

ASSEMBLY, No. 443

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROMA

1 **AN ACT** concerning workers' compensation premiums, supplementing
2 chapter 15 of Title 34 of the Revised Statutes and amending
3 R.S.34:15-89.

4

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

7

8 1. (New section) For the purposes of this act:

9 "Commission" means the Employee Assistance Plan Review
10 Commission established pursuant to section 3 of this act.

11 "Commissioner" means the Commissioner of Insurance.

12 "Employee Assistance Plan" means a program in which an
13 employer, or group or consortium of employers, either provides or
14 contracts with a service provider to provide assessment, referral for
15 treatment, treatment, counseling and rehabilitation by qualified and
16 experienced personnel to the employer's employees to resolve
17 employee drug and alcohol abuse problems which may affect employee
18 work performance.

19 "Employer" means employer as defined in R.S. 34:15-36, but shall
20 not include employers employing more than 200 employees.

21

22 2. (New section) a. An employer who provides an employee
23 assistance plan to its employees may apply to the commissioner for a
24 workers' compensation premium reduction pursuant to the provisions
25 of R.S.34:15-89 or a tax credit pursuant to the provisions of P.L. ,
26 c. (C.) (pending before the Legislature as Assembly, No. 2457 of
27 1993), or both. Upon receipt of an application the commissioner shall
28 refer it to the commission to determine whether the employee
29 assistance plan of the employer meets the standards established
30 pursuant to section 4 of this act.

31 b. (1) Any change in an employee assistance plan subsequent to
32 initial approval by the commission, which may place the employee

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 assistance plan in noncompliance with the standards established
2 pursuant to this act, shall be reported by the employer to the
3 commissioner. If the commissioner determines that the change is
4 significant, the commissioner shall refer the employee assistance plan
5 to the commission to determine whether the employee assistance plan
6 remains in compliance with those standards.

7 (2) An employer who fails to report any change in an employee
8 assistance plan subsequent to initial approval by the commission,
9 which may place the employee assistance plan in noncompliance with
10 the standards established pursuant to this act, shall be liable for a fine
11 of \$100 for each day that the violation continues.

12

13 3. (New section) a. There is established the Employee Assistance
14 Plan Review Commission. The commission shall consist of nine
15 members as follows: the Commissioner of Insurance, the
16 Commissioner of Health and the Commissioner of Labor or their
17 designees, who shall serve ex-officio and shall be non-voting members;
18 and six public members who are residents of the State and who shall
19 be selected for their knowledge, competence, experience or interest in
20 connection with the diagnosis or treatment of alcohol or drug abuse,
21 the administration of employee assistance plans, the administration of
22 employee benefit plans, or the administration of workers'
23 compensation plans. The public members shall be appointed as
24 follows: the Governor shall appoint two members who shall be
25 members of the Governor's Council on Alcoholism and Drug Abuse
26 created pursuant to P.L.1989, c.51 (C.26BB-1 et seq.); the President
27 of the Senate shall appoint two members; and the Speaker of the
28 General Assembly shall appoint two members.

29 b. All appointments shall be made within 30 days after the effective
30 date of this act. The appointed members of the commission shall serve
31 for a term of three years, and no member shall serve more than two
32 consecutive terms. The initial appointed members of the commission
33 shall serve as follows: two members shall serve for a term of one year,
34 two members shall serve for a term of two years and two members
35 shall serve for a term of three years. Vacancies in the membership of
36 the appointed members of the commission shall be filled in the same
37 manner as the original appointments.

38 c. The members shall serve without compensation, but shall be
39 reimbursed for necessary expenditures incurred in the performance of
40 their duties as members of the commission, within the limits of funds
41 appropriated or otherwise made available to the commission for its
42 purposes.

43 d. The commission shall organize as soon as possible after the
44 appointments are made and shall select a chairperson from among its
45 members. The commission may appoint a secretary, who need not be
46 a member of the commission. The commission shall meet at least

1 quarterly and may hold meetings and hearings at such places as it
2 designates during the sessions or recesses of the Legislature.

