

P.L. 1996, CHAPTER 8, *approved March 21, 1996*
Senate No. 627 (*Second Reprint*)

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 read
9 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
30 the beginning of the contract year. The term "employee" shall also not
31 include retired persons[, active or retired,] who are otherwise eligible
32 for benefits under this act but who, although they meet the age
33 eligibility requirement of [the federal] Medicare [program], are not
34 covered by the complete federal program. A determination by the
35 commission that a person is an eligible employee within the meaning
36 of this act shall be final and shall be binding on all parties.

37 (d) The term "dependents" means an employee's spouse and the

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:

¹ Senate SSM committee amendments adopted February 22, 1996.

² Senate SBA committee amendments adopted February 22, 1996.

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

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

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

35 (g) The term "State managed care plan" means a health care plan
36 under which comprehensive health care services and supplies are
37 provided to eligible employees, retirees, and dependents: (1) through
38 a group of doctors and other providers employed by the plan; or (2)
39 through an individual practice association, preferred provider
40 organization, or point of service plan under which services and
41 supplies are furnished to plan participants through a network of
42 doctors and other providers under contracts or agreements with the
43 plan on a prepayment or reimbursement basis and which may provide
44 for payment or reimbursement for services and supplies obtained
45 outside the network. The plan may be provided on an insured basis
46 through contracts with carriers or on a self-insured basis, and may be

1 operated and administered by the State or by carriers under contracts
2 with the State.

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

7 (i) The term "traditional plan" means a health care plan which
8 provides basic benefits, extended basic benefits and major medical
9 expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-
10 17.29) by indemnifying eligible employees, retirees, and dependents for
11 expenses for covered health care services and supplies through
12 payments to providers or reimbursements to participants.¹

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

14

15 ^{12.} Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to read
16 as follows:

17 3. There is hereby created a State Health Benefits Commission,
18 consisting of the State Treasurer, the Commissioner of Insurance,
19 [and] ²and² the [President of the Civil Service Commission]
20 Commissioner of Personnel ²[, the Executive Director of the Office of
21 Legislative Services and the Administrative Director of the
22 Administrative Office of the Courts]². The treasurer shall be chairman
23 of the commission and the health benefits program authorized by this
24 act shall be administered in the Treasury Department. The Director
25 of the Division of Pensions and Benefits shall be the secretary of the
26 commission. The commission shall establish a health benefits program
27 for the employees of the State, the cost of which shall be paid as
28 specified in section 6 of this act. The commission shall establish rules
29 and regulations as may be deemed reasonable and necessary for the
30 administration of this act.

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

32 The commission shall publish annually a report showing the fiscal
33 transactions of the program for the preceding year and stating other
34 facts pertaining to the plan. The commission shall submit the report
35 to the Governor and furnish a copy to every employer for use of the
36 participants and the public.¹

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

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39 ^{13.} Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to read
40 as follows:

41 6. (A) For each active covered State employee and for [his] the
42 eligible dependents [as] the employee may have enrolled at [his] the
43 employee's option the State, from funds appropriated therefor, shall
44 pay the premium or periodic charges for the benefits provided under
45 the contract in amounts equal to the premium or periodic charges for
46 the benefits provided under such a contract covering the employee and

1 [his] the employee's enrolled dependents [and shall reimburse the
2 active employee for his premium charges under Part B of the Federal
3 medicare program covering the employee and the employee's spouse].

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

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

11

12 ^{14.} Section 7 of P.L.1964, c.125 (C.52:14-17.38) is amended to
13 read as follows:

14 7. The Division of Pensions and Benefits shall certify to the
15 certifying agent of each employer electing participation under the
16 program the premium rates and periodic charges applicable to the
17 coverage provided for employees and dependents. The participating
18 employer shall remit to the division all contributions to premiums and
19 periodic charges in advance of their due dates, subject to the rules and
20 regulations of the commission.

