

[Passed Both Houses]

SENATE, No. 2269

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 17, 1997

By Senators DiFRANCESCO, SINAGRA, Matheussen, Codey,
Baer, Assemblymen Zecker, Assemblywoman Crecco,
Assemblymen Blee, Felice, O'Toole, Assemblywoman Heck,
Assemblymen Augustine, Malone, Cottrell and LeFevre

1 AN ACT establishing the Children's Health Care Coverage Program,
2 amending P.L.1968, c.413 and supplementing Title 30 of the
3 Revised Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as the
9 "Children's Health Care Coverage Act."

10

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

12 a. Title XXI of the federal Social Security Act, which was created
13 by Subtitle J of Title IV of the federal "Balanced Budget Act of 1997,"
14 Pub.L.105-33, established the State Children's Health Insurance
15 Program, which allows a state, subject to certain conditions, to
16 establish a health insurance program for low-income children.

17 b. A substantial number of New Jersey's children who reside in
18 low-income families lack health care coverage, and this lack of
19 coverage prevents these children from obtaining needed preventive and
20 other care on a consistent and managed basis.

21 c. Because of a lack of health insurance coverage, children forgo
22 care until conditions which were either preventable or treatable at the
23 outset require more extensive and expensive interventions or
24 treatment, and providing health care coverage will prevent these
25 conditions from occurring or deteriorating in these children.

26 d. Children with health care coverage have a significantly greater
27 opportunity to stay healthy and to realize their full educational and
28 developmental potential and become productive citizens.

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 e. The Children's Health Care Coverage Program established
2 pursuant to this act builds on New Jersey's longstanding commitment
3 to assure access to quality health care provided in an efficient and
4 effective manner and at a reasonable cost through the Medicaid
5 program, services provided in certain health care facilities, and limited
6 subsidized health insurance coverage.

7 f. In addition, the Children's Health Care Coverage Program will
8 utilize the new options permitted under federal law and State and other
9 resources to establish the foundation for assuring health care coverage
10 for all of New Jersey's children.

11
12 3. (New section) As used in this act:

13 "Commissioner" means the Commissioner of Human Services.

14 "Program" means the Children's Health Care Coverage Program
15 established pursuant to this act.

16
17 4. (New section) a. The Children's Health Care Coverage
18 Program is established in the Department of Human Services. The
19 purpose of the program shall be to provide subsidized private health
20 insurance coverage, and other health care benefits as determined by
21 the commissioner, to children from birth through 18 years of age
22 within the limits of funds appropriated or otherwise made available for
23 the program. The program shall require copayments and a premium
24 contribution from families with incomes which exceed 150% of the
25 official poverty level, which shall be based upon a sliding income scale.
26 The program shall include the provision of well-child and other
27 preventive services, hospitalization, physician care, laboratory and x-
28 ray services, prescription drugs, mental health services, and other
29 services as determined by the commissioner

30 b. The commissioner, in consultation with the Commissioner of
31 Health and Senior Services, shall take such actions as are necessary to
32 implement and operate the program in accordance with the provisions
33 governing the State Children's Health Insurance Program in Title XXI
34 of the federal Social Security Act, as provided in Subtitle J of Title IV
35 of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

36 c. The commissioner shall by regulation establish standards for
37 determining eligibility and other requirements for the program,
38 including, but not limited to, premium payments and copayments, and
39 may contract with one or more appropriate entities to assist in
40 administering the program. The commissioner shall take, or cause to
41 be taken, any action necessary to secure for the State the maximum
42 amount of federal financial participation available with respect to the
43 program, subject to the constraints of fiscal responsibility and within
44 the limits of available funding in any fiscal year.

45
46 5. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as

1 follows:

2 3. Definitions. As used in this act, and unless the context
3 otherwise requires:

4 a. "Applicant" means any person who has made application for
5 purposes of becoming a "qualified applicant."

6 b. "Commissioner" means the Commissioner of Human Services.

7 c. "Department" means the Department of Human Services, which
8 is herein designated as the single State agency to administer the
9 provisions of this act.