3

4 4. (New section) a. The commission shall review the employee
5 assistance plan of an employer referred by the commissioner to
6 determine whether the plan meets the standards established pursuant
7 to subsections b. and e. of this section and the standards established by
8 the commission pursuant to subsections c. and d. of this section. If the
9 commission determines that an employee assistance plan meets the
10 standards established pursuant to this section, it shall recommend to
11 the compensation rating and inspection bureau or the Director of the
12 Division of Taxation in the Department of the Treasury, or both as the
13 case may be, that the employer providing the employee assistance plan
14 receive a workers' compensation premium reduction pursuant to the
15 provisions of R.S.34:15-89, or a tax credit pursuant to the provisions
16 of P.L. , c. (C.) (pending before the Legislature as Assembly
17 No. 2457 of 1993), or both.

18 b. (1) Except as provided in paragraph (2) of this subsection, each
19 request by an employee for assistance from, referral to, or
20 participation in an employee assistance program shall be confidential,
21 and no employer, service provider or other person shall divulge to any
22 person other than the employee, medical personnel, supervisory or
23 administrative personnel of the employer or service provider as
24 designated by the employer on a need to know basis that an employee
25 has requested assistance from, been referred to, or participated in an
26 employee assistance program. The requirement of confidentiality shall
27 apply to all information related to an employee assistance program,
28 including but not limited to any statements, materials, documents,
29 evaluations, impressions, conclusions, findings, or acts taken in the
30 course of, or in connection with, the program. All information
31 regarding employees who participate in an employee assistance plan
32 shall be kept separate from other employer personnel and
33 administrative records.

34 (2) The requirements for confidentiality provided for in paragraph
35 (1) of this subsection may be waived only if:

36 (a) The employee to whom the information applies has requested
37 and authorized the waiver;

38 (b) The waiver is in writing and specifies the information to be
39 released and the persons to whom the information may be provided;
40 and

41 (c) The information released is the information authorized for
42 release by the employee and released only to the persons designated
43 by the employee.

44 c. The commission shall determine (1) the maximum acceptable
45 limits for co-payments or deductibles chargeable to an employee and
46 (2) the minimum acceptable levels of coverage available to each

1 employee from an employee assistance plan or the employer providing
2 the employee assistance plan for the following types of benefits:

3 (a) Inpatient detoxification, inpatient rehabilitation and outpatient
4 care for alcohol abuse treatment;

5 (b) Inpatient detoxification, inpatient rehabilitation and outpatient
6 care for drug abuse treatment.

7 d. The commission may establish any other standards that it deems
8 necessary to ensure that an employee assistance plan provides
9 adequate drug and alcohol treatment for employees.

10 e. An employer shall provide to each employee a written policy
11 statement describing the benefits available from the employee
12 assistance plan, and an explanation of the guarantees of confidentiality
13 and any other standards imposed upon the plan pursuant to this act.

14 f. The commission shall review an employee assistance plan
15 referred to it by the commissioner which has significantly altered the
16 content of its plan subsequent to initial approval by the commission to
17 determine if the plan remains in compliance with the standards
18 established pursuant to this section. If the commission determines that
19 the plan is no longer in compliance with the standards, the commission
20 shall recommend to the compensation rating and inspection bureau or
21 the Director of the Division of Taxation, or both, as the case may be,
22 that the benefits granted pursuant to this act be rescinded.

23 g. The commission shall report to the Governor and the
24 Legislature, at such times as the Legislature may request, on the effect
25 of this act in encouraging businesses to provide employee assistance
26 plans for their employees.

27

28 5. R.S.34:15-89 is amended to read as follows:

29 34:15-89. The compensation rating and inspection bureau as
30 created and established by the act entitled "An act concerning the
31 compulsory insurance of compensation payments arising under section
32 2 of an act entitled, "An act prescribing the liability of an employer to
33 make compensation for injuries received by an employee in the course
34 of employment, establishing an elective schedule of compensation, and
35 regulating procedure for the determination of liability and
36 compensation thereunder,' approved April 4, 1911," approved March
37 27, 1917 (L.1917, c.178, p.522), as amended and supplemented is
38 continued under the supervision of the Commissioner [of Banking and]
39 Insurance.

