall issue an annual report six months later and once each year thereafter. Each report shall be submitted to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and published on the department's Internet website.

46 The [report] reports shall be prepared with input from the
47 working group established pursuant to section 27 of P.L.2008, c.38

1 (C.30:4J-19), and shall include information on the department's 2 actions, and the outcomes of such actions, to make affordable, 3 guality healthcare coverage available to all children in New Jersey 4 and the extent to which coverage disparities based on income, race, 5 ethnicity, and geography have changed over the reporting period. 6 The reports shall also include the number of persons who are 7 enrolled in the Medicaid and NJ FamilyCare programs pursuant to 8 the provisions of [this act] P.L.2005, c.156 (C.30:4J-8 et al.), the 9 cost of providing coverage for these persons, the status of any 10 Medicaid amendments or plan waivers necessary for 11 implementation of [this act] P.L.2005, c.156 (C.30:4J-8 et al.), the 12 status of implementing the enrollment simplification practices for 13 both the NJ FamilyCare and Medicaid programs, and such other 14 information as the commissioner deems appropriate. The 15 commissioner may also include any recommendations for 16 legislation [he deems] deemed necessary to further the purposes of 17 [this act] P.L.2005, c.156 (C.30:4J-8 et al.). 18 (cf: P.L.2005, c.156, s.11) 19 20 3. Section 26 of P.L.2008, c.38 (C.30:4J-18) is amended to 21 read as follows: 22 26. a. The Commissioner of Human Services shall establish 23 an enhanced NJ FamilyCare outreach and enrollment initiative to 24 increase public awareness about the availability of, and benefits to 25 enrolling in, Medicaid, NJ FamilyCare, and the NJ FamilyCare 26 Advantage buy-in programs. The initiative shall [include] be 27 coordinated with any outreach efforts implemented pursuant to subsection h. of section 5 of P.L. 2005, c.156 (C.30:4J-12) or 28 29 related to enrollment in the State's health insurance Exchange established pursuant to the federal "Patient Protection and 30 Affordable Care Act," Pub.L.111-148, as amended by the "Health 31 32 Care and Education Reconciliation Act of 2010," Pub.L.111-152, 33 and shall include: 34 (1) the provision of training to Exchange enrollment assistors, 35 local officials, and any other pertinent staff, as determined by the 36 commissioner, on the eligibility requirements of the NJ FamilyCare 37 program and how to enroll children in the program; 38 (2) culturally sensitive, Statewide and local media public

(2) culturally sensitive, Statewide and local media public
 awareness campaigns addressing the availability of health care
 coverage for parents and children under the Medicaid and NJ
 FamilyCare programs and health care coverage for children under
 the NJ FamilyCare Advantage buy-in program [.The initiative shall
 also include] : and

44 (3) the provision of training and support services, upon request,
45 to community groups, legislative district offices, and community46 based health care providers to enable these parties to assist in
47 enrolling parents and children in the applicable programs.

1 b. The Department of Banking and Insurance, in consultation 2 with the Commissioner of Human Services, shall take steps to 3 ensure the full incorporation of the Medicaid, NJ FamilyCare and 4 NJ FamilyCare Advantage Programs on the State's health insurance 5 Exchange and the individual health coverage marketplace. In order 6 to ensure that Medicaid and NJ FamilyCare eligibility is properly 7 evaluated, plan comparison and cost tools shall solicit current 8 expected monthly income in lieu of or in addition to annual income. 9 (cf: P.L.2008, c.38, s.26) 10 11 4. Section 27 of P.L.2008, c.38 (C.30:4J-19) is amended to 12 read as follows: 13 27. The Commissioner of Human Services shall establish an 14 Outreach, Enrollment, and Retention Working Group to develop a 15 plan to carry out ongoing and sustainable measures to strengthen 16 outreach to low and moderate income families who may be eligible 17 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to 18 maximize enrollment in these programs, and to ensure retention of 19 enrollees in these programs. 20 a. The members of the working group shall include: 21 (1) The Commissioners of Human Services, Health, Banking and Insurance, Children and Families, Labor and Workforce 22 23 Development, Education, and Community Affairs, and the 24 Secretary of Agriculture, or their designees, who shall serve ex 25 officio; and 26 (2) [Six] <u>Ten</u> public members appointed by the Commissioner 27 of Human Services who shall include: one person who represents 28 racial and ethnic minorities in this State; one person who represents 29 managed care organizations that participate in the Medicaid and NJ 30 FamilyCare programs; one person who represents the vendor under 31 contract with the Division of Medical Assistance and Health 32 Services to provide NJ FamilyCare eligibility, enrollment, and 33 health benefit coordinator services to the division; one person who 34 represents New Jersey Policy Perspective; one person who 35 represents the Advocates for Children of New Jersey; [and] one 36 person who represents Legal Services of New Jersey; one person 37 who represents the New Jersey Health Care Quality Institute; one 38 person who represents county navigators; and two people who 39 represent the New Jersey for Health Care coalition. 40 b. As part of the plan, the working group shall: 41 (1) determine if there are obstacles to enrollment of minorities