10 d. "Director" means the Director of the Division of Medical
11 Assistance and Health Services.

12 e. "Division" means the Division of Medical Assistance and Health
13 Services.

14 f. "Medicaid" means the New Jersey Medical Assistance and Health
15 Services Program.

16 g. "Medical assistance" means payments on behalf of recipients to
17 providers for medical care and services authorized under this act.

18 h. "Provider" means any person, public or private institution,
19 agency or business concern approved by the division lawfully
20 providing medical care, services, goods and supplies authorized under
21 this act, holding, where applicable, a current valid license to provide
22 such services or to dispense such goods or supplies.

23 i. "Qualified applicant" means a person who is a resident of this
24 State and is determined to need medical care and services as provided
25 under this act, and who:

26 (1) Is a dependent child or parent or caretaker relative of a
27 dependent child and a recipient of benefits under the Work First New
28 Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et
29 seq.) who would be, except for resources, eligible for the aid to
30 families with dependent children program under the State Plan for
31 Title IV-A of the federal Social Security Act as of July 16, 1996 ;

32 (2) Is a recipient of Supplemental Security Income for the Aged,
33 Blind and Disabled under Title XVI of the Social Security Act;

34 (3) Is an "ineligible spouse" of a recipient of Supplemental Security
35 Income for the Aged, Blind and Disabled under Title XVI of the Social
36 Security Act, as defined by the federal Social Security Administration;

37 (4) Would be eligible to receive Supplemental Security Income
38 under Title XVI of the federal Social Security Act or would be, except
39 for resources, eligible for the aid to families with dependent children
40 program under the State Plan for Title IV-A of the federal Social
41 Security Act as of July 16, 1996, except for failure to meet an
42 eligibility condition or requirement imposed under such State program
43 which is prohibited under Title XIX of the federal Social Security Act
44 such as a durational residency requirement, relative responsibility,
45 consent to imposition of a lien;

46 (5) Is a child between 18 and 21 years of age who would be,

1 except for resources, eligible for the aid to families with dependent
2 children program under the State Plan for Title IV-A of the federal
3 Social Security Act as of July 16, 1996, living in the family group
4 except for lack of school attendance or pursuit of formalized
5 vocational or technical training;

6 (6) Is an individual under 21 years of age who would be, except for
7 resources or dependent child requirements, eligible for the aid to
8 families with dependent children program under the State Plan for
9 Title IV-A of the federal Social Security Act as of July 16, 1996 , or
10 groups of such individuals, including but not limited to, children in
11 foster placement under supervision of the Division of Youth and
12 Family Services whose maintenance is being paid in whole or in part
13 from public funds, children placed in a foster home or institution by a
14 private adoption agency in New Jersey or children in intermediate care
15 facilities, including developmental centers for the developmentally
16 disabled, or in psychiatric hospitals;

17 (7) Except for resources, would be eligible for the aid to families
18 with dependent children program under the State Plan for Title IV-A
19 of the federal Social Security Act in effect as of July 16, 1996 or the
20 Supplemental Security Income program, but is not receiving such
21 assistance and applies for medical assistance only;

22 (8) Is determined to be medically needy and meets all the eligibility
23 requirements described below:

24 (a) The following individuals are eligible for services, if they are
25 determined to be medically needy:

26 (i) Pregnant women;

27 (ii) Dependent children under the age of 21;

28 (iii) Individuals who are 65 years of age and older; and

29 (iv) Individuals who are blind or disabled pursuant to either
30 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

31 (b) The following income standard shall be used to determine
32 medically needy eligibility:

33 (i) For one person and two person households, the income standard
34 shall be the maximum allowable under federal law, but shall not exceed
35 133 1/3% of the State's payment level to two person households under
36 the aid to families with dependent children program under the State
37 Plan for Title IV-A of the federal Social Security Act in effect as of
38 July 16, 1996 ; and

39 (ii) For households of three or more persons, the income standard
40 shall be set at 133 1/3% of the State's payment level to similar size
41 households under the aid to families with dependent children program
42 under the State Plan for Title IV-A of the federal Social Security Act
43 in effect as of July 16, 1996 .

