

SENATE, No. 1883

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senator BENNETT

1 AN ACT concerning certain health benefits programs and amending
2 and supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. (New section) a. There is created the New Jersey Health
8 Coverage Reform Board, which shall be in, but not of, the New Jersey
9 Department of Insurance.

10 b. The Board of Directors of the New Jersey Individual Health
11 Coverage Program established pursuant to section 9 of P.L.1992,
12 c.161 (17B:27A-10) and the Board of Directors of the New Jersey
13 Small Employer Health Benefits Program established pursuant to
14 section 12 of P.L.1992, c.162 (C.17B:27A-28) shall cease to exist on
15 the effective date of this act, at which time the New Jersey Health
16 Coverage Reform Board, created pursuant to subsection a. of this
17 section shall assume all the powers, functions and duties of the
18 respective boards of directors of the New Jersey Individual Health
19 Coverage Program and the New Jersey Small Employer Health
20 Benefits Program and shall administer these programs under the
21 respective powers and authorities set forth in P.L.1992, c.161
22 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.).
23 Where in any law, rule, regulation, judicial or administrative
24 proceeding, contract or otherwise, reference is made to either the New
25 Jersey Individual Health Coverage Program Board or New Jersey
26 Small Employer Health Benefits Program Board, the same shall mean
27 the New Jersey Health Coverage Reform Board.

28 c. The New Jersey Health Coverage Reform Board shall have the
29 additional authority to: collect, hold, place in escrow, invest, refund,
30 reimburse, and otherwise spend or dispose of funds raised through
31 assessments of member carriers, in accordance with the purposes of
32 P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992 (C.17B:27A-17
33 et seq.) and their respective plans of operations; and to compensate
34 public board members appointed by the Governor for attendance 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.

1 board and committee meetings, not to exceed \$200 per meeting, over
2 and above travel expenses, to be paid from the board's administrative
3 assessment funds. The costs of effectuating the provisions of this act
4 shall be treated as an assessable expense pursuant to subsection a. of
5 section 10 of P.L.1992, c.161 (C.17B:27A-11).

6 d. The organizational meeting of the New Jersey Health Coverage
7 Reform Board shall occur on the day of the first scheduled monthly
8 meeting of the New Jersey Small Employer Health Benefits Program
9 Board following the effective date of this act. Initially, the board shall
10 consist of all the members of the boards of directors of the New Jersey
11 Individual Health Coverage Program and the New Jersey Small
12 Employer Health Benefits Program, duly appointed or elected pursuant
13 to subsection b. of section 9 of P.L.1992, c.161 (C.17B:27A-10) or
14 subsection a. of section 13 of P.L.1992, c.162 (C.17B:27A-29), who
15 shall serve out the remainder of their terms. Board members whose
16 terms have expired and whose seats have not been filled as of the
17 effective date of this act shall cease to serve on the board. After the
18 effective date of this act the New Jersey Health Coverage Reform
19 Board shall seek recommendations, subject to the commissioner's
20 approval, for new board members from the following organizations to
21 replace existing board members, as the terms of comparable board
22 members, as determined by the commissioner, expire. The new
23 membership of the board shall be comprised of nineteen members as
24 follows:

25 (1) three representatives of small employers, at least one of whom
26 represents minority small employers, who shall be recommended by
27 business or trade organizations, subject to the approval of the
28 commissioner;

29 (2) one representative of a hospital, who shall be recommended by
30 a hospital association, subject to the approval of the commissioner;

31 (3) one representative of organized labor who shall be
32 recommended by a labor organization, subject to the approval of the
33 commissioner;

34 (4) one licensed health insurance producer, who shall be nominated
35 by the Governor and confirmed by the Senate;

36 (5) one physician licensed to practice medicine and surgery in this
37 State who shall be nominated by the Governor and confirmed by the
38 Senate;

39 (6) one member of the public, who is covered by an individual or
40 small employer health benefits plan who shall be nominated by the
41 Governor and confirmed by the Senate;