in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
Advantage programs due to ethnic and cultural differences and, if
so, develop strategies for the Department of Human Services to
overcome these obstacles and increase enrollment among
minorities;

47 (2) recommend outreach strategies to identify and enroll all48 eligible children in the Medicaid, NJ FamilyCare, and NJ

1 FamilyCare Advantage programs and to retain enrollment of 2 children and their parents in the programs; 3 (3) establish monthly enrollment goals for the number of 4 children who need to be enrolled in Medicaid, NJ FamilyCare, and 5 NJ FamilyCare Advantage in order to ensure that as many children as possible who are eligible for these programs are enrolled within a 6 7 reasonable period of time, in accordance with the mandate 8 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and 9 (4) make such other recommendations to the Commissioner of 10 Human Services as the working group determines necessary and appropriate to achieve the purposes of this section. 11 12 c. The working group shall organize as soon as practicable 13 following the appointment of its members and] and hold a meeting no later than 60 days following the date of enactment of 14 15 P.L., c. (C.) (pending before the Legislature as this bill). 16 The working group shall select a chairperson and vice-chairperson 17 from among the members. The chairperson shall appoint a 18 secretary who need not be a member of the working group. 19 (1) The public members shall serve without compensation, but 20 shall be reimbursed for necessary expenses incurred in the 21 performance of their duties and within the limits of funds available 22 to the working group. 23 (2) The working group shall be entitled to call to its assistance 24 and avail itself of the services of the employees of any State, 25 county, or municipal department, board, bureau, commission, or 26 agency as it may require and as may be available to it for its 27 purposes. 28 d. Upon completion of the plan, the working group shall report 29 on its activities to the chairperson of the Senate and Assembly 30 standing reference committees on health and human services, and 31 include a copy of the plan and any recommendations for legislative 32 action it deems appropriate. 33 e. The Commissioner of Human Services shall post the plan on 34 the department's Internet website and include a table showing the 35 monthly enrollment goals established in the plan and the actual new 36 and continued enrollments for that month. The commissioner shall 37 update the table monthly. f. The Department of Human Services shall provide staff 38 39 support to the working group. 40 (cf: P.L.2012, c.17, s.397) 41 42 5. (New section) There is appropriated from the General Fund 43 to the Department of Human Services the sum of \$20,000,000 for 44 the purposes of implementing the provisions of this act. 45 46 6. (New section) The Commissioner of Human Services may 47 adopt rules and regulations, pursuant to the "Administrative

S3798 VITALE 10

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as shall be 2 necessary to implement the provisions of this act. 3 4 7. (New section) The Commissioner of Human Services shall 5 apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure 6 7 federal financial participation for State Medicaid expenditures 8 under the federal Medicaid program and for NJ FamilyCare 9 expenditures under the State Children's Health Insurance Program 10 pursuant to 42 U.S.C. s.1397aa et seq. 11 12 8. This act shall take immediately. 13 14 15 **STATEMENT** 16 17 This bill revises certain requirements concerning enrollment in the NJ FamilyCare program, including expanding eligibility, 18 establishing additional outreach requirements, and revising 19 20 reporting requirements under the program. The bill appropriates 21 \$20 million to implement its provisions. 22 The bill generally prohibits requiring enrollees in NJ FamilyCare 23 to pay premiums as a condition of participation in the program. 24 Premiums may still be required for enrollees who exceed income 25 limits but elect to buy into NJ FamilyCare. 26 The bill eliminates a provision of current law that requires 27 certain children who were voluntarily disenrolled from employersponsored group insurance coverage to be deemed ineligible for 28 29 enrollment in NJ FamilyCare for a certain period, and provides that 30 no waiting periods may be imposed against any applicant for the 31 program who is otherwise eligible for enrollment. 32 Under the bill, the Commissioner of Human Services is directed 33 to provide information regarding other health care programs for 34 which an enrollee may be eligible to any enrollee terminated from 35 the program. Pursuant to existing law, and unchanged by the bill, the 36 37 Commissioner of Human Services is directed to establish an enhanced NJ FamilyCare outreach and enrollment initiative to 38 39 increase public awareness about the availability of, and benefits to 40 enrolling in, Medicaid, NJ FamilyCare, and the NJ FamilyCare 41 Advantage buy-in program, including culturally sensitive, Statewide 42 and local media public awareness campaigns and the provision of 43 training and support services to enable certain entities to assist in 44 enrollment activities. 45 Under the bill, the initiative is also to be coordinated with any 46 outreach efforts related to: 1) the ongoing enrollment initiative coordinated in consultation with the Commissioner of Education 47 established under current law; or 2) enrollment in the State's health 48