44 (c) The following resource standard shall be used to determine
45 medically needy eligibility:

46 (i) For one person households, the resource standard shall be 200%

1 of the resource standard for recipients of Supplemental Security
2 Income pursuant to 42 U.S.C. s.1382(1)(B);

3 (ii) For two person households, the resource standard shall be
4 200% of the resource standard for recipients of Supplemental Security
5 Income pursuant to 42 U.S.C. s.1382(2)(B);

6 (iii) For households of three or more persons, the resource
7 standard in subparagraph (c)(ii) above shall be increased by \$100.00
8 for each additional person; and

9 (iv) The resource standards established in (i), (ii), and (iii) are
10 subject to federal approval and the resource standard may be lower if
11 required by the federal Department of Health and Human Services.

12 (d) Individuals whose income exceeds those established in
13 subparagraph (b) of paragraph (8) of this subsection may become
14 medically needy by incurring medical expenses as defined in
15 42 C.F.R.435.831(c) which will reduce their income to the applicable
16 medically needy income established in subparagraph (b) of paragraph
17 (8) of this subsection.

18 (e) A six-month period shall be used to determine whether an
19 individual is medically needy.

20 (f) Eligibility determinations for the medically needy program shall
21 be administered as follows:

22 (i) County welfare agencies and other entities designated by the
23 commissioner are responsible for determining and certifying the
24 eligibility of pregnant women and dependent children. The division
25 shall reimburse county welfare agencies for 100% of the reasonable
26 costs of administration which are not reimbursed by the federal
27 government for the first 12 months of this program's operation.
28 Thereafter, 75% of the administrative costs incurred by county welfare
29 agencies which are not reimbursed by the federal government shall be
30 reimbursed by the division;

31 (ii) The division is responsible for certifying the eligibility of
32 individuals who are 65 years of age and older and individuals who are
33 blind or disabled. The division may enter into contracts with county
34 welfare agencies to determine certain aspects of eligibility. In such
35 instances the division shall provide county welfare agencies with all
36 information the division may have available on the individual.

37 The division shall notify all eligible recipients of the Pharmaceutical
38 Assistance to the Aged and Disabled program, P.L.1975, c.194
39 (C.30:4D-20 et seq.) on an annual basis of the medically needy
40 program and the program's general requirements. The division shall
41 take all reasonable administrative actions to ensure that
42 Pharmaceutical Assistance to the Aged and Disabled recipients, who
43 notify the division that they may be eligible for the program, have their
44 applications processed expeditiously, at times and locations convenient
45 to the recipients; and

46 (iii) The division is responsible for certifying incurred medical

1 expenses for all eligible persons who attempt to qualify for the
2 program pursuant to subparagraph (d) of paragraph (8) of this
3 subsection;

4 (9) (a) Is a child who is at least one year of age and under [six]
5 19 years of age; and

6 (b) Is a member of a family whose income does not exceed 133%
7 of the poverty level and who meets the federal Medicaid eligibility
8 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
9 s.1396a);

10 (10) Is a pregnant woman who is determined by a provider to be
11 presumptively eligible for medical assistance based on criteria
12 established by the commissioner, pursuant to section 9407 of
13 Pub.L.99-509 (42 U.S.C. s.1396a(a));

14 (11) Is an individual 65 years of age and older, or an individual
15 who is blind or disabled pursuant to section 301 of Pub.L.92-603
16 (42 U.S.C. s.1382c), whose income does not exceed 100% of the
17 poverty level, adjusted for family size, and whose resources do not
18 exceed 100% of the resource standard used to determine medically
19 needy eligibility pursuant to paragraph (8) of this subsection;

20 (12) Is a qualified disabled and working individual pursuant to
21 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income
22 does not exceed 200% of the poverty level and whose resources do
23 not exceed 200% of the resource standard used to determine eligibility
24 under the Supplemental Security Income Program, P.L.1973, c.256
25 (C.44:7-85 et seq.);