42 (7) nine representatives of carriers, one of whom shall be a
43 representative of an authorized insurance company offering individual
44 health benefits plans in New Jersey, who shall be elected by the
45 carriers offering individual health benefits plans; one of whom shall be
46 a representative of an approved health maintenance organization

1 offering individual health benefits plans, who shall be elected by the
2 carriers offering individual health benefits plans; one of whom shall be
3 a representative of an approved health maintenance organization
4 offering small employer health benefits plans, who shall be elected by
5 those carriers offering small employer health benefits plans; five of
6 whom shall be representatives of authorized insurance companies
7 offering small employer health benefits plans, and one of whom shall
8 be a representative of a mutual health insurer of this State subject to
9 the provisions of Subtitle 3 of Title 17B of the New Jersey Statutes,
10 all five of whom shall be elected by those carriers offering small
11 employer health benefits plans; and one of whom shall be a
12 representative of a health service corporation incorporated in New
13 Jersey or a domestic mutual insurer which converted from a health
14 service corporation in accordance with the provisions of sections 2
15 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48),
16 who shall be elected by those carriers offering small employer health
17 benefits plans; and

18 (8) the commissioner and the Commissioner of Health, or their
19 designees, who shall serve ex officio.

20 In the event that one or more representatives of the carrier
21 designations pursuant to paragraph (7) of this subsection d. are not
22 available to serve as members, the commissioner shall appoint a
23 representative to serve as a board member until such time that a
24 representative of that carrier designation becomes available to serve.

25 e. Within 90 days of the initial meeting of the New Jersey Health
26 Coverage Reform Board, the board shall submit to the commissioner
27 a plan of operation establishing the administration of the New Jersey
28 Individual Health Coverage Program and the New Jersey Small
29 Employer Health Benefits Program under the New Jersey Health
30 Coverage Reform Board pursuant to the provisions of this act. The
31 plan of operation and any subsequent amendments thereto shall be
32 submitted to the commissioner who shall, after notice and hearing,
33 approve the plan if the commissioner finds that it is reasonable and
34 equitable and sufficiently carries out the provisions of this section.
35 The plan of operation shall become effective after the commissioner
36 has approved it in writing. The plan or any subsequent amendments
37 thereto shall be deemed approved if not expressly disapproved by the
38 commissioner in writing within 90 days of receipt by the
39 commissioner.

40 The plan of operation shall include, but not be limited to, the
41 following:

42 (1) A method of handling and accounting for assets and moneys of
43 the program and an annual fiscal reporting to the commissioner;

44 (2) A means of providing for the filling of vacancies on the board,
45 subject to the approval of the commissioner; and

46 (3) Any additional matters which are appropriate to effectuate the

1 provisions of this section.

2 Until such time as a new plan of operation is adopted by the New
3 Jersey Health Coverage Reform Board and approved by the
4 commissioner, the New Jersey Health Coverage Reform Board shall
5 operate under the plans of operation of the New Jersey Individual
6 Health Coverage Program and the New Jersey Small Employer Health
7 Benefits Program, as applicable, adopted pursuant to section 9 of
8 P.L.1992, c.161 (C.17B:27A-10) and section 15 of P.L.1992, c.162
9 (C.17B:27A-31), respectively.

10

11 2. (New section) a. The Legislature finds and declares that:

12 (1) Health benefits coverage, while providing important protection
13 for individuals, is costly for individuals and businesses which insure
14 their employees.

15 (2) Mandated health benefits have social, financial and medical
16 implications for patients, providers and health benefits plans.

17 (3) It is therefore, in the public interest to require the review of
18 proposed mandated health benefits by an expert body to provide the
19 Legislature with adequate, and independent documentation defining
20 the social and financial impact and medical efficacy of the proposed
21 mandate.

22 b. In addition to the respective powers, functions, and duties
23 assumed by or granted to the New Jersey Health Coverage Reform
24 Board pursuant to subsections b. and c. of section 1 of this act, the
25 New Jersey Health Coverage Reform Board shall review bills
26 introduced in either House of the Legislature which require an insurer
27 to offer or provide a mandated health benefit and shall report their
28 findings to the Legislature pursuant to the provisions of this section
29 and section 3 of this act.

