

P.L. 2021, CHAPTER 132, *approved June 29, 2021*
Senate, No. 3798 (*Second Reprint*)

1 AN ACT concerning NJ FamilyCare ²**[,]** and² amending P.L.2005,
2 c.156 and P.L.2008, c.38 ¹**[,]** and making an appropriation^{1 2 2}
3

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

7 1. Section 5 of P.L.2005, c.156 (C.30:4J-12) is amended to
8 read as follows:

9 5. a. The purpose of the program shall be to provide
10 subsidized health insurance coverage, and other health care benefits
11 as determined by the commissioner, to children under 19 years of
12 age and their parents or caretakers and to adults without dependent
13 children, within the limits of funds appropriated or otherwise made
14 available for the program.

15 The program **[shall]** may require families to pay copayments
16 **[and make premium contributions, based upon a sliding income**
17 **scale]**. The program shall include the provision of well-child and
18 other preventive services, hospitalization, physician care, laboratory
19 and x-ray services, prescription drugs, mental health services, and
20 other services as determined by the commissioner.

21 b. The commissioner shall take such actions as are necessary to
22 implement and operate the program in accordance with the State
23 Children's Health Insurance Program established pursuant to 42
24 U.S.C.s.1397aa et seq.

25 c. The commissioner:

26 (1) shall, by regulation, establish standards for determining
27 eligibility and other program requirements **[,]** including, but not
28 limited to, restrictions on voluntary disenrollments from existing
29 health insurance coverage**];**

30 (2) shall require that a parent or caretaker who is a qualified
31 applicant purchase coverage, if available, through an employer-
32 sponsored health insurance plan which is determined to be cost-
33 effective and is approved by the commissioner, and shall provide
34 assistance to the qualified applicant to purchase that coverage,
35 except that the provisions of this paragraph shall not be construed to
36 require an employer to provide health insurance coverage for any
37 employee or employee's spouse or dependent child;

38 (3) may, by regulation, establish plans of coverage and benefits
39 to be covered under the program, except that the provisions of this

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:

¹Senate SHH committee amendments adopted June 10, 2021.

²Senate SBA committee amendments adopted June 21, 2021.

1 section shall not apply to coverage for medications used exclusively
2 to treat AIDS or HIV infection; and

3 (4) shall establish, by regulation, other requirements for the
4 program, including, but not limited to, **premium payments and**
5 **copayments** **[, and]** . Except as may be required for the NJ
6 FamilyCare Advantage program established pursuant to subsection
7 j. of this section, premiums shall not be established within the
8 program. The commissioner may contract with one or more
9 appropriate entities, including managed care organizations, to assist
10 in administering the program. The period for which eligibility for
11 the program is determined shall be the maximum period permitted
12 under federal law.

13 d. The commissioner shall establish procedures for determining
14 eligibility, which shall include, at a minimum, the following
15 enrollment simplification practices:

16 (1) A streamlined application form as established pursuant to
17 subsection k. of this section;

18 (2) Require new applicants to submit one recent pay stub from
19 the applicant's employer, or, if the applicant has more than one
20 employer, one from each of the applicant's employers, to verify
21 income. In the event the applicant cannot provide a recent pay stub,
22 the applicant may submit another form of income verification as
23 deemed appropriate by the commissioner. If an applicant does not
24 submit income verification in a timely manner, before determining
25 the applicant ineligible for the program, the commissioner shall
26 seek to verify the applicant's income by reviewing available
27 Department of the Treasury and Department of Labor and
28 Workforce Development records concerning the applicant, and such
29 other records as the commissioner determines appropriate.

30 The commissioner shall establish retrospective auditing or
31 income verification procedures, such as sample auditing and
32 matching reported income with records of the Department of the
33 Treasury and the Department of Labor and Workforce Development
34 and such other records as the commissioner determines appropriate.

35 In matching reported income with confidential records of the
36 Department of the Treasury, the commissioner shall require an
37 applicant to provide written authorization for the Division of
38 Taxation in the Department of the Treasury to release applicable tax
39 information to the commissioner for the purposes of establishing
40 income eligibility for the program. The authorization, which shall
41 be included on the program application form, shall be developed by
42 the commissioner, in consultation with the State Treasurer;

43 (3) Online enrollment and renewal, in addition to enrollment
44 and renewal by mail. The online enrollment and renewal forms
45 shall include electronic links to other State and federal health and
46 social services programs;

47 (4) Continuous enrollment;

1 (5) Simplified renewal by sending an enrollee a preprinted
2 renewal form and requiring the enrollee to sign and return the form,
3 with any applicable changes in the information provided in the
4 form, prior to the date the enrollee's annual eligibility expires. The
5 commissioner shall establish such auditing or income verification
6 procedures, as provided in paragraph (2) of this subsection; **and**

7 (6) Provision of program eligibility-identification cards that are
8 issued no more frequently than once a year; and

9 (7) Provision of information regarding other health care
10 programs for which an enrollee may be eligible to any enrollee
11 terminated from the program.