26 (13) Is a pregnant woman or is a child who is under one year of
27 age and is a member of a family whose income does not exceed 185%
28 of the poverty level and who meets the federal Medicaid eligibility
29 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.
30 s.1396a), except that a pregnant woman who is determined to be a
31 qualified applicant shall, notwithstanding any change in the income of
32 the family of which she is a member, continue to be deemed a qualified
33 applicant until the end of the 60-day period beginning on the last day
34 of her pregnancy;

35 (14) [Is a child born after September 30, 1983 who has attained six
36 years of age but has not attained 19 years of age and is a member of
37 a family whose income does not exceed 100% of the poverty level;]
38 (Deleted by amendment, P.L. _____, c. _____)(pending before the
39 Legislature as this bill) or

40 (15) (a) Is a specified low-income [medicare] Medicare beneficiary
41 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning
42 January 1, 1993 do not exceed 200% of the resource standard used to
43 determine eligibility under the Supplemental Security Income program,
44 P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning
45 January 1, 1993 does not exceed 110% of the poverty level, and
46 beginning January 1, 1995 does not exceed 120% of the poverty level.

1 (b) An individual who has, within 36 months, or within 60 months
2 in the case of funds transferred into a trust, of applying to be a
3 qualified applicant for Medicaid services in a nursing facility or a
4 medical institution, or for home or community-based services under
5 section 1915(c) of the federal Social Security Act (42 U.S.C.
6 s.1396n(c)), disposed of resources or income for less than fair market
7 value shall be ineligible for assistance for nursing facility services, an
8 equivalent level of services in a medical institution, or home or
9 community-based services under section 1915(c) of the federal Social
10 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility
11 shall be the number of months resulting from dividing the
12 uncompensated value of the transferred resources or income by the
13 average monthly private payment rate for nursing facility services in
14 the State as determined annually by the commissioner. In the case of
15 multiple resource or income transfers, the resulting penalty periods
16 shall be imposed sequentially. Application of this requirement shall be
17 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,
18 this provision is effective for all transfers of resources or income made
19 on or after August 11, 1993. Notwithstanding the provisions of this
20 subsection to the contrary, the State eligibility requirements
21 concerning resource or income transfers shall not be more restrictive
22 than those enacted pursuant to 42 U.S.C. s.1396p(c).

23 (c) An individual seeking nursing facility services or home or
24 community-based services and who has a community spouse shall be
25 required to expend those resources which are not protected for the
26 needs of the community spouse in accordance with section 1924(c) of
27 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs
28 of long-term care, burial arrangements, and any other expense deemed
29 appropriate and authorized by the commissioner. An individual shall
30 be ineligible for Medicaid services in a nursing facility or for home or
31 community-based services under section 1915(c) of the federal Social
32 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in
33 violation of this subparagraph. The period of ineligibility shall be the
34 number of months resulting from dividing the uncompensated value of
35 transferred resources and income by the average monthly private
36 payment rate for nursing facility services in the State as determined by
37 the commissioner. The period of ineligibility shall begin with the
38 month that the individual would otherwise be eligible for Medicaid
39 coverage for nursing facility services or home or community-based
40 services.

41 This subparagraph shall be operative only if all necessary approvals
42 are received from the federal government including, but not limited to,
43 approval of necessary State plan amendments and approval of any
44 waivers.

45 j. "Recipient" means any qualified applicant receiving benefits
46 under this act.

1 k. "Resident" means a person who is living in the State voluntarily
2 with the intention of making his home here and not for a temporary
3 purpose. Temporary absences from the State, with subsequent returns
4 to the State or intent to return when the purposes of the absences have
5 been accomplished, do not interrupt continuity of residence.

6 l. "State Medicaid Commission" means the Governor, the
7 Commissioner of Human Services, the President of the Senate and the
8 Speaker of the General Assembly, hereby constituted a commission to
9 approve and direct the means and method for the payment of claims
10 pursuant to this act.

