

[Second Reprint]

ASSEMBLY, No. 5213

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 7, 2021

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Co-Sponsored by:

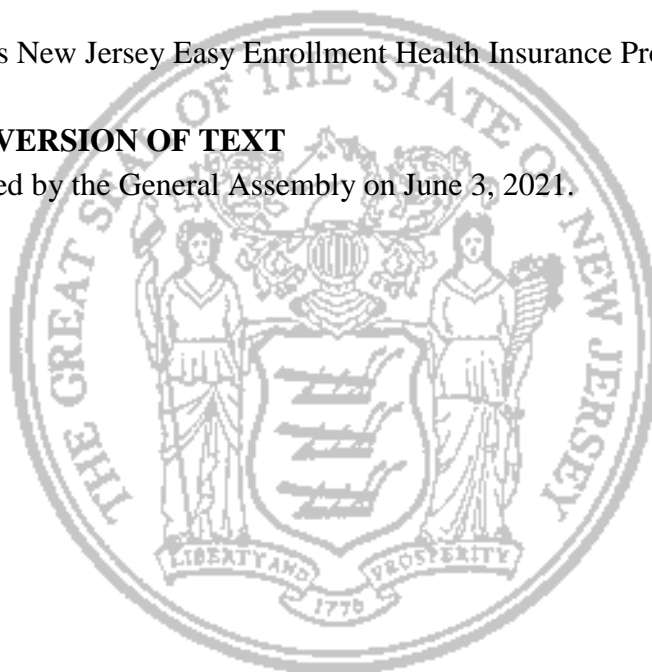
Assemblyman Benson, Assemblywoman Timberlake, Assemblyman Conaway, Assemblywomen Jasey, Vainieri Huttie, Assemblyman Houghtaling, Assemblywoman Swain, Assemblyman Tully and Assemblywoman Lopez

SYNOPSIS

Establishes New Jersey Easy Enrollment Health Insurance Program.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 3, 2021.



(Sponsorship Updated As Of: 6/21/2021)

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.

²Assembly floor amendments adopted June 3, 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, ²the Commissioner of Labor and
30 Workforce Development,² and the State Treasurer shall develop and
31 implement systems, policies, and practices that encourage,
32 facilitate, and streamline determination of eligibility for insurance
33 affordability assistance and enrollment in minimum essential
34 coverage to achieve the purposes of the program.

35 c. To facilitate the most efficient implementation of the
36 program, the Commissioner of Banking and Insurance, the
37 Commissioner of Human Services, ²the Commissioner of Labor and
38 Workforce Development,² and the State Treasurer may enter into
39 agreements, adopt regulations and guidelines, establish accounts,
40 conduct trainings, provide public information, educate tax
41 preparers, and take any other steps as may be necessary to
42 accomplish the purpose of the program.

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

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

4

5 3. a. The Commissioner of Banking and Insurance shall
6 establish a New Jersey Easy Enrollment Health Insurance Program
7 Advisory Workgroup to provide ongoing advice regarding the
8 implementation of the program.

9 b. The workgroup shall include representation from:

10 (1) the commissioner;

11 (2) consumer groups;

12 (3) employers;

13 (4) insurers;

14 (5) health care providers;

15 (6) navigators or other consumer assisters;

16 (7) insurance brokers or agents;

17 (8) labor organizations;

18 (9) income tax preparers;

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

20 (11) ¹federally qualified health centers; and

21 (12)¹ any other organizations or groups selected by the
22 commissioner.

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

24 d. This section shall not be construed to prevent the
25 commissioner from convening other formal or informal working or
26 advisory groups to facilitate the implementation of the program.

27

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

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

40 (2) If additional documentation from an individual is required to
41 establish eligibility for insurance affordability assistance, the
42 program shall take steps to limit the burden on the individual,
43 including:

44 (a) proactively contacting the individual who filed the tax return
45 or the individual;

46 (b) recording, by telephonic or electronic means, documentation
47 provided by the individual who filed the tax return or the
48 individual; and

1 (c) if the documentation required to determine eligibility is not
2 obtained using the steps described in subparagraphs (a) and (b) of
3 this paragraph, facilitating the selection of an authorized
4 representative for the individual.