30 c. Whenever a bill containing a mandated health benefit is
31 introduced in the Legislature, the chairman of the standing reference
32 committee to which the bill or resolution has been referred in the
33 House in which it was introduced shall request the New Jersey Health
34 Coverage Reform Board to prepare a written report that assesses the
35 social and financial effects and the medical efficacy of a proposed
36 mandated health benefit.

37 d. Not later than the 120th day after the request for review is
38 received, the board shall complete its review and provide the written
39 report to the members of the standing reference committee to which
40 the bill has been referred. If the board requests an extension prior to
41 the 120th day after the date of the request for review, the chairman of
42 the standing reference committee to which the bill had been referred
43 may grant an extension for the board to complete its review of the bill.
44 The standing reference committee shall not consider or vote upon the
45 bill until: the board completes its review and provides its written
46 report to the members of the committee; the 121st day after the date

1 the request for that review was received; or the designated day in the
2 case of an extension.

3 e. If the standing reference committee of the House in which the
4 bill was introduced determines that a bill proposing a mandated health
5 benefit is of such an urgent nature that it would seriously impair the
6 public health to wait for the board to issue its report, then it may vote
7 to release the bill.

8 f. If the presiding officer of the House in which the bill was
9 introduced determines that the bill is of such an urgent nature that it
10 would seriously impair the public health to wait for the board to issue
11 its report, the presiding officer shall so notify in writing the chairman
12 of the standing reference committee to which the bill has been referred
13 and the board of that determination, and the House may consider and
14 vote upon the bill.

15 g. No bill requiring an insurer to offer or provide a mandated
16 health benefit shall be reported by the standing reference committee to
17 which it has been referred unless the written report of the board has
18 been provided to the members of the standing reference committee,
19 except as provided in subsections d., e. and f. of this section.

20 h. The board, at the request of a sponsor of the bill or any
21 member of that standing reference committee, may amend or revise its
22 report with respect to any bill which is amended by either House after
23 having been reported by the standing reference committee to which it
24 was referred in the House in which it was introduced. If a report has
25 been issued by the board on a proposed mandated benefit within the
26 previous three years, the board shall not be required to produce a new
27 report on the same proposed mandated benefit unless requested to do so
28 by the chairman of the standing reference committee to which the
29 bill has been referred. In the case where there are several mandated
30 health benefits bills to be reviewed by the board, the presiding officer
31 of the House in which the bill was introduced, or his designee, shall
32 consult with the board to determine the order of priority for review of
33 the mandated health benefits bills.

34 i. For the purposes of this section and section 3 of this act:

35 "Mandated health benefit" or "mandate" means a benefit or
36 coverage which is required by law to be offered or provided by an
37 insurer including: coverage for specific health care services,
38 treatments or practices; direct reimbursement to specific health care
39 providers; or the offering of specific health care services, treatments
40 or practices.

41 "Urgent nature" means a health condition where an individual's life
42 would be in imminent danger without expeditious consideration of the
43 mandated health benefit.

44

45 3. The review of proposed mandated health benefits by the New
46 Jersey Health Coverage Reform Board required pursuant to section 2

1 of this act shall include, at a minimum and to the extent that
2 information is practicable and available, the following:

3 a. The social impact of mandating the health benefit which shall
4 include:

5 (1) The extent to which the proposed mandated health benefit and
6 the services it would provide are needed by, available to and utilized
7 by the population of New Jersey;

8 (2) The extent to which insurance coverage for the proposed
9 mandated health benefit already exists, or if no coverage exists, the
10 extent to which the lack of coverage results in inadequate health care
11 or financial hardship for the affected population of New Jersey.

12 (3) The demand for the proposed mandated health benefit from the
13 public and the source and extent of opposition to mandating the health
14 benefit;

15 (4) Relevant findings bearing on the social impact of the lack of the
16 proposed mandated health benefit; and

17 (5) Such other information with respect to the social impact as the
18 board deems appropriate.