11 m. "Third party" means any person, institution, corporation,
12 insurance company, group health plan as defined in section 607(1) of
13 the federal "Employee Retirement and Income Security Act of 1974,"
14 29 U.S.C. s.1167(1), service benefit plan, health maintenance
15 organization, or other prepaid health plan, or public, private or
16 governmental entity who is or may be liable in contract, tort, or
17 otherwise by law or equity to pay all or part of the medical cost of
18 injury, disease or disability of an applicant for or recipient of medical
19 assistance payable under this act.

20 n. "Governmental peer grouping system" means a separate class of
21 skilled nursing and intermediate care facilities administered by the
22 State or county governments, established for the purpose of screening
23 their reported costs and setting reimbursement rates under the
24 Medicaid program that are reasonable and adequate to meet the costs
25 that must be incurred by efficiently and economically operated State
26 or county skilled nursing and intermediate care facilities.

27 o. "Comprehensive maternity or pediatric care provider" means any
28 person or public or private health care facility that is a provider and
29 that is approved by the commissioner to provide comprehensive
30 maternity care or comprehensive pediatric care as defined in
31 subsection b. (18) and (19) of section 6 of P.L.1968, c.413
32 (C.30:4D-6).

33 p. "Poverty level" means the official poverty level based on family
34 size established and adjusted under Section 673(2) of Subtitle B, the
35 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.
36 s.9902(2)).

37 (cf: P.L.1997, c.13, s.10)

38

39 6. The commissioner shall adopt rules and regulations pursuant to
40 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.) to effectuate the purposes of this act; except that,
42 notwithstanding any provision of P.L.1968, c.410 to the contrary, the
43 commissioner may adopt, immediately upon filing with the Office of
44 Administrative Law, such regulations as the commissioner deems
45 necessary to implement the provisions of this act, which shall be
46 effective for a period not to exceed six months and may thereafter be

1 amended, adopted or readopted by the commissioner in accordance
2 with the requirements of P.L.1968, c.410.

3
4 7. This act shall take effect immediately.

5
6
7 STATEMENT

8
9 This bill establishes the Children's Health Care Coverage Program
10 in the Department of Human Services pursuant to Title XXI of the
11 federal Social Security Act, which was created by Subtitle J of Title IV
12 of the federal "Balanced Budget Act of 1997," Pub.L.105-33. The
13 program will provide subsidized private health insurance coverage, and
14 other health care benefits as determined by the Commissioner of
15 Human Services, for children from birth through 18 years of age
16 within the limits of funds appropriated or otherwise made available for
17 the program.

18 The Children's Health Care Coverage Program will require
19 copayments and a premium contribution from families with incomes
20 that exceed 150% of the official poverty level, which will be based
21 upon a sliding income scale. The program will provide well-child and
22 other preventive services, hospitalization, physician care, laboratory
23 and x-ray services, prescription drugs, mental health services, and
24 other services as determined by the commissioner.

25 The bill also increases the Medicaid income eligibility limit for
26 children ages 6 through 18 to 133% of the federal poverty level (i.e.,
27 up to \$17,729 for a family of three and \$21,347 for a family of four).

28 In New Jersey, under current law, children up to age 1 and those
29 aged 1 through 5 are eligible for Medicaid if their family incomes do
30 not exceed 185% and 133% of the federal poverty level, respectively;
31 however, the Medicaid income eligibility limit for older children up to
32 age 14 (as of October 1, 1997) is only 100% of the federal poverty
33 level, and for children aged 15 to 18 is the regular Medicaid income
34 eligibility standard.

35 The implementation of the Children's Health Care Coverage
36 Program and the expansion of Medicaid eligibility are expected to
37 provide health insurance coverage for approximately 102,000 children
38 and in the immediate future reduce the number of children without
39 health care coverage in New Jersey by approximately 40%.

40 Beginning January 1, 1998, New Jersey will invest \$136 million
41 (\$88 million in federal funds and \$48 million in State funds) to
42 implement the Children's Health Care Coverage Program. It is
43 anticipated that New Jersey will expand this effort to cover the
44 remaining uninsured children in the State as public or private resources
45 become available for this purpose, and utilizing federal government
46 waivers as appropriate.

- 1 _____
- 2
- 3 "Children's Health Care Coverage Act."