

ASSEMBLY, No. 5825

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 2, 2021

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

SYNOPSIS

Changes effective date of Garden State Health Plan and provides open enrollment period; exempts certain charter schools from certain healthcare plan requirements.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health care benefits plans provided to public
2 employees by the School Employees' Health Benefits Program
3 and certain boards of education and amending P.L.2020, c.44.
4

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

8 1. Section 5 of P.L.2020, c.44 (C.18A:16-13.2) is amended to
9 read as follows:

10 5. This section shall apply to local boards of education and
11 employers, as specified in subsection **[j.]** k. of this section, who do
12 not participate in the School Employees' Health Benefits Program.

13 Any health insurance company may provide to local boards of
14 education and to those employers defined pursuant to section 32 of
15 P.L.2007, c.103 (C.52:14-17.46.2) who do not participate in the
16 School Employees' Health Benefits Program the equivalent of the
17 New Jersey Educators Health Plan in the School Employees' Health
18 Benefits Program as that plan design is described in subsection f. of
19 section 1 of P.L.2020, c.44 (C.52:14-17.46.13) and the Garden State
20 Health Plan as that plan design is described in subsection d. of
21 section 1 of P.L.2020, c.44 (C.52:14-17.46.13), notwithstanding the
22 provisions of any other law, rule, or regulation, including any
23 regulation of the New Jersey Department of Banking and Insurance,
24 to the contrary. As used in this subsection, "health insurance
25 company" means and includes a health, hospital, and medical
26 service corporation; commercial individual, small employer, and
27 larger group health insurer; and a health maintenance organization.

28 a. (1) Notwithstanding the provisions of any other law, rule, or
29 regulation to the contrary, beginning January 1, 2021 and for each
30 plan year thereafter, a board of education as an employer providing
31 health care benefits coverage for its employees, and their
32 dependents if any, in accordance with P.L.1979, c.391 (C.18A:16-
33 12 et seq.) shall offer to its employees, and their dependents if any,
34 the equivalent of the New Jersey Educators Health Plan in the
35 School Employees' Health Benefits Program as that plan design is
36 described in subsection f. of section 1 of P.L.2020, c.44 (C.52:14-
37 17.46.13).

38 Beginning **[July 1, 2021]** January 1, 2022 and for each plan year
39 thereafter, a board of education as an employer providing health
40 care benefits coverage for its employees, and their dependents if
41 any, in accordance with P.L.1979, c.391 (C.18A:16-12 et seq.) shall
42 also offer a plan for its employees, and their dependents if any, that
43 is the equivalent of the Garden State Health Plan in the School
44 Employees' Health Benefits Program. The board shall provide an
45 enrollment period prior to January 1, 2022.

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.

1 (2) The plans under this section shall be offered by the employer
2 regardless of any collective negotiations agreement between the
3 employer and its employees in effect on the effective date of this
4 act, P.L.2020, c.44, that provides for enrollment in other plans
5 offered by the employer.

6 No new health care benefits plans, other than those specified in
7 paragraph (1) of this subsection, shall be added by the employer
8 from January 1, 2021 through December 31, 2027 unless the
9 provisions of any collective negotiations agreement entered into
10 before or after the effective date of this act, P.L.2020, c.44, results
11 in additional premium cost reductions. Nothing in this section shall
12 prohibit an employer from offering health care benefits plans that
13 existed prior to the effective date of this act.

14 (3) Commencing January 1, 2028, the employer may offer such
15 other plans as may be required in accordance with any collective
16 negotiations agreement between the employer and its employees.

17 b. Prior to January 1, 2021, each employer shall provide an
18 enrollment period during which all employees who commenced
19 employment prior to the effective date of this act shall be required
20 to select affirmatively a plan provided by the employer. If an
21 employee fails to select affirmatively a plan during this enrollment
22 period, the employer shall enroll the employee, and the employee's
23 dependents if any, in the equivalent New Jersey Educators Health
24 Plan offered pursuant to subsection a. of this section for the year
25 January 1, 2021 until December 31, 2021.