19 b. The financial impact of mandating the health benefit which shall
20 include:

21 (1) The extent to which the proposed mandated health benefit
22 would increase or decrease the cost for treatment or service;

23 (2) The extent to which similar mandated health benefits in other
24 states have affected charges, costs and payments for services;

25 (3) The extent to which the proposed mandated health benefit
26 would increase the appropriate use of the treatment or service;

27 (4) The impact of the proposed mandated health benefit on total
28 costs to health care insurers and on administrative costs;

29 (5) The impact of the proposed mandated health benefits on total
30 costs to purchasers and on benefit costs;

31 (6) The impact of the proposed mandated health benefits on the
32 total cost of health care within New Jersey; and

33 (7) Such other information with respect to the financial impact as
34 the board deems appropriate.

35 c. The medical efficacy of mandating the health benefit which
36 shall include:

37 (1) Where the proposed mandated health benefit would mandate
38 coverage of a particular treatment or therapy, the recommendation of
39 a clinical study or review article in a major peer-reviewed professional
40 journal;

41 (2) Where the proposed benefit would mandate coverage of the
42 services provided by an additional class of practitioners, the results of
43 at least one professionally accepted, controlled trial comparing the
44 medical results achieved by the additional class of practitioners and the
45 practitioners already covered by benefits;

46 (3) The results of other research;

1 (4) The impact of the proposed coverage on the general availability
2 of health coverage in New Jersey; and

3 (5) Such other information with respect to the medical efficacy as
4 the board deems appropriate.

5 d. The effects of balancing the social, economic and medical
6 efficacy considerations which shall include, but not be limited to:

7 (1) The extent to which the need for coverage outweighs the costs
8 of mandating the health benefit; and

9 (2) The extent to which the problem of coverage may be solved by
10 mandating the availability of the coverage as an option under health
11 coverage.

12 e. An analysis of information collected from various sources,
13 including but not limited to:

14 (1) a State data collection system;

15 (2) the Departments of Health and Insurance;

16 (3) health planning organizations;

17 (4) proponents and opponents of the proposed health benefits
18 mandate who shall be encouraged to provide appropriate
19 documentation supporting their positions. The board shall examine
20 such documentation to determine whether:

21 (a) the documentation is complete;

22 (b) the assumptions upon which the research is based are valid;

23 (c) the research cited in the documentation meets professional
24 standards;

25 (d) all relevant research respecting the proposed mandated benefit
26 has been cited in the documentation; and

27 (e) the conclusions and interpretations in the documentation are
28 consistent with the data submitted; and

29 (5) such other data sources as the board deems appropriate.

30 In analyzing information from the various sources, the board shall
31 give substantial weight to the documentation provided by the
32 proponents and opponents of the mandate to the extent that such
33 documentation is made available to them.

34

35 4. Section 9 of P.L.1992, c.161 (C.17B:27A-10) is amended to
36 read as follows:

37 9. a. There is created the New Jersey Individual Health Coverage
38 Program. All carriers subject to the provisions of this act shall be
39 members of the program. The program shall be administered by the
40 board established pursuant to this section until the effective date of
41 P.L. , c. (C.) (pending in the Legislature as this bill), at which
42 time the New Jersey Health Coverage Reform Board established
43 pursuant to section 1 of P.L. , c. (C.) (pending in the
44 Legislature as this bill) shall assume all powers, functions and duties
45 of the board.

46 b. Within 30 days of the effective date of this act, the

1 commissioner shall give notice to all members of the time and place for
2 the initial organizational meeting, which shall take place within 60 days
3 of the effective date. The board shall consist of nine representatives.
4 The commissioner or his designee shall serve as an ex officio member
5 on the board. Four members of the board shall be appointed by the
6 Governor, with the advice and consent of the Senate: one of whom
7 shall be a representative of an employer, appointed upon the
8 recommendation of a business trade association, who is a person with
9 experience in the management or administration of an employee health
10 benefit plan; one of whom shall be a representative of organized labor,
11 appointed upon the recommendation of the A.F.L.-C.I.O., who is a
12 person with experience in the management or administration of an
13 employee health benefit plan; and two of whom shall be consumers of
14 a health benefits plan who are reflective of the population in the State.
15 Four board members who represent carriers shall be elected by the
16 members, subject to the approval of the commissioner, as follows: to
17 the extent there is one licensed in this State that is willing to have a
18 representative serve on the board, a representative from each of the
19 following entities shall be elected:

