

ASSEMBLY, No. 5934

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 24, 2021

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

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District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires health insurance carriers to offer clear cost share plans for individual health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning healthcare costs and individual health benefits
2 plans, supplementing P.L.1992, c.161 and amending P.L.2019,
3 c.141.

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

7
8 1. a. (New Section) In consultation with the board, the
9 commissioner shall develop a clear cost share plan for individual
10 health benefits plans that provide for standardized benefits and cost-
11 sharing for covered health services. The design of the clear cost
12 share plan shall take into consideration the following:

13 (1) the ability of a health plan to conform to actuarial value
14 ranges;

15 (2) focusing consumer choice to make the process of selecting a
16 health plan more transparent and quality-based;

17 (3) limiting out-of-pocket costs that serve as a financial barrier
18 to accessing high-value care; and

19 (4) fostering quality improvement through the promotion of
20 benefits with a high value and a focus on the consumer.

21 The commissioner shall develop at least one clear cost share plan
22 for each tier of health insurance plan designated as bronze, silver,
23 and gold, in accordance with the federal Patient Protection and
24 Affordable Care Act, 42 U.S.C. s.18001 et. seq. A carrier shall
25 make available any clear cost share plan that is developed pursuant
26 to this section from each metal tier in order to participate in the
27 individual market.

28 b. The commissioner, in consultation with the board, shall
29 evaluate annually whether to revise, discontinue, or add any clear
30 cost share plan for use by a carrier, which includes, but is not
31 limited to, considering whether a deductible or copayment level
32 should be changed to reflect medical inflation and actuarial values.

33 c. A 60-day public comment period shall be provided as part of
34 the evaluation process in subsection b. of this act, and sufficient
35 public notice shall be provided as to the commencement of the
36 comment period.

37 d. In addition to the clear cost share plans developed pursuant
38 to this section, a carrier may offer up to three health benefits plans
39 at each metal level that modify one or more parameters in a clear
40 cost share plan if the carrier submits, and the commissioner
41 approves, an actuarial certification, that the alternative share plan
42 offers significant consumer benefits and does not result in an
43 adverse selection by the consumer. The commissioner shall ensure
44 that the exchange's website prioritizes unmodified clear cost share
45 plans and that a comparison be available to display the similarities

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 and differences in coverage between modified and unmodified clear
2 cost share plans.

3 e. The commissioner shall adopt rules and regulations pursuant
4 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
5 1 et seq.), to effectuate the purposes of P.L. , c. (C.)
6 (pending before the legislature as this bill).

7 f. As used in this section, “clear cost share plan” means a plan
8 design that includes a set of annual copayments, coinsurance, and
9 deductibles for all or a designated subset of health benefits.

10

11 2. Section 2 of P.L.2019, c.141 (C.17B:27A-58) is amended to
12 read as follows:

13 2. a. Notwithstanding any other law to the contrary, the
14 Department of Banking and Insurance shall have the authority to
15 operate a State-based exchange and coordinate the operations of the
16 exchange with the operations of the New Jersey Individual Health
17 Coverage Program and the New Jersey Small Employer Health
18 Benefits Program, including reorganization of the boards, as the
19 commissioner deems appropriate. The department’s authority to
20 regulate the insurance market shall be separate and distinct from the
21 department’s duty to oversee exchange operations, to ensure the
22 best interests of and protection for consumers of the State. The
23 commissioner may require that all plans in the individual and small
24 employer markets be made available for comparison on the State-
25 based exchange, but nothing in this section shall allow the
26 commissioner to require all plans in the individual and small
27 employer markets to be purchased exclusively on the State-based
28 exchange. The department shall coordinate the operations of the
29 exchange with the operations of the State Medicaid program
30 established P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ
31 FamilyCare Program established pursuant to P.L.2005, c.156
32 (C.30:4J-8 et al.) to determine eligibility for those programs as soon
33 as practicable.