26 During the enrollment period, each person who is enrolled in a
27 plan offered by the employer and who is paying the full cost of
28 coverage shall also be required to select affirmatively a plan
29 provided by the employer. If a person fails to select affirmatively a
30 plan during this enrollment period, the employer shall enroll the
31 person, and the person's dependents if any, in the equivalent New
32 Jersey Educators Health Plan offered pursuant to subsection a. of
33 this section for the year January 1, 2021 until December 31, 2021.
34 Any such person shall continue to pay the full cost of coverage and
35 shall not be subject to the contribution schedule or any mandatory
36 enrollment period as set forth in this section.

37 c. (1) Beginning on January 1, 2021, an employee commencing
38 employment on or after the effective date of this act but before
39 January 1, 2028 who does not waive coverage, shall be enrolled by
40 the employer in the equivalent New Jersey Educators Health Plan,
41 or the equivalent Garden State Health Plan if selected by the
42 employee, as those plans are offered pursuant to subsection a. of
43 this section. The employee shall remain enrolled in either the
44 equivalent New Jersey Educators Health Plan or the equivalent
45 Garden State Health Plan selected by the employee at the annual
46 open enrollment for each plan year until December 31, 2027,
47 provided that the employee during this period may waive coverage
48 as an employee and select and change the type of coverage received

1 under the plan following a qualifying life event, in accordance with
2 the plan regulations. Beginning January 1, 2028, the employee may
3 select, during any open enrollment period or at such other times or
4 under such conditions as the employer may provide, any plan
5 offered by the employer.

6 (2) Except as otherwise provided in this subsection or
7 subsection b. of this section, selection of a plan shall be at the sole
8 discretion of the employee.

9 d. An employee shall contribute annually toward the cost of
10 health care benefits coverage for the employee, and employee's
11 dependents if any, the amount specified, in the manner specified, in
12 subsection a. or b. of section 2 of this act, P.L.2020, c.44 (C.52:14-
13 17.46.14) if the employee, and the employee's dependents if any,
14 are enrolled in the equivalent New Jersey Educators Health Plan or
15 the equivalent Garden State Health Plan offered pursuant to
16 subsection a. of this section. An employee's contribution toward the
17 cost of coverage under the equivalent Garden State Health Plan
18 offered pursuant to subsection a. of this section shall be the amount
19 required in subsection b. of section 2 of this act, except that the
20 contribution specified in that subsection shall not be less than the
21 minimum annual contribution for health care benefits coverage of
22 1.5% of salary as required by law.

23 e. (1) An employee enrolled in the equivalent New Jersey
24 Educators Health Plan or the equivalent Garden State Health Plan
25 offered pursuant to subsection a. of this section shall be required to
26 pay only the contribution specified in subsections a. and b. of
27 section 2 of this act, notwithstanding any other provision of law,
28 rule, or regulation to the contrary requiring contributions by
29 employees toward the cost of health care benefits coverage
30 provided by an employer, except as provided in subsection d. of this
31 section. No other contribution may be required by collective
32 negotiations agreement, except as set forth in subsection i. of this
33 section.

34 (2) Employees who are not enrolled in the equivalent New
35 Jersey Educators Health Plan or the equivalent Garden State Health
36 Plan offered pursuant to subsection a. of this section shall continue,
37 after the effective date of this act, P.L.2020, c.44, to contribute to
38 health care benefits coverage and those contributions shall be
39 determined in accordance with what is permitted or required by
40 provisions of law.

41 An employee who is enrolled in a plan other than the equivalent
42 New Jersey Educators Health Plan or the equivalent Garden State
43 Health Plan offered pursuant to subsection a. of this section shall be
44 required to contribute toward the cost of health care benefits
45 coverage offered by the employer (a) in accordance with a
46 collective negotiations agreement applicable to that employee as
47 negotiated prior to or after the effective date of this act pursuant to
48 the requirements that were set forth in law on the day next

1 preceding that effective date; (b) as may be required at the
2 discretion of the employer; or (c) as required by a provision of law,
3 whichever is applicable to that employee.