20 (1) until December 31, 1999, a health service corporation or a
21 domestic mutual insurer which converted from a health service
22 corporation in accordance with the provisions of sections 2 through 4
23 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48). After that
24 date, a domestic mutual insurer which, either directly or through a
25 subsidiary health maintenance organization, is primarily engaged in the
26 business of issuing health benefits plans;

27 (2) a health maintenance organization;

28 (3) a mutual health insurer of this State subject to Subtitle 3 of
29 Title 17B of the New Jersey Statutes; and

30 (4) a foreign health insurance company authorized to do business
31 in this State.

32 In approving the selection of the carrier representatives of the
33 board, the commissioner shall assure that all members of the program
34 are fairly represented.

35 Initially, two of the Governor's appointees and two of the carrier
36 representatives shall serve for a term of three years; one of the
37 Governor's appointees and one of the carrier representatives shall
38 serve for a term of two years; and one of the Governor's appointees
39 and one of the carrier representatives shall serve for a term of one
40 year. Thereafter, all board members shall serve for a term of three
41 years. Vacancies shall be filled in the same manner as the original
42 appointments.

43 c. If the initial carrier representatives to the board are not elected
44 at the organizational meeting, the commissioner shall appoint those
45 members to the initial board within 15 days of the organizational
46 meeting.

1 d. Within 90 days after the appointment of the initial board, the
2 board shall submit to the commissioner a plan of operation and
3 thereafter, any amendments to the plan necessary or suitable to assure
4 the fair, reasonable, and equitable administration of the program. The
5 commissioner may disapprove the plan of operation, if the
6 commissioner determines that it is not suitable to assure the fair,
7 reasonable, and equitable administration of the program, and that it
8 does not provide for the sharing of program losses on an equitable and
9 proportionate basis in accordance with the provisions of section 11 of
10 this act. The plan of operation or amendments thereto shall become
11 effective unless disapproved in writing by the commissioner within 45
12 days of receipt by the commissioner.

13 e. If the board fails to submit a suitable plan of operation within
14 90 days after its appointment, the commissioner shall adopt a
15 temporary plan of operation pursuant to section 9 of P.L.1993, c.164
16 (C.17B:27A-16.2). The commissioner shall amend or rescind a
17 temporary plan adopted under this subsection, at the time a plan of
18 operation is submitted by the board.

19 f. The plan of operation shall establish procedures for:

20 (1) the handling and accounting of assets and moneys of the
21 program, and an annual fiscal reporting to the commissioner;

22 (2) collecting assessments from members to provide for sharing
23 program losses in accordance with the provisions of section 11 of this
24 act and administrative expenses incurred or estimated to be incurred
25 during the period for which the assessment is made;

26 (3) approving the coverage, benefit levels, and contract forms for
27 individual health benefits plans in accordance with the provisions of
28 section 3 of this act;

29 (4) the imposition of an interest penalty for late payment of an
30 assessment pursuant to section 11 of this act; and

31 (5) any additional matters at the discretion of the board.

32 g. The board shall appoint an insurance producer licensed to sell
33 health insurance pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.) to
34 advise the board on issues related to sales of individual health benefits
35 plans issued pursuant to this act.

36 (cf: P.L.1995, c.196, s.6)

37

38 5. Section 12 of P.L.1992, c.162 (17B:27A-28) is amended to
39 read as follows:

40 12. There is created a nonprofit entity to be known as the New
41 Jersey Small Employer Health Benefits Program. All carriers issuing
42 health benefits plan policies and contracts in this State shall be
43 members of this program. The program shall be administered by the
44 board of directors established pursuant to section 13 of P.L.1992,
45 c.162 (C.17B:27A-29) until the effective date of P.L. , c.
46 (C.)(pending in the Legislature as this bill), at which time the New

1 Jersey Health Coverage Reform Board shall assume all powers,
2 functions and duties of the board pursuant to section 1 of P.L. _____,
3 c. (C. _____)(pending in the Legislature as this bill).
4 (cf: P.L.1993, c.162, s.6)

5
6 6. This act shall take effect immediately.