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

24 From funds allocated therefor, the employer other than the State
25 may pay the premium or periodic charges for the benefits provided to
26 a retired employee and [his] the employee's dependents covered under
27 the program, if such employee retired from a State or
28 locally-administered retirement system on a benefit based on 25 years
29 or more of service credited in such retirement system, excepting the
30 employee who elected deferred retirement, but including the employee
31 who retired on a disability pension based on fewer years of service
32 credited in such retirement system, and may also reimburse such
33 retired employee for [his] the employee's premium charges under Part
34 B of [the federal Medicare Program] Medicare covering the retired
35 employee and the employee's spouse. "Retired employee and [his] the
36 employee's dependents" may, upon adoption of an appropriate
37 resolution therefor by the participating employer, also include
38 otherwise eligible employees, and their dependents, who retired from
39 a State or locally-administered retirement system prior to the date that
40 the employer became a participating employer in the New Jersey State
41 Health Benefits Program. The term may also, upon adoption of an
42 appropriate resolution therefor by the participating employer, include
43 otherwise eligible employees, and their dependents, who did not elect
44 to continue coverage in the program during such time after the
45 employer became a participating employer that the employer did not
46 pay premium or periodic charges for benefits to retired employees and

1 their dependents pursuant to this section. Eligibility and enrollment of
2 such employees and dependents shall be in accordance with such rules
3 and regulations as may be adopted by the State Health Benefits
4 Commission.

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

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

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11 ¹[1.] 5.¹ Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended
12 to read as follows:

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

33 If, on the date coverage for an employee would become effective,
34 [he] the employee is not actively at work [on] full time at [his] the
35 customary place of employment or other location to which [his] the
36 employment requires [him] the employee to travel, [he] the employee
37 shall not be covered until [he] the employee is so actively at work,
38 except [such] the employee shall be covered, if on the date the
39 employee's employer becomes a participating employer, [said] the
40 employee was, immediately prior to [said] that date, insured under a
41 group major medical insurance plan of [such] the employer which was
42 in effect immediately prior to [said] that date.

43 In the event that the group major medical plan which covered an
44 employee or [his] dependents immediately prior to the date the
45 employee's employer becomes a participating employer provides, after
46 termination of coverage thereunder, any continuation of benefits for

1 medical expenses for hospitalization, surgery, medical treatment or any
2 related service or supply, or would so provide in the absence of
3 coverage pursuant to this act, no coverage shall be afforded pursuant
4 to this act for any such expenses (i) which are covered, or which
5 would be covered in the absence of coverage pursuant to this act, in
6 whole or in part, by [such] the prior insurance plan or (ii) which may
7 be used in satisfaction of any deductible requirement under [such] the
8 prior insurance plan to establish entitlement to [such] the continuation
9 of benefits.

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

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

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

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

37 a. each may elect coverage for himself or herself as an employee
38 and for their qualified dependents, including the spouse, under the
39 traditional plan or the State managed care plan, but only one may elect
40 coverage for himself or herself and for their qualified dependents,
41 including the spouse, in a participating health maintenance
42 organization; and

43 b. each may elect single coverage in any participating health
44 maintenance organization, provided that he or she is not covered under
45 the participating health maintenance organization as a dependent of his
46 or her spouse.

1 Any person employed as a substitute teacher by a school district
2 and who provides evidence of coverage under another health benefits
3 program may waive coverage for the current school year on or after
4 the date on which the person becomes an employee eligible for
5 coverage.

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

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8 ¹[2.] 6.¹ (New section) ¹a.¹ Notwithstanding the provisions of any
9 other law to the contrary, the obligations of the State or ¹[any local
10 employer] an independent State authority, board, commission,
11 corporation, agency, or organization¹ to pay the premium or periodic
12 charges for health benefits coverage provided under P.L.1961, c.49
13 (C.52:14-17.25 et seq.) may be determined by means of a binding
14 collective negotiations agreement, including any agreements in force
15 at the time of the adoption of P.L. , c. (now pending before the
16 Legislature as this bill). With respect to State employees for whom
17 there is no majority representative for collective negotiations purposes,
18 the commission may, in its sole discretion, modify the respective
19 payment obligations set forth in P.L.1961, c.49 for the State and such
20 employees in a manner consistent with the terms of any collective
21 negotiations agreement binding on the State. With respect to
22 employees of ¹[employers other than the State] an independent State
23 authority, board, commission, corporation, agency, or organization ¹
24 for whom there is no majority representative for collective
25 negotiations purposes, the employer may, in its sole discretion, modify
26 the respective payment obligations set forth in P.L.1961, c.49 for such
27 employer and such employees in a manner consistent with the terms of
28 any collective negotiations agreement binding on such employer. ¹The
29 provisions of this subsection shall also apply to employees deemed or
30 considered to be employees of the State pursuant to subsection (c) of
31 section 2 of P.L.1961, c.49 (C.52:14-17.26).

