

[First Reprint]
ASSEMBLY, No. 1457

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblywomen MURPHY, HECK, Assemblymen Lance,
O'Toole, Bucco, Zecker, Garrett and Assemblywoman
Farragher

1 AN ACT concerning health care benefits and certain other benefits for
2 public employees, amending P.L.1961, c.49 ¹and P.L.1964, c.125¹,
3 and supplementing Title 52 of the Revised Statutes.

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

7
8 ¹1. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
9 read as follows:

10 2. As used in this act

11 (a) The term "State" means the State of New Jersey.

12 (b) The term "commission" means the State Health Benefits
13 Commission, created by section 3 of this act.

14 (c) The term "employee" means an appointive or elective officer or
15 full-time employee of the State of New Jersey. For the purposes of
16 this act an employee of Rutgers, The State University of New Jersey,
17 shall be deemed to be an employee of the State, and an employee of
18 the New Jersey Institute of Technology shall be considered to be an
19 employee of the State during such time as the Trustees of the Institute
20 are party to a contractual agreement with the State Treasurer for the
21 provision of educational services. For the purposes of this act the
22 term "employee" shall not include persons employed on a short-term,
23 seasonal, intermittent or emergency basis, persons compensated on a
24 fee basis, persons having less than two months of continuous service
25 or persons whose compensation from the State is limited to
26 reimbursement of necessary expenses actually incurred in the discharge
27 of their official duties. An employee paid on a 10-month basis,
28 pursuant to an annual contract, will be deemed to have satisfied the
29 two-month waiting period if [he] the employee begins employment at

**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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted February 22, 1996.

1 the beginning of the contract year. The term "employee" shall also not
2 include retired persons[, active or retired,] who are otherwise eligible
3 for benefits under this act but who, although they meet the age
4 eligibility requirement of [the federal] Medicare [program], are not
5 covered by the complete federal program. A determination by the
6 commission that a person is an eligible employee within the meaning
7 of this act shall be final and shall be binding on all parties.

8 (d) The term "dependents" means an employee's spouse and the
9 employee's unmarried children under the age of 23 years who live with
10 the employee in a regular parent-child relationship. "Children" shall
11 include stepchildren, legally adopted children and foster children
12 provided they are reported for coverage and are wholly dependent
13 upon the employee for support and maintenance. A spouse or child
14 enlisting or inducted into military service shall not be considered a
15 dependent during [such] the military service. The term "dependents"
16 shall not include spouses of retired persons[, active or retired,] who
17 are otherwise eligible for the benefits under this act but who, although
18 they meet the age eligibility requirement of [the federal] Medicare
19 [program], are not covered by the complete federal program.

20 (e) The term "carrier" means a voluntary association, corporation
21 or other organization, including a health maintenance organization as
22 defined in section 2 of the "Health Maintenance Organizations Act,"
23 P.L.1972, c.337 (C.26:2J-2), which is lawfully engaged in providing
24 or paying for or reimbursing the cost of, personal health services,
25 including hospitalization, medical and surgical services, under
26 insurance policies or contracts, membership or subscription contracts,
27 or the like, in consideration of premiums or other periodic charges
28 payable to the carrier.

29 (f) The term "hospital" means (1) an institution operated pursuant
30 to law which is primarily engaged in providing on its own premises,
31 for compensation from its patients, medical diagnostic and major
32 surgical facilities for the care and treatment of sick and injured persons
33 on an inpatient basis, and which provides such facilities under the
34 supervision of a staff of physicians and with 24 hour a day nursing
35 service by registered graduate nurses, or (2) an institution not meeting
36 all of the requirements of (1) but which is accredited as a hospital by
37 the Joint Commission on Accreditation of Hospitals. In no event shall
38 the term "hospital" include a convalescent nursing home or any
39 institution or part thereof which is used principally as a convalescent
40 facility, residential center for the treatment and education of children
41 with mental disorders, rest facility, nursing facility or facility for the
42 aged or for the care of drug addicts or alcoholics.