34 b. The Commissioner of Human Services, in consultation with
35 the Commissioner of Banking and Insurance, shall submit a
36 proposal for available federal financial participation funds to the
37 Centers for Medicare & Medicaid Services of the U.S. Department
38 of Health and Human Services pursuant to 42 C.F.R. 433.112 for
39 the Medicaid eligibility platform and the exchange to be integrated.
40 Notwithstanding the foregoing, the Department of Banking and
41 Insurance may proceed to implement the provisions of this act,
42 including the operation of the State-based exchange.

43 c. The Commissioner of Banking and Insurance shall [have the
44 authority to], in compliance with the requirements of P.L. c.
45 (C.) (pending before the Legislature as this bill), require that
46 plans offered on the exchange conform with standardized plan
47 designs that provide for standardized cost-sharing for covered
48 health services.

1 d. the Commissioner of Banking and Insurance shall establish
2 an advisory committee to provide advice to the commissioner
3 concerning the operation of the exchange. The advisory committee
4 shall include at least nine members, as follows:

5 (1) The Commissioner of Banking and Insurance, or a designee,
6 who shall serve ex-officio;

7 (2) The Commissioner of Human Services, or a designee, who
8 shall serve ex-officio;

9 (3) The Commissioner of Health, or a designee, who shall serve
10 ex-officio; and

11 (4) six public members, who shall be residents of the State,
12 appointed by the Commissioner of Banking and Insurance. Each
13 public member shall have demonstrated experience in one or more
14 of the following areas: health insurance consumer advocacy;
15 individual health insurance coverage; small employer health
16 insurance coverage; health benefits plan marketing; the provision of
17 health care services; or academic or professional research relating
18 to health insurance.

19 (cf: P.L.2019, c.141, s.2)

20
21 3. This act shall take effect immediately and shall be applicable
22 to individual health benefits plans issued on or after January 1,
23 2023.

24 25 26 STATEMENT

27
28 This bill requires health insurance carriers to offer a clear cost
29 share plan for individual health benefits plans.

30 A clear cost share plan is a plan design that includes a set of
31 annual copayments, coinsurance, and deductibles for all or a
32 designated subset of benefits within a health benefits plan. Under
33 this bill, the commissioner of the Department of Banking and
34 Insurance, in consultation with the board of directors of the
35 Individual Health Coverage Program, will be required to develop a
36 clear cost share plan for individual health benefits plans. When
37 creating the share plan, the commissioner will take into
38 consideration the following:

39 (1) the ability of a health plan to conform to actuarial value
40 ranges;

41 (2) focusing consumer choice to make the process of selecting a
42 health plan more transparent and quality-based;

43 (3) limiting out-of-pocket costs that serve as a financial barrier
44 to accessing high-value care; and

45 (4) fostering quality improvement through the promotion of
46 benefits with a high value and a focus on the consumer.

47 The commissioner will also be required to develop at least one
48 clear cost share plan for each tier of a health insurance plan

1 designated as bronze, silver, and gold in accordance with the federal
2 Patient Protection and Affordable Care Act. A carrier will be
3 required make available any clear cost share plan that is developed
4 by the commissioner from each metal tier in order to participate in
5 the individual market.

6 Once created, the commissioner will evaluate annually whether
7 to revise, discontinue, or add any clear cost share plan for use by a
8 carrier, which includes, but is not limited to, considering whether a
9 deductible or copayment level should be changed to reflect medical
10 inflation and actuarial values. A 60-day public comment period
11 will also be provided as part of the evaluation process, and
12 sufficient public notice will be provided as to the commencement of
13 the comment period.

14 Additionally, a carrier will be able to offer up to three health
15 benefits plans that modify one or more parameters in a clear cost
16 share plan created by the commissioner if the carrier submits, and
17 the commissioner approves, an actuarial certification stating that the
18 alternative share plan offers significant consumer benefits and will
19 not result in an adverse selection for the consumer. The
20 commissioner will also ensure that the exchange's website
21 prioritizes unmodified clear cost share plans and that a comparison
22 be available to display the similarities and differences in coverage
23 between modified and unmodified clear cost share plans. Finally,
24 the commissioner will require that plans offered on the exchange
25 conform to standardized plan designs that provide for standardized
26 cost-sharing for covered health services.