32 b. (1) Notwithstanding the provisions of any other law to the
33 contrary, for each State employee who accrues 25 years of service
34 credit in a State-administered retirement system before July 1, 1997,
35 excepting the employee who elects deferred retirement, the State,
36 upon the employee's retirement, shall pay the full cost of the premium
37 or periodic charges for the health benefits provided to a retired State
38 employee and dependents covered under the State Health Benefits
39 Program, but not including survivors, and shall also reimburse the
40 retired employee for premium charges under Part B of Medicare
41 covering the retired employee and the employee's spouse.

42 (2) Notwithstanding the provisions of any other law to the
43 contrary, for each State employee who accrues 25 years of service
44 credit in a State-administered retirement system on or after July 1,
45 1997, excepting the employee who elects deferred retirement, the
46 State, upon the employee's retirement, shall pay the premium or

1 periodic charges for the health benefits provided to a retired State
2 employee and dependents covered under the State Health Benefits
3 Program, but not including survivors, and shall reimburse the retired
4 employee for premium charges under Part B of Medicare covering the
5 retired employee and the employee's spouse: (a) in accordance with
6 the provisions, if any, concerning health benefits coverage in
7 retirement which are in the collective negotiations agreement
8 applicable to the employee at the time of the employee's accrual of 25
9 years of service credit in the retirement system, or (b) if the employee
10 has no majority representative for collective negotiations purposes, in
11 a manner consistent with the terms, if any, concerning health benefits
12 coverage in retirement which are in any collective negotiations
13 agreement deemed applicable by the State Health Benefits Commission
14 to that employee at the time of the employee's accrual of 25 years of
15 service credit in the retirement system.¹

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17 ²[¹7. (New section) A State employee living in a rural area where
18 the employee has access to less than two primary care physicians in
19 the State managed care plan or participating health maintenance
20 organizations within a 20-mile radius of the employee's home shall not
21 be required to pay either the difference between the cost of the
22 traditional plan and the average of the cost to the State of the State
23 managed care plan and the participating health maintenance
24 organizations or a percentage of the employee's annual base salary in
25 order to enroll or remain in the traditional plan.¹²

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27 ¹[^{3.} ²[^{8.} ¹] ^{7.} ² (New section) Notwithstanding the provisions of
28 any other law to the contrary, the State Treasurer on behalf of the
29 State, and the governing body of ¹[a local unit of government, a school
30 district, or]¹ an independent State ¹[or local public]¹ authority, board,
31 commission, corporation, agency or organization may establish as an
32 employer a cafeteria plan for its employees pursuant to section 125 of
33 the federal Internal Revenue Code, 26 U.S.C.§125. The plan may
34 provide for a reduction in an employee's salary, through payroll
35 deductions or otherwise, in exchange for payment by the employer of
36 medical or dental expenses not covered by a health benefits plan, and
37 dependent care expenses as provided in section 129 of the code, 26
38 U.S.C.§129, and such other benefits as are consistent with section 125
39 which are included under the plan. The amount of any reduction in an
40 employee's salary for the purpose of contributing to the plan shall
41 continue to be treated as regular compensation for all other purposes,
42 including the calculation of pension contributions and the amount of
43 any retirement allowance, but, to the extent permitted by the federal
44 Internal Revenue Code, shall not be included in the computation of
45 federal taxes withheld from the employee's salary.

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1 ¹[4.]²[9.1] 8.² This act shall take effect immediately.

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6 Changes certain provisions of State Health Benefits Program.