43 (g) The term "State managed care plan" means a health care plan
44 under which comprehensive health care services and supplies are
45 provided to eligible employees, retirees and dependents: (1) through
46 a group of doctors and other providers employed by the plan; or (2)

1 through an individual practice association, preferred provider
2 organization or point of service plan under which services and supplies
3 are furnished to plan participants through a network of doctors and
4 other providers under contracts or agreements with the plan on a
5 prepayment or reimbursement basis and which may provide for
6 payment or reimbursement for services and supplies obtained outside
7 the network. The plan may be provided on an insured basis through
8 contracts with carriers or on a self-insured basis and may be operated
9 and administered by the State or by carriers under contracts with the
10 State.

11 (h) The term "Medicare" means the program established by the
12 "Health Insurance for the Aged Act," Title XVIII of the "Social
13 Security Act," Pub.L. 89-97 (42 U.S.C. §1395 et seq.), as amended,
14 or its successor plan or plans.

15 (i) The term "traditional plan" means a health care plan that
16 provides basic benefits, extended basic benefits and major medical
17 expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-
18 17.29) by indemnifying eligible employees, retirees and dependents for
19 expenses for covered health care services and supplies through
20 payments to providers or reimbursements to participants.¹

21 (cf: P.L.1994, c.48, s.298)

22

23 ¹2. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to
24 read as follows:

25 3. There is hereby created a State Health Benefits Commission,
26 consisting of the State Treasurer, the Commissioner of Insurance, and
27 the [President of the Civil Service Commission] Commissioner of
28 Personnel. The treasurer shall be chairman of the commission and the
29 health benefits program authorized by this act shall be administered in
30 the Treasury Department. The Director of the Division of Pensions
31 and Benefits shall be the secretary of the commission. The
32 commission shall establish a health benefits program for the
33 employees of the State, the cost of which shall be paid as specified in
34 section 6 of this act. The commission shall establish rules and
35 regulations as may be deemed reasonable and necessary for the
36 administration of this act.

37 The Attorney General shall be the legal advisor of the commission.

38 The commission shall publish annually a report showing the fiscal
39 transactions of the program for the preceding year and stating other
40 facts pertaining to the plan. The commission shall submit the report
41 to the Governor and furnish a copy to every employer for use of the
42 participants and the public.¹

43 (cf: P.L.1972, c.75, s.3)

44

45 ¹3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to
46 read as follows:

1 6. (A) For each active covered State employee and for [his] the
2 eligible dependents as the employee may have enrolled at [his] the
3 employee's option, the State, from funds appropriated therefor, shall
4 pay the premium or periodic charges for the benefits provided under
5 the contract in amounts equal to the premium or periodic charges for
6 the benefits provided under such a contract covering the employee and
7 [his] the employee's enrolled dependents [and shall reimburse the
8 active employee for his premium charges under Part B of the Federal
9 medicare program covering the employee and the employee's spouse].

10 (B) An employee may, on an optional basis, enroll [his] the
11 employee's dependents for coverage under the contract subject to such
12 regulations and conditions as the commission and the carrier may
13 prescribe. There is hereby created a health benefits fund. Said fund
14 shall be used to pay the premiums or periodic charges for which the
15 State is responsible under this act.¹

16 (cf: P.L.1972, c.75, s.5)

17

18 ¹4. Section 7 of P.L.1964, c.125 (C.52:14-17.38) is amended to
19 read as follows:

20 7. The Division of Pensions and Benefits shall certify to the
21 certifying agent of each employer electing participation under the
22 program the premium rates and periodic charges applicable to the
23 coverage provided for employees and dependents. The participating
24 employer shall remit to the division all contributions to premiums and
25 periodic charges in advance of their due dates, subject to the rules and
26 regulations of the commission.

27 [The employer shall reimburse the active employee for his premium
28 charges under Part B of the federal Medicare Program covering the
29 employee and the employee's spouse.]

