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ASSEMBLY, No. 5213

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 7, 2021

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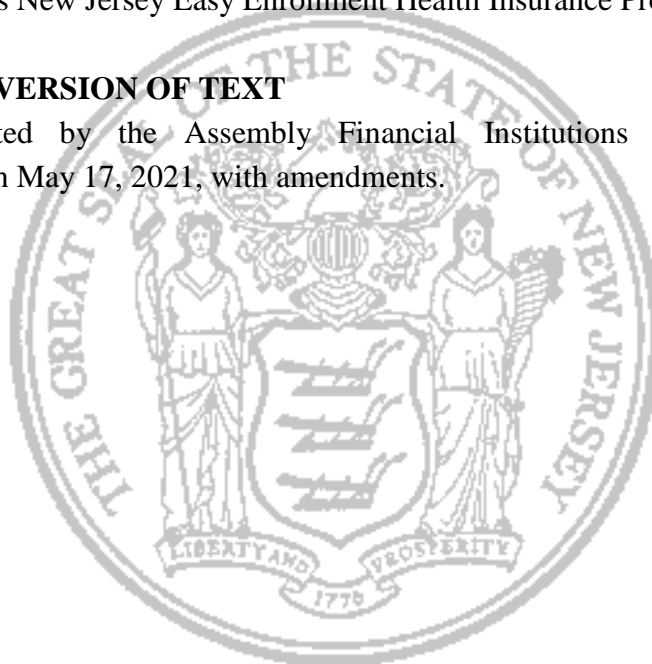
Assemblyman Benson, Assemblywoman Timberlake, Assemblyman Conaway, Assemblywomen Jasey, Vainieri Huttie, Assemblyman Houghtaling, Assemblywoman Swain and Assemblyman Tully

SYNOPSIS

Establishes New Jersey Easy Enrollment Health Insurance Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on May 17, 2021, with amendments.



(Sponsorship Updated As Of: 6/3/2021)

1 AN ACT establishing the New Jersey Easy Enrollment Health
2 Insurance Program and supplementing P.L.2019, c.141
3 (C.17B:27A-57 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in this act:

9 “Commissioner” means the Commissioner of Banking and
10 Insurance.

11 “Cost-sharing reduction” means a reduction described in Section
12 1402(c) of the Affordable Care Act.

13 “Department” means the Department of Banking and Insurance.

14 “Insurance affordability assistance” means:

15 (1) the State Medicaid program established pursuant to
16 P.L.1968, c.413 (C.30:4D-1 et seq.);

17 (2) the NJ FamilyCare Program established pursuant to
18 P.L.2005, c.156 (C.30:4J-8 et al.);

19 (3) premium tax credits; or

20 (4) cost-sharing reductions.

21 “Modified adjusted gross income” has the meaning stated in 42
22 U.S.C. s.1395r(i)(4)(A).

23 “Poverty line” has the meaning stated in 42 U.S.C.
24 s.1397jj(c)(5).

25 “Premium tax credits” means the tax credits described in section
26 36B of the Internal Revenue Code.

27 “Proactively contact” means an attempt by the program to reach
28 an individual by:

29 (1) making multiple attempts to contact the individual as
30 requested on a State income tax return in accordance with section 8
31 of this act;

32 (2) if the attempts described in paragraph (1) of this definition
33 do not successfully reach the individual or if no specific methods
34 for contacting the individual were requested, making multiple
35 attempts to contact the individual through telephonic and electronic
36 means; and

37 (3) if the attempts described in paragraphs (1) and (2) of this
38 definition do not successfully reach the individual to obtain the
39 requested information, sending paper forms or notices to the
40 individual by mail.

41 “Program” means the New Jersey Easy Enrollment Health
42 Insurance Program established pursuant to this act.

43 “Individual” means an individual under the age of 65 years who
44 is identified through a State income tax return under section 8 of
45 this act as not having minimum essential coverage.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted May 17, 2021.

1 “Workgroup” means the New Jersey Easy Enrollment Health
2 Insurance Program Advisory Workgroup established pursuant to
3 section 3 of this act.