12 e. The commissioner shall take, or cause to be taken, any
13 action necessary to secure for the State the maximum amount of
14 federal financial participation available with respect to the program,
15 subject to the constraints of fiscal responsibility and within the
16 limits of available funding in any fiscal year. In this regard,
17 notwithstanding the definition of "qualified applicant," the
18 commissioner may enroll in the program such children or their
19 parents or caretakers who may otherwise be eligible for the
20 Medicaid program in order to maximize use of federal funds that
21 may be available pursuant to 42 U.S.C. s.1397aa et seq.

22 f. **Subject to federal approval, a child shall be determined**
23 **ineligible for the program if the child was voluntarily disenrolled**
24 **from employer-sponsored group insurance coverage within six**
25 **months prior to application to the program】** No child who applies
26 for enrollment in the program who otherwise meets the eligibility
27 criteria for enrollment shall be denied immediate enrollment for any
28 reason. In no case shall any qualified applicant for enrollment be
29 subject to a waiting period prior to enrollment.

30 g. The commissioner shall provide, by regulation, for
31 presumptive eligibility for the program in accordance with the
32 following provisions:

33 (1) A child who presents **himself** for treatment at a general
34 hospital, federally qualified or community health center, local
35 health department that provides primary care, or other State
36 licensed community-based primary care provider shall be deemed
37 presumptively eligible for the program if a preliminary
38 determination by hospital, health center, local health department or
39 licensed health care provider staff indicates that the child meets
40 program eligibility standards and is a member of a household with
41 an income that does not exceed **350%** 350 percent of the poverty
42 level;

43 (2) The provisions of paragraph (1) of this subsection shall also
44 apply to a child who is deemed presumptively eligible for Medicaid
45 coverage pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

46 (3) The parent or caretaker of a child deemed presumptively
47 eligible pursuant to this subsection shall be required to submit a

1 completed application for the program no later than the end of the
2 month following the month in which presumptive eligibility is
3 determined;

4 (4) A child shall be eligible to receive all services covered by
5 the program during the period in which the child is presumptively
6 eligible; and

7 (5) The commissioner may, by regulation, establish a limit on
8 the number of times a child may be deemed presumptively eligible
9 for NJ FamilyCare.

10 h. The commissioner, in consultation with the Commissioner of
11 Education, shall administer an ongoing enrollment initiative to
12 provide outreach to children throughout the State who may be
13 eligible for the program.

14 (1) With respect to school-age children, the commissioner, in
15 consultation with the Commissioner of Education and the Secretary
16 of Agriculture, shall develop a form that provides information about
17 the NJ FamilyCare and Medicaid programs and provides an
18 opportunity for the parent or guardian who signs the school lunch
19 application form to give consent for information to be shared with
20 the Department of Human Services for the purpose of determining
21 eligibility for the programs. The form shall be attached to, included
22 with, or incorporated into, the school lunch application form.

23 The commissioner, in consultation with the Commissioner of
24 Education, shall establish procedures for schools to transmit
25 information attached to, included with, or provided on the school
26 lunch application form regarding the NJ FamilyCare and Medicaid
27 programs to the Department of Human Services, in order to enable
28 the department to determine eligibility for the programs.

29 (2) The commissioner or the Commissioner of Education, as
30 applicable, shall:

31 (a) make available to each elementary and secondary school,
32 licensed child care center, registered family day care home, unified
33 child care agency, local health department that provides primary
34 care, and community-based primary care provider, informational
35 materials about the program, including instructions for applying
36 online or by mail, as well as copies of the program application
37 form.

38 The entity shall make the informational and application materials
39 available, upon request, to persons interested in the program; and

40 (b) request each entity to distribute a notice at least annually, as
41 developed by the commissioner, to households of children attending
42 or receiving its services or care, informing them about the program
43 and the availability of informational and application materials. In
44 the case of elementary and secondary schools, the information
45 attached to, included with, or incorporated into, the school lunch
46 application form for school-age children pursuant to this
47 subparagraph shall be deemed to meet the requirements of this
48 paragraph.

1 i. Subject to federal approval, the commissioner shall, by
2 regulation, establish that in determining income eligibility for a
3 child, any gross family income above ~~【200%】~~ 200 percent of the
4 poverty level, up to a maximum of ~~【350%】~~ 350 percent of the
5 poverty level, shall be disregarded.