30 From funds allocated therefor, the employer other than the State
31 may pay the premium or periodic charges for the benefits provided to
32 a retired employee and [his] the employee's dependents covered under
33 the program, if such employee retired from a State or
34 locally-administered retirement system on a benefit based on 25 years
35 or more of service credited in such retirement system, excepting the
36 employee who elected deferred retirement, but including the employee
37 who retired on a disability pension based on fewer years of service
38 credited in such retirement system, and may also reimburse such
39 retired employee for [his] the employee's premium charges under Part
40 B of [the federal] Medicare [Program] covering the retired employee
41 and the employee's spouse. "Retired employee and [his] the employee's
42 dependents" may, upon adoption of an appropriate resolution therefor
43 by the participating employer, also include otherwise eligible
44 employees, and their dependents, who retired from a State or
45 locally-administered retirement system prior to the date that the
46 employer became a participating employer in the New Jersey State

1 Health Benefits Program. The term may also, upon adoption of an
2 appropriate resolution therefor by the participating employer, include
3 otherwise eligible employees, and their dependents, who did not elect
4 to continue coverage in the program during such time after the
5 employer became a participating employer that the employer did not
6 pay premium or periodic charges for benefits to retired employees and
7 their dependents pursuant to this section. Eligibility and enrollment of
8 such employees and dependents shall be in accordance with such rules
9 and regulations as may be adopted by the State Health Benefits
10 Commission.

11 The employer other than the State may, by resolution, pay the
12 premium or periodic charges for the benefits provided to the surviving
13 spouse of a retired employee and ~~[his]~~ the employee's dependents
14 covered under the program as provided in this section.¹

15 (cf: P.L.1987, c.384, s.2)

16

17 ¹[1.] 5.¹ Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended
18 to read as follows:

19 7. The coverage provided solely for employees shall, subject to the
20 provisions below, automatically become effective for all eligible
21 employees from the first day on or after the effective date of the
22 program on which they satisfy the definition of "employee" contained
23 in this act. The commission shall establish ~~[such]~~ the rules and
24 regulations governing the enrollment and effective dates of coverage
25 of dependents of employees ~~[as]~~ it deems ~~[are]~~ necessary or desirable.
26 ~~[Such]~~ The rules and regulations shall not defer ~~[the insurance]~~
27 coverage with respect to any qualified dependent an employee has on
28 the date the employee's employer becomes a participating employer,
29 provided the employee was, immediately prior to ~~[said]~~ the date,
30 insured with respect to ~~[such]~~ the dependent under a group major
31 medical insurance plan of ~~[such]~~ the employer which was in effect
32 immediately prior to ~~[said]~~ the date. Under the rules and regulations
33 established by the commission, each employee shall be given the
34 opportunity to enroll for coverage for ~~[his]~~ dependents as of the
35 earliest date ~~[he]~~ the employee becomes eligible for ~~[such]~~ enrollment.
36 An employee may elect to enroll ~~[his]~~ dependents for both basic
37 coverage and major medical expense coverage but may not enroll for
38 either coverage alone.

39 If, on the date coverage for an employee would become effective,
40 ~~[he]~~ the employee is not actively at work ~~[on]~~ full time at ~~[his]~~ the
41 customary place of employment or other location to which ~~[his]~~ the
42 employment requires ~~[him]~~ the employee to travel, ~~[he]~~ the employee
43 shall not be covered until ~~[he]~~ the employee is so actively at work,
44 except ~~[such]~~ the employee shall be covered, if on the date the
45 employee's employer becomes a participating employer, ~~[said]~~ the
46 employee was, immediately prior to ~~[said]~~ that date, insured under a

1 group major medical insurance plan of [such] the employer which was
2 in effect immediately prior to [said] that date.

3 In the event that the group major medical plan which covered an
4 employee or [his] dependents immediately prior to the date the
5 employee's employer becomes a participating employer provides, after
6 termination of coverage thereunder, any continuation of benefits for
7 medical expenses for hospitalization, surgery, medical treatment or any
8 related service or supply, or would so provide in the absence of
9 coverage pursuant to this act, no coverage shall be afforded pursuant
10 to this act for any such expenses (i) which are covered, or which
11 would be covered in the absence of coverage pursuant to this act, in
12 whole or in part, by [such] the prior insurance plan or (ii) which may
13 be used in satisfaction of any deductible requirement under [such] the
14 prior insurance plan to establish entitlement to [such] the continuation
15 of benefits.