4
5 2. a. The Department of Banking and Insurance shall establish
6 and have the authority to operate the New Jersey Easy Enrollment
7 Health Insurance Program. The department shall integrate the
8 program with the State-based exchange established pursuant to
9 P.L.2019, c.141 (C.17B:27A-57 et seq.), and may enter into an
10 agreement with a third-party for operation of the program. The
11 purpose of the program shall be to:

12 (1) establish a State-based reporting system to provide
13 information about the health insurance status of State residents
14 through the use of State income tax returns to identify individuals
15 without minimum essential coverage and determine whether the
16 individual is interested in obtaining minimum essential coverage;

17 (2) determine whether an individual who is interested in
18 obtaining minimum essential coverage qualifies for insurance
19 affordability assistance;

20 (3) proactively contact an individual who is interested in
21 obtaining minimum essential coverage to assist in enrolling the
22 individual in insurance affordability assistance and minimum
23 essential coverage; and

24 (4) maximize enrollment of eligible individuals in insurance
25 affordability assistance and minimum essential coverage to improve
26 access to care and reduce insurance costs for all residents of the
27 State.

28 b. The Commissioner of Banking and Insurance, the
29 Commissioner of Human Services, and the State Treasurer shall
30 develop and implement systems, policies, and practices that
31 encourage, facilitate, and streamline determination of eligibility for
32 insurance affordability assistance and enrollment in minimum
33 essential coverage to achieve the purposes of the program.

34 c. To facilitate the most efficient implementation of the
35 program, the Commissioner of Banking and Insurance, the
36 Commissioner of Human Services, and the State Treasurer may
37 enter into agreements, adopt regulations and guidelines, establish
38 accounts, conduct trainings, provide public information, educate tax
39 preparers, and take any other steps as may be necessary to
40 accomplish the purpose of the program.

41 d. Notwithstanding the provisions of subsection a. of
42 R.S.54:50-8 to the contrary, the State Treasurer may share with the
43 Commissioner of Banking and Insurance the taxpayer information
44 that is necessary for the purposes of this act.

45 e. The Commissioner of Human Services may pursue any
46 necessary waivers from the federal Department of Health and
47 Human Services in order to implement the provisions of this act.

1 3. a. The Commissioner of Banking and Insurance shall
2 establish a New Jersey Easy Enrollment Health Insurance Program
3 Advisory Workgroup to provide ongoing advice regarding the
4 implementation of the program.

5 b. The workgroup shall include representation from:

6 (1) the commissioner;

7 (2) consumer groups;

8 (3) employers;

9 (4) insurers;

10 (5) health care providers;

11 (6) navigators or other consumer assisters;

12 (7) insurance brokers or agents;

13 (8) labor organizations;

14 (9) income tax preparers;

15 (10) national policy experts; ¹[and]¹

16 (11) ¹federally qualified health centers; and

17 (12)¹ any other organizations or groups selected by the
18 commissioner.

19 c. The workgroup shall meet at least once every six months.

20 d. This section shall not be construed to prevent the
21 commissioner from convening other formal or informal working or
22 advisory groups to facilitate the implementation of the program.
23

24 4. a. The New Jersey Easy Enrollment Health Insurance
25 Program shall determine eligibility for insurance affordability
26 assistance as soon as possible after an individual files a State
27 income tax return on which the individual indicates pursuant to
28 paragraph (3) of subsection c. of section 8 of this act, that the
29 individual is seeking coverage.

30 b. (1) To the extent practicable, the program shall verify an
31 individual's eligibility for insurance affordability assistance with
32 information on a State income tax return and other data from third-
33 party data sources, including data described in section 1413 of the
34 Affordable Care Act or available pursuant to section 8 of this act,
35 without requesting additional information from the individual.

36 (2) If additional documentation from an individual is required to
37 establish eligibility for insurance affordability assistance, the
38 program shall take steps to limit the burden on the individual,
39 including:

40 (a) proactively contacting the individual who filed the tax return
41 or the individual;

42 (b) recording, by telephonic or electronic means, documentation
43 provided by the individual who filed the tax return or the
44 individual; and

45 (c) if the documentation required to determine eligibility is not
46 obtained using the steps described in subparagraphs (a) and (b) of

1 this paragraph, facilitating the selection of an authorized
2 representative for the individual.