4 With regard to contributions by an employee who is enrolled in a
5 plan other than the equivalent New Jersey Educators Health Plan or
6 the equivalent Garden State Health Plan offered pursuant to
7 subsection a. of this section, no provision in this section shall be
8 deemed to modify, alter, impair, or terminate the requirement in
9 sections 77 and 78 of P.L.2011, c.78 (C.18A:16-17.2 and C.52:14-
10 17.28e), as applicable, that a public employer and employees who
11 are in negotiations for the collective negotiations agreement to be
12 executed after the employees in that unit had reached full
13 implementation of the premium share set forth in section 39 of
14 P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations
15 concerning contributions for health care benefits as if the full
16 premium share was included in the prior contract. Nothing in this
17 act shall be deemed to modify, alter, impair, or terminate the
18 continued compliance after the effective date of this act with that
19 requirement for negotiations for any collective negotiations
20 agreement for employee contributions for plans other than the
21 equivalent New Jersey Educators Health Plan or the equivalent
22 Garden State Health Plan offered pursuant to subsection a. of this
23 section.

24 (3) For an employee, the annual base salary paid by the
25 employer for the position held by the employee shall be used to
26 identify the percentage to be used to calculate the annual
27 contribution required under subsections a. and b. of section 2 of this
28 act.

29 f. The annual contribution by an employee as calculated in
30 accordance with subsection a. or b. of section 2 of this act shall not
31 exceed the amount as calculated in accordance with section 4 of this
32 act.

33 g. The contributions required by this section shall apply to
34 employees for whom the employer has assumed a health care
35 benefits payment obligation, to require that such employees pay the
36 amount of contribution specified in this section for health care
37 benefits coverage.

38 h. The level of benefits in the equivalent New Jersey Educators
39 Health Plan and the equivalent Garden State Health Plan offered by
40 the employer shall remain unchanged until December 31, 2027. No
41 change in the level of benefits in those plans shall be made before
42 that date unless such a change is required by federal or State law to
43 governmental health care benefits plans or to both governmental
44 and non-governmental health care benefits plans.

45 Commencing January 1, 2028 and for each plan year thereafter,
46 the level of benefits in the equivalent New Jersey Educators Health
47 Plan and the equivalent Garden State Health Plan offered by the
48 employer may be modified by the employer in accordance with

1 collective negotiations agreements entered into between the
2 employers who do not participate in the School Employees' Health
3 Benefits Program and their employees, or as otherwise permitted by
4 law.

5 i. Commencing January 1, 2028 and for each plan year
6 thereafter, the contributions required pursuant to subsections a. and
7 b. of section 2 of this act for employees enrolled in the equivalent
8 New Jersey Educators Health Plan or the equivalent Garden State
9 Health Plan offered pursuant to subsection a. of this section may be
10 modified in accordance with collective negotiations agreements
11 entered into between the employers who do not participate in the
12 School Employees' Health Benefits Program and their employees.
13 The contributions required pursuant to subsections a. and b. of
14 section 2 of this act shall become part of the parties' collective
15 negotiations and shall then be subject to collective negotiations in a
16 manner similar to other negotiable items between the parties.
17 Negotiations concerning contributions for health care benefits shall
18 be conducted as if the contributions required pursuant to
19 subsections a. and b. of section 2 of this act were included in the
20 prior contract. The contribution scheme of the percentage of base
21 salary set forth in those subsections may be modified or a new
22 contribution scheme or method other than a percentage of salary
23 may be provided for in accordance with a collective negotiations
24 agreement.