16 Each employee shall furnish the Division of Pensions and Benefits,
17 in [such] the prescribed form [as is prescribed], [such] the information
18 [as is] necessary on account of [his] the employee's own coverage and
19 [as] necessary to enroll [his] dependents. Any employee not desiring
20 coverage at the time [he] the employee first becomes eligible, shall
21 give the division written notice of that fact in [such] the form [as]
22 prescribed by the division [may prescribe]. [Such] The employee may
23 not enroll thereafter except at [such] the times and under [such] the
24 conditions [as] prescribed by the commission [may prescribe].

25 If an employee of an employer other than the State eligible for
26 coverage has a spouse who is also an employee of an employer other
27 than the State eligible for coverage, the spouse may elect single
28 coverage as an employee and to enroll as a dependent, in which event
29 no coverage shall be provided for such spouse as an employee while
30 covered as a dependent. The employee of an employer other than the
31 State, who has enrolled such spouse, and who is required to pay the
32 full cost of dependent coverage, may receive a refund from the State
33 Division of Pensions equivalent in amount to the employer's cost for
34 an employee's coverage. When both husband and wife are covered as
35 employees, only one may enroll for their children as dependents.

36 A similar refund shall be authorized pursuant to such rules and
37 regulations as the commission deems necessary or desirable in the case
38 of an employee of an employer other than the State who is paying the
39 full cost of dependent coverage for a spouse who is an employee of the
40 State and eligible for coverage.

41 If a husband and wife are both eligible for coverage under the
42 program as employees:

43 a. each may elect coverage for himself or herself as an employee
44 and for their qualified dependents, including the spouse, under the
45 traditional plan or the State managed care plan, but only one may elect
46 coverage for himself or herself and for their qualified dependents.

1 including the spouse, in a participating health maintenance
2 organization; and

3 b. each may elect single coverage in any participating health
4 maintenance organization, provided that he or she is not covered under
5 the participating health maintenance organization as a dependent of his
6 or her spouse.

7 Any person employed as a substitute teacher by a school district
8 and who provides evidence of coverage under another health benefits
9 program may waive coverage for the current school year on or after
10 the date on which the person becomes an employee eligible for
11 coverage.

12 (cf: P.L.1994, c.40, s.1)

13

14 ¹[2.] 6.¹ (New section) ¹a.¹ Notwithstanding the provisions of
15 any other law to the contrary, the obligations of the State or ¹[any
16 local employer] an independent State authority, board, commission,
17 corporation, agency, or organization¹ to pay the premium or periodic
18 charges for health benefits coverage provided under P.L.1961, c.49
19 (C.52:14-17.25 et seq.), may be determined by means of a binding
20 collective negotiations agreement, including any agreements in force
21 at the time of the adoption of P.L. , c. (now pending before the
22 Legislature as this bill). With respect to State employees for whom
23 there is no majority representative for collective negotiations purposes,
24 the commission may, in its sole discretion, modify the respective
25 payment obligations set forth in P.L.1961, c.49 for the State and such
26 employees in a manner consistent with the terms of any collective
27 negotiations agreement binding on the State. With respect to
28 employees of ¹[employers other than the State] an independent State
29 authority, board, commission, corporation, agency, or organization¹
30 for whom there is no majority representative for collective
31 negotiations purposes, the employer may, in its sole discretion, modify
32 the respective payment obligations set forth in P.L.1961, c.49 for such
33 employer and such employees in a manner consistent with the terms of
34 any collective negotiations agreement binding on such employer. ¹The
35 provisions of this subsection shall also apply to employees deemed or
36 considered to be employees of the State pursuant to subsection (c) of
37 section 2 of P.L.1961, c.49 (C.52:14-17.26).