3 c. (1) Before determining eligibility of an individual for
4 insurance affordability assistance, the program shall attempt to
5 verify the citizenship status of the individual and each household
6 member listed on the State income tax return, based on the
7 information available from the return and reliable third-party
8 sources of citizenship data.

9 (2) If the process described in paragraph (1) of this subsection
10 does not confirm that the individual and each household member
11 listed on the State income tax return is a United States citizen, the
12 program shall not seek additional verification or take other steps to
13 determine eligibility for insurance affordability assistance until the
14 individual provides affirmative consent using forms and procedures
15 approved by the program.

16 (3) The affirmative consent required under paragraph (2) of this
17 subsection may be satisfied through the procedures described in 42
18 U.S.C. s.1320b-7(d).

19 (4) If citizenship is not verified and affirmative consent is not
20 provided in accordance with paragraph (2) of this subsection, the
21 program shall not take any further steps to determine an individual's
22 eligibility for insurance affordability assistance.

23

24 5. a. The program shall make a determination of eligibility, in
25 accordance with section 4 of this act, for the State Medicaid
26 program or the NJ FamilyCare Program under this section, before
27 determining eligibility for any other insurance affordability
28 assistance.

29 b. (1) If an individual is determined to be eligible for the State
30 Medicaid program or the NJ FamilyCare Program, the procedures
31 described in this section and guidelines established by the
32 Department of Human Services, to implement this subsection shall
33 apply.

34 (2) If an individual fails to select a managed care organization
35 plan within a period of time established by the program, the
36 program may assign the individual to and promptly enroll the
37 individual in a managed care organization plan.

38 (3) Before the program assigns an individual to a managed care
39 organization plan, the individual shall receive:

40 (a) advance notice;

41 (b) an opportunity to select another managed care organization
42 plan within the period of time established by the program; and

43 (c) an opportunity to opt out of coverage.

44 c. The program may utilize any information provided to the
45 Department of Banking and Insurance or the Department of Human
46 Services in making determinations pursuant to this section.

1 6. a. If an individual is not determined to be eligible for the
2 State Medicaid program or the NJ FamilyCare Program pursuant to
3 section 5 of this act, the program shall determine, in accordance
4 with section 4 of this act, whether the individual is eligible for
5 premium tax credits or cost-sharing reductions as determined under
6 this section.

7 b. (1) A special enrollment period for the New Jersey
8 Individual Health Coverage Program shall begin on the date an
9 income tax return is filed by or on behalf of an individual that
10 indicates an individual is seeking coverage pursuant to paragraph
11 (3) of subsection c. of section 8 of this act

12 (2) The enrollment period described in this section shall last for
13 a period of time, to be determined by the Department of Banking
14 and Insurance before the start of the calendar year, that **'[may]**
15 **shall'** not be shorter than **'[14] 30'** days.

16 c. (1) Information about the enrollment period described in
17 subsection b. of this section shall be communicated to the public
18 and affected individuals through measures that may include
19 language in the instructions for the State individual income tax
20 return, if inclusion of the language is approved by the State
21 Treasurer.

22 (2) The Department of Banking and Insurance shall conduct
23 outreach to individuals described in paragraph (1) of this
24 subsection, using methods that may include written notices and the
25 provision of individualized assistance by insurance agents and
26 brokers, navigators, tax preparers, and contractors and staff.

27 (3) Notwithstanding any other provision of this act, the
28 Department of Banking and Insurance may compensate an entity for
29 outreach described in paragraph (2) of this subsection in a manner
30 that reflects, in whole or in part, the number of individuals enrolled
31 under this section and section 4 of this act by that entity.

33 7. a. The Department of Banking and Insurance shall develop
34 data privacy and data security safeguards to govern the conveyance,
35 storage, and utilization of data under the program.

36 b. The safeguards developed under subsection a. of this section
37 shall ensure that the conveyance, storage, and utilization of data
38 under the program comply with applicable requirements of federal
39 and State law.