40 It shall establish and maintain rules, regulations and premium rates
41 for [workmen's] workers' compensation and employer's liability
42 insurance and equitably adjust the same, as far as practicable, to the
43 hazard of individual risks, by inspection by the bureau.

44 It shall adopt means for assuring uniform and accurate audit of
45 payrolls as they relate to policies of [workmen's] workers'
46 compensation and employer's liability insurance by auditors, appointed

1 by the bureau, with the approval of the said commissioner or by such
2 other means as the bureau may, with the approval of the Commissioner
3 of [Banking and] Insurance, establish.

4 It shall furnish upon request to any of its members or to any
5 employer upon whose risk a rating has been promulgated by it,
6 information as to such rating, including the method of its computation,
7 and shall encourage employers to reduce the number and severity of
8 accidents by adjusting premiums and rates, through the use of credits
9 and debits or other proper factors, under such uniform system of
10 experience or other form of merit rating as may be approved by the
11 said commissioner.

12 The compensation rating and inspection bureau shall, upon the
13 recommendation of the Employee Assistance Plan Review Commission
14 pursuant to section 4 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), reduce the workers' compensation premiums
16 paid by employers providing employee assistance plans approved by
17 the commission by 5%. Three years after initial approval by the
18 commission, the compensation rating and inspection bureau, upon the
19 approval of the commissioner, may increase or reduce the reduction by
20 no more than 2.5%, according to any factors that the compensation
21 rating and inspection bureau and the commission deem relevant,
22 including, but not limited to, the experience of the employer. Any
23 reduction granted pursuant to this section shall remain in effect until
24 the commission revokes its approval of the employer's employee
25 assistance plan pursuant to subsection f. of section 4 of P.L. , c. (C.
26) (pending before the Legislature as this bill).

27 (cf: P.L.1955, c.108, s.1)

28

29 6. (New section) The commissioner, in consultation with the
30 Employee Assistance Plan Review Commission, shall, pursuant to the
31 provisions of the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate
33 the provisions of this act.

34

35 7. This act shall take effect on the 180th day following enactment.

36

37

38 STATEMENT

39

40 This bill provides for reductions in workers' compensation insurance
41 premiums for those employers employing no more than 200 employees
42 who are determined by the Employee Assistance Plan Review
43 Commission, created pursuant to the bill, to provide qualified
44 employee assistance plans to their employees. The commission shall
45 also determine the eligibility of employers providing qualified
46 employee assistance plans for tax credits granted pursuant to P.L. ,

1 c. (C.) (pending before the Legislature as Assembly, No. 2457
2 of 1993).

3 The bill defines employee assistance plans as programs in which an
4 employer, or group or consortium of employers, provides assessment,
5 referral for treatment, treatment, counseling and rehabilitation by
6 qualified and experienced personnel to their employees to resolve
7 employee drug and alcohol abuse problems which may affect employee
8 work performance. Employee assistance plans may be provided by an
9 employer directly or through a service provider.

10 In order to receive a workers' compensation premium reduction or
11 a tax credit an employer must apply to the Commissioner of Insurance;
12 the commissioner then refers the application to the Employee
13 Assistance Plan Review Commission to determine whether the
14 employer's plan meets the standards provided for by the bill.
15 Employers are required to report to the commissioner any changes in
16 their plans subsequent to initial qualification which may place the plan
17 in noncompliance with the standards set forth in the bill; the
18 commissioner then refers the change reported by the employer to the
19 Employee Assistance Plan Review Commission to determine whether
20 the change places the plan in noncompliance with the bill's standards.
21 If the commission determines that the plan no longer meets the
22 standards, the commission may recommend revoking the premium
23 reduction or tax credit. Any employer who fails to report a change
24 which may place the employer's plan in noncompliance is liable for a
25 \$100 penalty for each day the violation continues.

26 This bill is not intended to preclude employers from receiving
27 premium reductions if they provide employee assistance plans which
28 offer more benefits and services or protections for employees than
29 those required by the standards established for employee assistance
30 plans by the bill.

31

32

33

34

35 Requires reduced workers' compensation premiums for employers
36 providing employee assistance plans.