38 b. (1) Notwithstanding the provisions of any other law to the
39 contrary, for each State employee who accrues 25 years of service
40 credit in a State-administered retirement system before July 1, 1997,
41 excepting an employee who elects deferred retirement but including an
42 employee who retires on disability pension based on fewer years of
43 service credited to the retirement system, the State, upon the
44 employee's retirement, shall pay the full cost of the premium or
45 periodic charges for the health benefits provided to a retired State
46 employee and dependents covered under the State Health Benefits

1 Program, but not including survivors, and shall also reimburse the
2 retired employee for premium charges under Part B of Medicare
3 covering the retired employee and the employee's spouse.

4 (2) Notwithstanding the provisions of any other law to the
5 contrary, for each State employee who accrues 25 years of service
6 credit in a State-administered retirement system on or after July 1,
7 1997, excepting an employee who elects deferred retirement but
8 including an employee who retires on a disability pension based on
9 fewer years of service credited in the retirement system, the State,
10 upon the employee's retirement, shall pay the premium or periodic
11 charges for the health benefits provided to a retired State employee
12 and dependents covered under the State Health Benefits Program, but
13 not including survivors, and shall reimburse the retired employee for
14 premium charges under Part B of Medicare covering the retired
15 employee and the employee's spouse: (a) in accordance with the
16 provisions, if any, concerning health benefits coverage in retirement
17 which are in the collective negotiations agreement applicable to the
18 employee at the time of the employee's accrual of 25 years of service
19 credit in the retirement system, or (b) if the employee has no majority
20 representative for collective negotiations purposes, in a manner
21 consistent with the terms, if any, concerning health benefits coverage
22 in retirement which are in any collective negotiations agreement
23 deemed applicable by the State Health Benefits Commission to that
24 employee at the time of the employee's accrual of 25 years of service
25 credit in the retirement system or at the time of retirement on a
26 disability pension.¹

27
28 ¹ 7. (New section) An eligible State employee or retiree from State
29 employment and the covered dependents of the employee or retiree:

30 a. whose residence is located in a county of this State which has a
31 population density of fewer than 1000 people per square mile
32 according to the most recent federal census;

33 b. who are enrolled in the State managed care plan; and

34 c. who do not have access to two personal care physicians
35 participating in the State managed care plan within 20 miles of the
36 place of residence, shall be eligible to receive reimbursement under the
37 State managed care plan for the services of a personal care physician
38 not participating in the plan who is located within 20 miles of the place
39 of residence of the employee, retiree or dependent on the same basis
40 that reimbursement would be provided for the services under the
41 traditional plan. For the purposes of this section, "eligible State
42 employee or retiree from State employment" means a State employee
43 or retiree from State employment who is required to pay some of the
44 cost for coverage under the traditional plan.¹

45
46 ¹ [3.] 8.¹ (New section) Notwithstanding the provisions of any

1 other law to the contrary, the State Treasurer on behalf of the State,
2 and the governing body of ¹[a local unit of government, a school
3 district, or]¹ an independent State ¹[or local public]¹ authority, board,
4 commission, corporation, agency or organization may establish as an
5 employer a cafeteria plan for its employees pursuant to section 125 of
6 the federal Internal Revenue Code, 26 U.S.C. §125. The plan may
7 provide for a reduction in an employee's salary, through payroll
8 deductions or otherwise, in exchange for payment by the employer of
9 medical or dental expenses not covered by a health benefits plan, and
10 dependent care expenses as provided in section 129 of the code, 26
11 U.S.C. §129, and such other benefits as are consistent with section
12 125 which are included under the plan. The amount of any reduction
13 in an employee's salary for the purpose of contributing to the plan shall
14 continue to be treated as regular compensation for all other purposes,
15 including the calculation of pension contributions and the amount of
16 any retirement allowance, but, to the extent permitted by the federal
17 Internal Revenue Code, shall not be included in the computation of
18 federal taxes withheld from the employee's salary.

19

20 ¹[4.] 9.¹ This act shall take effect immediately.

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Changes certain provisions of State Health Benefits Program.