25 j. Modifications to plan design of the plans set forth in section
26 1 of this act, P.L.2020, c.44 (C.52:14-17.46.13), or adjustments to
27 the employee contribution rates set forth in subsections a. and b. of
28 section 2 of this act, made by the School Employees' Health
29 Benefits Plan Design Committee or the State Treasurer pursuant to
30 section 7 of this act shall be implemented for the purposes of this
31 section by the employer commencing January 1, 2024.

32 k. This section shall also apply when health care benefits
33 coverage is provided through an insurance fund or joint insurance
34 fund or any other manner. This section shall apply to any employer,
35 as that term is defined in section 32 of P.L.2007, c.103 (C.52:14-
36 17.46.2), that is not a participating employer in the School
37 Employees' Health Benefits Program. This section shall not apply
38 to charter school employers unless they have a collective
39 negotiations agreement with any of their employees in effect on or
40 after the effective date of P.L.2020, c.44.
41 (cf: P.L.2020, c.137, s.2)

42

43 2. Section 1 of P.L.2020, c.44 (C.52:14-17.46.13) is amended
44 to read as follows:

45 1. This section shall apply to the School Employees' Health
46 Benefits Program (SEHBP) and to those employers defined
47 pursuant to section 32 of P.L.2007, c.103 (C.52:14-17.46.2) that
48 participate in the program.

1 a. (1) Notwithstanding the provisions of any other law, rule, or
2 regulation to the contrary, beginning with the plan year that
3 commences January 1, 2021 and for each plan year thereafter, the
4 School Employees' Health Benefits Program shall offer only three
5 plans that provide medical and prescription drug benefits for
6 employees, and retirees who are not Medicare-eligible, and their
7 dependents if any. All other plans offered prior to January 1, 2021
8 for employees, and retirees who are not Medicare-eligible, and their
9 dependents if any, shall be terminated.

10 The three plans shall be the New Jersey Educators Health Plan as
11 developed by the School Employees' Health Benefits Plan Design
12 Committee in accordance with subsection f. of this section which
13 sets forth the plan design of the New Jersey Educators Health Plan;
14 the SEHBP NJ Direct 10 plan as adopted and implemented by the
15 School Employees' Health Benefits Commission for the plan year
16 that began January 1, 2020; and the SEHBP NJ Direct 15 plan as
17 adopted and implemented by the School Employees' Health
18 Benefits Commission for the plan year that began January 1, 2020.

19 Employers that participate in the School Employees' Health
20 Benefits Program shall retain the ability to enter the program for
21 medical only plans and may separately purchase pharmacy and
22 dental benefits outside of the program without limitation or
23 restriction.

24 (2) Only the plans set forth in this section shall be offered by the
25 program regardless of any collective negotiations agreement
26 between a participating employer and its employees in effect on the
27 effective date of this act, P.L.2020, c.44, that provides for
28 enrollment in other plans that were offered by the program prior to
29 January 1, 2021.

30 b. Prior to January 1, 2021, the program, through the Division
31 of Pensions and Benefits in the Department of the Treasury, shall
32 provide for an enrollment period during which all employees who
33 commenced employment prior to the effective date of this act shall
34 be required to select affirmatively one of the three plans specified in
35 subsection a. of this section. If an employee fails to select
36 affirmatively a plan during this enrollment period, the program shall
37 enroll the employee, and the employee's dependents if any, in the
38 New Jersey Educators Health Plan for the plan year beginning
39 January 1, 2021 and ending December 31, 2021.

40 During the enrollment period, any person who is enrolled in a
41 plan offered by the program and who is paying the full cost of
42 health care benefits coverage shall also be required to select
43 affirmatively one of the three plans specified in subsection a. of this
44 section. If a person fails to select affirmatively a plan during this
45 enrollment period, the program shall enroll the person, and the
46 person's dependents if any, in the New Jersey Educators Health Plan
47 for the plan year beginning January 1, 2021 and ending December
48 31, 2021. Any such person shall continue to pay the full cost of

1 coverage and shall not be subject to the contribution schedule or
2 any mandatory enrollment period as set forth in this section.