1 insurance Exchange established pursuant to the federal "Patient 2 Protection and Affordable Care Act," Pub.L.111-148, as amended 3 by the "Health Care and Education Reconciliation Act of 2010," The initiative is to additionally include the 4 Pub.L.111-152. provision of training to Exchange enrollment assistors, local 5 6 officials, and any other pertinent staff, as determined by the 7 commissioner, on the eligibility requirements of NJ FamilyCare and 8 how to enroll children in the program.

9 The bill requires the Department of Banking and Insurance, in 10 consultation with the Commissioner of Human Services, to take 11 steps to ensure the full incorporation of the Medicaid, NJ 12 FamilyCare and NJ FamilyCare Advantage Programs on the State's health insurance Exchange and the individual health coverage 13 marketplace. In order to ensure that Medicaid and NJ FamilyCare 14 15 eligibility is properly evaluated, plan comparison and cost tools will 16 be required to solicit current expected monthly income in lieu of, or 17 in addition to, annual income.

18 In addition to the enhanced NJ FamilyCare outreach and 19 enrollment initiative, existing law requires the commissioner to 20 establish an Outreach, Enrollment, and Retention Working Group. 21 The goal of the working group, which is not altered by the bill, is to 22 develop a plan to carry out ongoing and sustainable measures to 23 strengthen outreach to low and moderate income families who may 24 be eligible for Medicaid, NJ FamilyCare, or NJ FamilyCare 25 Advantage; to maximize enrollment in these programs; and to 26 ensure retention of enrollees in these programs. The Working 27 Group last submitted a report in May 2009.

28 In addition to the seven ex-officio members and six public 29 members of the working group currently required under statute, the 30 bill adds the Commissioner of Children and Families as an ex-31 officio member and the following four public members: one person who represents the New Jersey Health Care Quality Institute; one 32 33 person who represents county navigators; and two people who 34 represent the New Jersey for Health Care coalition. The bill directs 35 the working group to organize and hold a meeting no later than 60 36 days following the date of enactment of the bill.

37 The bill amends current law to require the commissioner, with 38 input from Outreach, Enrollment, and Retention Working Group, to 39 issue an interim report six months after the effective date of the bill, 40 to issue a full report six months later, and to submit the report 41 annually thereafter. The bill removes a requirement that the reports 42 be submitted to the chairpersons of various legislative standing 43 reference committees, and instead requires the reports to be 44 submitted to the Governor and to the Legislature and published on 45 the Department of Human Services' (DHS) Internet website.

The reports are required to include information on the DHS's
actions, and the outcomes of such actions, to make affordable,
quality healthcare coverage available to all children in New Jersey,

1 and the extent to which coverage disparities based on income, race, ethnicity, and geography have changed over the reporting period. 2 3 Existing law also requires the reports to include the number of 4 persons who are enrolled in Medicaid and NJ FamilyCare, the cost 5 of providing coverage for these persons, the status of any Medicaid plan amendments or waivers necessary for implementation of NJ 6 7 FamilyCare, the status of implementing the enrollment 8 simplification practices for both NJ FamilyCare and Medicaid, and 9 such other information as the commissioner deems appropriate. The 10 commissioner may also include any recommendations for 11 legislation deemed necessary to further the purposes of NJ 12 FamilyCare.

13 The bill appropriates \$20 million from the General Fund to the

14 DHS for the purposes of implementing the provisions of the bill.