7
8
9 STATEMENT

10
11
12 This bill creates the New Jersey Health Coverage Reform Board to
13 consolidate the functions of the New Jersey Individual Health
14 Coverage Program and the New Jersey Small Employer Health
15 Benefits Program under one board.

16 Under the provisions of the bill, the newly created New Jersey
17 Health Coverage Reform Board assumes all of the powers, functions
18 and duties of the boards of directors of the New Jersey Individual
19 Health Coverage Program and the New Jersey Small Employer Health
20 Benefits Program. Additionally, the bill authorizes the New Jersey
21 Health Coverage Reform Board to collect, hold, place in escrow,
22 invest, refund, reimburse, and otherwise spend or dispose of funds
23 raised through assessments of member carriers, in accordance with the
24 purposes of current law with respect to the New Jersey Individual
25 Health Coverage Program and the New Jersey Small Employer Health
26 Benefits Program.

27 The bill provides that initially the current members of both boards
28 will continue to serve as members of the newly created board.
29 Members would be replaced as their terms expire, so that the
30 membership of the new board would eventually be comprised of
31 nineteen members as follows:

- 32 < three representatives of small employers, at least one of whom
33 represents minority small employers;
34 < one representative of a hospital;
35 < one representative of organized labor;
36 < one licensed health insurance producer;
37 < one physician licensed to practice medicine and surgery in this
38 State;
39 < one member of the public, who is covered by an individual or small
40 employer health benefits plan;
41 < nine representatives of carriers, including one representative of a
42 health service corporation; two representatives of HMOs, one
43 offering small employer health benefits plans and one offering
44 individual health benefits plans; five representatives of insurers
45 offering small employer health benefits plans; and one
46 representative of an insurer offering individual health benefit plans;

1 and
2 < the Commissioner of Insurance and the Commissioner of Health, or
3 their designees, who shall serve ex officio.

4 The bill requires the new board to adopt a plan of operation, subject
5 to the approval of the Commissioner of Insurance, within 90 days of
6 its initial meeting. Until such time as the new plan of operation is
7 adopted, the board would operate under the existing plans of operation
8 of the New Jersey Individual Health Coverage Program and the Small
9 Employer Health Benefits Program, as applicable.

10 The bill provides that, in addition to the powers, duties and
11 functions assumed by or otherwise granted to the New Jersey Health
12 Coverage Reform Board, the board is authorized to review all bills
13 proposing mandated health benefits.

14 Under the bill, a "mandated health benefit" is defined as a benefit or
15 coverage which is required by law to be offered or provided by an
16 insurer including: coverage for specific health care services,
17 treatments or practices; direct reimbursement to specific health care
18 providers; or the offering of specific health care services, treatments
19 or practices.

20 The bill provides that no bill requiring an insurer to offer or provide
21 a mandated health benefit shall be reported by the standing reference
22 committee to which it has been referred unless a written report has
23 been provided to the members of the standing reference committee to
24 which the bill has been referred, except that the committee may report
25 the bill if the committee does not receive a written report from the
26 board within 120 days of the committee's request that the board review
27 the bill if the chairman of the committee has not granted the board an
28 extension in which to complete its review, or in a case where the
29 committee determines that the bill is of such an urgent nature, that to
30 wait for the board's report would seriously impair the public health.
31 Also, in a case where the presiding officer of the House in which the
32 bill was introduced determines that the consideration of the bill is of
33 such an urgent nature that to wait for the board's report would
34 seriously impair the public health, the presiding officer may so notify
35 the board and the chairman of the standing reference committee, and
36 the House may consider and vote upon the bill.

37 In the course of reviewing the proposed mandated benefit, the
38 board would assess the social and financial impact of the mandate, the
39 medical efficacy of mandating the health benefit, the effects of
40 balancing the social, economic and medical efficacy considerations,
41 and provide an analysis of the information collected from various
42 sources.

1

2

3 Consolidates individual and small employer health benefits programs
4 under one board; expands duties of board to include review of
5 proposed mandated health benefits.