3 c. (1) Beginning on January 1, 2021, an employee commencing
4 employment on or after the effective date of this act but before
5 January 1, 2028 who does not waive coverage shall be enrolled by
6 the program, with the employee's dependents if any, in the New
7 Jersey Educators Health Plan, or the Garden State Health Plan if
8 selected by the employee. The employee shall remain enrolled in
9 either the New Jersey Educators Health Plan or the Garden State
10 Health Plan selected by the employee at the annual open enrollment
11 for each plan year through the plan year that ends December 31,
12 2027, provided that the employee during this period may waive
13 coverage as an employee and select and change the type of
14 coverage received under the plan following a qualifying life event,
15 in accordance with the program regulations. For the plan year
16 beginning January 1, 2028, the employee may select, during any
17 open enrollment period or at such other times or under such
18 conditions as the program may provide, any plan offered by the
19 program.

20 (2) For the plan year beginning January 1, 2021, the program
21 shall enroll a retiree who is not Medicare-eligible, and the retiree's
22 dependents if any, in the New Jersey Educators Health Plan for
23 health care benefits coverage as a retiree, if the retiree does not
24 waive coverage. The retiree shall remain enrolled in that plan for
25 each plan year through the plan year that ends December 31, 2027
26 or until the retiree becomes eligible for Medicare, whichever comes
27 first. The retiree who becomes eligible for Medicare shall no longer
28 be eligible for enrollment in the New Jersey Educators Health Plan,
29 except that any dependent of the retiree who is not eligible for
30 Medicare may remain eligible for coverage under the New Jersey
31 Educators Health Plan. For the plan year beginning January 1, 2028,
32 that retiree who is not Medicare-eligible may select, during any
33 open enrollment period or at such other times or under such
34 conditions as the program may provide, any plan offered by the
35 program.

36 (3) Except as otherwise provided in this subsection or
37 subsection b. of this section, selection of a plan shall be at the sole
38 discretion of the employee or retiree who is not Medicare-eligible.

39 d. Beginning ~~July 1, 2021~~ January 1, 2022 and for each plan
40 year thereafter, the program shall offer a fourth plan to be called the
41 Garden State Health Plan. The plan shall be developed by the
42 School Employees' Health Benefits Plan Design Committee. If the
43 committee does not adopt a design for the Garden State Health Plan
44 by December 31, 2020, the Division of Pensions and Benefits in the
45 Department of the Treasury ~~shall~~ may develop the Garden State
46 Health Plan. The program shall provide an enrollment period prior
47 to January 1, 2022.

1 The Garden State Health Plan shall provide medical and
2 prescription drug benefits that are equivalent to the level of medical
3 and prescription drug benefits provided by the New Jersey
4 Educators Health Plan, except that the benefits under the Garden
5 State Health Plan shall be available only from providers located in
6 the State of New Jersey.

7 Access to a service provider that is located outside of the State
8 shall be available only under such terms, conditions, restrictions,
9 and limitations as the plan design committee or the division, as
10 appropriate, shall provide in the plan governing documents.

11 Employers that participate in the School Employees' Health
12 Benefits Program shall retain the ability to enter the program for
13 medical only plans and may separately purchase pharmacy and
14 dental benefits outside of the program without limitation or
15 restriction.

16 e. The plan design of the New Jersey Educators Health Plan,
17 the Garden State Health Plan, the NJ Direct 10 plan, and the NJ
18 Direct 15 plan as those plan designs are specified in subsections a.,
19 d., and f. of this section shall remain unchanged until December 31,
20 2027. No change in the plan design of those plans shall be made
21 before that date unless such a change in plan design is required by
22 federal or State law to governmental health care benefits plans or to
23 both governmental and non-governmental health care benefits
24 plans.

25 For the plan year that commences January 1, 2028 and for each
26 plan year thereafter, the plan design of the New Jersey Educators
27 Health Plan, the Garden State Health Plan, the NJ Direct 10 plan,
28 and the NJ Direct 15 plan as those plan designs are specified in
29 subsection a., d., and f. of this section may be modified by the
30 School Employees' Health Benefits Plan Design Committee.