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

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

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

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

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

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

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

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

42 (a) advance notice;

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

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

46 c. The program may utilize any information provided to the
47 Department of Banking and Insurance or the Department of Human
48 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 ²[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] the program sends
12 notice of eligibility to the individual².

13 (2) The enrollment period described in this section shall last for
14 a period of time, to be determined by the Department of Banking
15 and Insurance before the start of the calendar year, that ¹[may]
16 shall¹ not be shorter than ¹[14] 30¹ days.

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

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

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

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

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

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

47 (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

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

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

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

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

²9. a. An individual that consents to share information through the system established pursuant to section 10 of this act shall be eligible for a special enrollment period pursuant to subsection b. of this section. The program shall determine, in accordance with sections 4 through 6 of this act, whether the individual is eligible for the State Medicaid program or the NJ FamilyCare Program, premium tax credits, or cost-sharing reductions.

b. (1) A special enrollment period for the New Jersey Individual Health Coverage Program shall begin on the date the program sends notice of eligibility to the individual.

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

c. (1) The Department of Banking and Insurance shall conduct outreach to affected individuals, using methods that may include written notices and the provision of individualized assistance by insurance agents and brokers, navigators, tax preparers, and contractors and staff.

(2) Notwithstanding any other provision of this act, the Department of Banking and Insurance may compensate an entity for outreach described in paragraph (1) of this subsection in a manner that reflects, in whole or in part, the number of individuals enrolled under this section by that entity.²

²10. a. On or before September 1, 2021, the Department of Labor and Workforce Development shall begin implementing a system through which an individual who has filed a claim for unemployment insurance benefits may consent, as part of a weekly claim certification, to the sharing of relevant information collected by the Department of Labor and Workforce Development with the

1 program, the State-based exchange established pursuant to
2 P.L.2019, c.141 (C.17B:27A-57 et seq.), the Department of Banking
3 and Insurance, and the Department of Human Services to determine
4 whether the individual qualifies for the State Medicaid program or
5 the NJ FamilyCare Program, or any other insurance affordability
6 assistance.

7 b. The Department of Labor and Workforce Development shall
8 enter into an agreement with the State-based exchange, the
9 Department of Banking and Insurance, and the Department of
10 Human Services, before the system described in subsection a. of
11 this section begins to operate, that enables the system to operate in
12 compliance with all applicable State and federal requirements
13 related to privacy, data security, and funding.

14 c. The consent request described in subsection a. of this section
15 shall be prominently placed on the weekly claim certification form,
16 in clear and understandable language that is easy to read.

17 d. The Department of Labor and Workforce Development shall
18 cooperate with the State-based exchange, the Department of
19 Banking and Insurance, and the Department of Human Services to
20 claim the maximum amount of available federal funding for the
21 establishment and operation of the system established pursuant to
22 this section.

23 e. To facilitate the most efficient implementation of the system,
24 the Commissioner of Banking and Insurance, the Commissioner of
25 Human Services, and the Commissioner of Labor and Workforce
26 Development may enter into agreements, adopt regulations and
27 guidelines, establish accounts, conduct trainings, provide public
28 information, educate tax preparers, and take any other steps as may
29 be necessary to accomplish the purpose of the system.²

30
31 ²**[9.] 11.**² a. Except as provided in subsection b. of this section,
32 this act shall take effect immediately and shall apply to returns filed
33 for taxable years beginning after December 31, 2020.

34 b. If the State Treasurer determines, after consultation with the
35 Department of Banking and Insurance ²and the Department of
36 Labor and Workforce Development², that the implementation of
37 this act is not administratively feasible for taxable years beginning
38 after December 31, 2020, the Treasurer may delay implementation
39 of this act to taxable years beginning after December 31, 2021.