41 8. a. If a State income tax return indicates that an individual is
42 uninsured at the time the tax return is filed, consistent with the
43 provisions of P.L.2018, c.31 (C.54A:11-1 et seq.), the tax return
44 shall include the following information as to the uninsured
45 individual:

46 (1) the age of each individual;

- 1 (2) election by the individual filing the tax return of one of the
2 two checkoff boxes described in subsection c. of this section;
- 3 (3) if the individual who files a tax return chooses the checkoff
4 box described in paragraph (3) of subsection c. of this section, any
5 information determined by the program as essential to determining
6 eligibility for insurance affordability assistance, if the information:
7 (a) is not available from a reliable third-party data source;
8 (b) is not otherwise required to be provided on the return; and
9 (c) does not pertain to citizenship or immigration status; and
10 (4) notification of the potential waiver ¹of¹ the State shared
11 responsibility tax pursuant to subsection d. of this section.
- 12 b. For an individual who files a tax return and chooses the
13 checkoff box described in paragraph (3) of subsection c. of this
14 section, the return shall give the individual who filed the tax return
15 the option to indicate the individual's preferred method for the
16 program to contact the individual who filed the tax return to
17 facilitate either determination of eligibility for insurance
18 affordability assistance or enrollment in health coverage.
- 19 c. (1) In accordance with this section, the State Treasurer shall
20 include with the income tax return form a separate form that is
21 required only for individuals who file a tax return indicating that an
22 individual is uninsured at the time the tax return is filed.
- 23 (2) The separate form shall include two checkoff boxes as
24 described in paragraphs (3) and (4) of this subsection and the
25 information described in paragraphs (2) and (3) of subsection a. of
26 this section.
- 27 (3) One checkoff box shall give an individual who files a tax
28 return the choice to have the program:
- 29 (a) based on information in the individual's tax return,
30 determine the individual's eligibility for insurance affordability
31 assistance; and
32 (b) obtain additional data that may be relevant to determine the
33 individual's eligibility for insurance affordability assistance.
- 34 (4) One checkoff box shall allow an individual who files a tax
35 return the choice to not have the program make the determination
36 described in paragraph (3) of this subsection.
- 37 (5) The State Treasurer, in consultation with the Department of
38 Banking and Insurance and with the advice of the workgroup, shall:
- 39 (a) develop language for the checkoff boxes described in
40 paragraphs (3) and (4) of this subsection;
- 41 (b) develop language for the instructions for the State income
42 tax return that includes a description of the effects of choosing the
43 checkoff boxes described in paragraphs (3) and (4) of this
44 subsection, including the purposes for which the information
45 disclosed under this section may be used; and

1 (c) ensure that the language developed under subparagraph (a)
2 of this paragraph is as simple, clear, and easy to understand as
3 possible.

4 (6) If an individual who files a tax return makes the election
5 described in paragraph (3) of this subsection, the State Treasurer
6 shall convey to the program all insurance-relevant information
7 contained on the return.

8 d. The State Treasurer shall waive the State shared
9 responsibility tax imposed pursuant to section 3 of P.L.2018, c.31
10 (C.54A:11-3) for any taxpayer who chooses the checkoff box
11 described in paragraph (3) of subsection c. of this section. If the
12 taxpayer fails to enroll in health benefits coverage and maintain that
13 coverage in each month following the enrollment period, the
14 taxpayer shall be liable for any payments to which the taxpayer
15 would have otherwise been subject.

16 e. The State Treasurer shall coordinate the requirements of this
17 subsection with the requirements of the "New Jersey Health
18 Insurance Market Preservation Act," P.L.2018, c.31 (C.54A:11-
19 1 et seq.).

20

21 9. a. Except as provided in subsection b. of this section, this
22 act shall take effect immediately and shall apply to returns filed for
23 taxable years beginning after December 31, 2020.

24 b. If the State Treasurer determines, after consultation with the
25 Department of Banking and Insurance, that the implementation of
26 this act is not administratively feasible for taxable years beginning
27 after December 31, 2020, the Treasurer may delay implementation
28 of this act to taxable years beginning after December 31, 2021.