31 Modifications to plan design of the plans set forth in this section
32 made by the School Employees' Health Benefits Plan Design
33 Committee or the State Treasurer pursuant to section 7 of this act
34 shall be implemented by the program for the purposes of this
35 section commencing January 1, 2024.

36 f. The plan design of the New Jersey Educators Health Plan
37 shall be the following:

38 In Network Benefits

39 Coverage

40 Member Coinsurance:10%, Applies Only to Emergency
41 Transportation Care and Durable Medical Equipment

42 Deductible:N/A

43 Out-of-Pocket Maximum:\$500 Single/ \$1,000 Family (covers all in
44 network copayments, coinsurance, and deductible)

45 Emergency Room Copayment:\$125 (To be Waived if Admitted)

46 PCP Office Visit Copayment:\$10

47 Specialist Office Visit Copayment\$15Out-of-Network Benefits

48 Coverage

1 Member Coinsurance:30% of the Out-of-Network Fee Schedule
2 Deductible:\$350 / \$700
3 Out-of-Pocket Maximum:\$2,000 Single / \$5,000 Family Routine
4 Lab:Paid at Out-of-Network Benefit Level
5 Out-of-Network Fee Schedule:200% of CMS - MedicarePharmacy
6 Out-of-Pocket Maximum:\$1,600 Single / \$3,200 Family (Indexed
7 Annually Pursuant to Federal Law)Generic Copayment:\$5 Retail 30
8 Day Supply / \$10 Mail 90 Day SupplyBrand Copayment:\$10 Retail
9 30 Day Supply/ \$20 Mail 90 Day SupplyMandatory
10 Generic:Member Pays Difference in Cost Between Generic and
11 Brand, Plus Brand CopaymentFormulary: Closed Formulary as
12 contracted with the Pharmacy Benefit Manager and the School
13 Employees' Health Benefits CommissionOther
14 Chiropractic, Physical Therapy, and Acupuncture:
15 Subject to the same Out-of-Network Limits as for the State Health
16 Benefits Program as were in effect on June 1, 2020 to take effect as
17 of July 1, 2020, or as soon thereafter as reasonably practicable.

18 Under a patient centered medical home model, there shall be no
19 office visit copay for primary care for participants who select and
20 commit to a patient centered medical home for primary care in
21 accordance with plan rules and regulations.

22 g. Any plan offered by the School Employees' Health Benefits
23 Program shall require that chiropractic, physical therapy, and
24 acupuncture benefits shall be subject to the same out-of-network
25 limits as for the State Health Benefits Program that were in effect
26 on June 1, 2020 to take effect as of July 1, 2020 or as soon
27 thereafter as
28 reasonably practicable.
29 (cf: P.L.2020, c.44, s.1)

30

31 3. This act shall take effect immediately.

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33

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STATEMENT

35

36 A recently enacted law, P.L.2020, c.44, requires local boards of
37 education who do not participate in the School Employees' Health
38 Benefits Plan (SEHBP) to provide to their employees the equivalent
39 of the New Jersey Educators Health Plan and the Garden State
40 Health Plan offered by the SEHBP. Under this bill, charter school
41 employers do not have to implement the law unless they have a
42 collective negotiation agreement with any of their employees in
43 effect on or after the effective date of P.L.2020, c.44, July 1, 2020.

44 This bill changes the effective date of the new Garden State
45 Health Plan for the School Employees' Health Benefits Program
46 and for local education employers, as established by P.L.2020, c.44,
47 from July 1, 2021 to January 1, 2022 to provide additional time to
48 develop the plan and to require an enrollment period. The bill

1 changes the requirement that the Division of Pensions and Benefits
2 design the Garden State Health Plan if the School Employees'
3 Health Benefits Program plan design committee does not design a
4 plan by December 31, 2020. Instead, the bill permits the division to
5 design the plan.