6 j. The commissioner shall establish a NJ FamilyCare coverage
7 buy-in program ~~【through which a parent or caretaker whose family~~
8 ~~income exceeds 350% of the poverty level may purchase coverage~~
9 ~~under NJ FamilyCare for a child under the age of 19, who is~~
10 ~~uninsured and was not voluntarily disenrolled from employer-~~
11 ~~sponsored group insurance coverage within six months prior to~~
12 ~~application to the program. The program】~~ , which shall be known
13 as NJ FamilyCare Advantage.

14 The commissioner shall establish the premium and cost sharing
15 amounts required to purchase coverage, except that the premium
16 shall not exceed the amount the program pays per month to a
17 managed care organization under NJ FamilyCare for a child of
18 comparable age whose family income is ~~【between 200% and~~
19 ~~350%】~~ less than 350 percent of the poverty level, plus a reasonable
20 processing fee.

21 k. The commissioner, in consultation with the Rutgers Center
22 for State Health Policy, shall develop a streamlined application
23 form for the NJ FamilyCare and Medicaid programs.

24 l. ~~【Subject to federal approval, the】~~ The Commissioner of
25 Human Services shall establish a hardship waiver for part or all of
26 ~~【the】~~ any premium ~~【for an eligible child under the NJ FamilyCare~~
27 ~~program】~~ authorized under this section. A parent or caretaker may
28 apply to the commissioner for a hardship waiver in a manner and
29 form established by the commissioner. If the parent or caretaker
30 can demonstrate to the satisfaction of the commissioner, pursuant to
31 regulations adopted by the commissioner, that payment of all or part
32 of the premium for the parent or caretaker's child presents a
33 hardship, the commissioner shall grant the waiver for a prescribed
34 period of time.

35 (cf: P.L.2008, c.53, s.2)

36
37 ²~~【~~2. Section 11 of P.L.2005, c.156 (C.30:4J-14) is amended to
38 read as follows:

39 11. The Commissioner of Human Services shall ~~【report to the~~
40 ~~Chairman of the Senate Health, Human Services and Senior~~
41 ~~Citizens Committee and the Chairmen of the Assembly Health and~~
42 ~~Human Services and Assembly Family, Women and Children's~~
43 ~~Issues committees on the implementation of this act.~~

44 The commissioner shall~~】~~ issue an interim report six months after
45 the effective date of ~~【this act】~~ P.L. , c. (C.) (pending
46 before the Legislature as this bill) and shall issue an annual report
47 six months later and once each year thereafter. Each report shall be

1 submitted to the Governor and to the Legislature, pursuant to
 2 section 2 of P.L.1991, c.164 (C.52:14-19.1), and published on the
 3 department's Internet website.

4 The **【report】** reports shall be prepared with input from the
 5 working group established pursuant to section 27 of P.L.2008, c.38
 6 (C.30:4J-19), and shall include information on the department's
 7 actions, and the outcomes of such actions, to make affordable,
 8 quality healthcare coverage available to all children in New Jersey
 9 and the extent to which coverage disparities based on income, race,
 10 ethnicity, and geography have changed over the reporting period.
 11 The reports shall also include the number of persons who are
 12 enrolled in the Medicaid and NJ FamilyCare programs pursuant to
 13 the provisions of **【this act】** P.L.2005, c.156 (C.30:4J-8 et al.), the
 14 cost of providing coverage for these persons, the status of any
 15 Medicaid plan amendments or waivers necessary for
 16 implementation of **【this act】** P.L.2005, c.156 (C.30:4J-8 et al.), the
 17 status of implementing the enrollment simplification practices for
 18 both the NJ FamilyCare and Medicaid programs, and such other
 19 information as the commissioner deems appropriate. The
 20 commissioner may also include any recommendations for
 21 legislation **【he deems】** deemed necessary to further the purposes of
 22 **【this act】** P.L.2005, c.156 (C.30:4J-8 et al.).
 23 (cf: P.L.2005, c.156, s.11)**】**²

24
 25 ²**【3.】** ²Section 26 of P.L.2008, c.38 (C.30:4J-18) is amended
 26 to read as follows:

27 26. ²**【a.】**² The Commissioner of Human Services shall establish
 28 an enhanced NJ FamilyCare outreach and enrollment initiative to
 29 increase public awareness about the availability of, and benefits to
 30 enrolling in, Medicaid, NJ FamilyCare, and the NJ FamilyCare
 31 Advantage buy-in programs. The initiative shall **【include】** be
 32 coordinated with any outreach efforts implemented pursuant to
 33 subsection h. of section 5 of P.L. 2005, c.156 (C.30:4J-12) or related to
 34 enrollment in the State's health insurance Exchange established
 35 pursuant to the federal "Patient Protection and Affordable Care Act,"
 36 Pub.L.111-148, as amended by the "Health Care and Education
 37 Reconciliation Act of 2010," Pub.L.111-152, and shall include:

38 ²**【(1)】** a. providing input to the Commissioner of Banking and
 39 Insurance for² the provision of training to Exchange enrollment
 40 assistors, ²and, as determined by the commissioner, the provision of
 41 training to² local officials ²**【,】**² and any other pertinent staff ²**【, as**
 42 determined by the commissioner.**】**² on the eligibility requirements of
 43 the NJ FamilyCare program and how to enroll children in the program;

44 ²**【(2)】** b. ²culturally sensitive, Statewide and local media public
 45 awareness campaigns addressing the availability of health care
 46 coverage for parents and children under the Medicaid and NJ

1 FamilyCare programs and health care coverage for children under the
2 NJ FamilyCare Advantage buy-in program **【.The initiative shall also**
3 **include】** ; and

4 ²**【(3)】** c.² the provision of training and support services, upon
5 request, to community groups, legislative district offices, and
6 community-based health care providers to enable these parties to assist
7 in enrolling parents and children in the applicable programs.

8 ²**【b. The Department of Banking and Insurance, in consultation**
9 **with the Commissioner of Human Services, shall take steps to ensure**
10 **the full incorporation of the Medicaid, NJ FamilyCare and NJ**
11 **FamilyCare Advantage Programs on the State's health insurance**
12 **Exchange and the individual health coverage marketplace. In order to**
13 **ensure that Medicaid and NJ FamilyCare eligibility is properly**
14 **evaluated, plan comparison and cost tools shall solicit current expected**
15 **monthly income in lieu of or in addition to annual income.】**²

16 (cf: P.L.2008, c.38, s.26)

17

18 ²**【4.】** 3.² Section 27 of P.L.2008, c.38 (C.30:4J-19) is amended
19 to read as follows:

20 27. The Commissioner of Human Services shall establish an
21 Outreach, Enrollment, and Retention Working Group to develop a
22 plan to carry out ongoing and sustainable measures to strengthen
23 outreach to low and moderate income families who may be eligible
24 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to
25 maximize enrollment in these programs, and to ensure retention of
26 enrollees in these programs.

27 a. The members of the working group shall include:

28 (1) The Commissioners of Human Services, Health, Banking
29 and Insurance, Children and Families, Labor and Workforce
30 Development, Education, and Community Affairs, and the
31 Secretary of Agriculture, or their designees, who shall serve ex
32 officio; and

33 (2) **【Six】** Ten public members appointed by the Commissioner
34 of Human Services who shall include: one person who represents
35 racial and ethnic minorities in this State; one person who represents
36 managed care organizations that participate in the Medicaid and NJ
37 FamilyCare programs; one person who represents the vendor under
38 contract with the Division of Medical Assistance and Health
39 Services to provide NJ FamilyCare eligibility, enrollment, and
40 health benefit coordinator services to the division; one person who
41 represents New Jersey Policy Perspective; one person who
42 represents the Advocates for Children of New Jersey; **【and】** one
43 person who represents Legal Services of New Jersey; one person
44 who represents the New Jersey Health Care Quality Institute; one
45 person who represents county navigators; and two people who
46 represent the New Jersey for Health Care coalition.

47 b. As part of the plan, the working group shall:

1 (1) determine if there are obstacles to enrollment of minorities
2 in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
3 Advantage programs due to ethnic and cultural differences and, if
4 so, develop strategies for the Department of Human Services to
5 overcome these obstacles and increase enrollment among
6 minorities;

7 (2) recommend outreach strategies to identify and enroll all
8 eligible children in the Medicaid, NJ FamilyCare, and NJ
9 FamilyCare Advantage programs and to retain enrollment of
10 children and their parents in the programs;

11 (3) establish monthly enrollment goals for the number of
12 children who need to be enrolled in Medicaid, NJ FamilyCare, and
13 NJ FamilyCare Advantage in order to ensure that as many children
14 as possible who are eligible for these programs are enrolled within a
15 reasonable period of time, in accordance with the mandate
16 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and

17 (4) make such other recommendations to the Commissioner of
18 Human Services as the working group determines necessary and
19 appropriate to achieve the purposes of this section.

20 c. The working group shall organize [as soon as practicable
21 following the appointment of its members and] and hold a meeting
22 no later than 60 days following the date of enactment of
23 P.L. , c. (C.) (pending before the Legislature as this bill).
24 The working group shall select a chairperson and vice-chairperson
25 from among the members. The chairperson shall appoint a
26 secretary who need not be a member of the working group.

27 (1) The public members shall serve without compensation, but
28 shall be reimbursed for necessary expenses incurred in the
29 performance of their duties and within the limits of funds available
30 to the working group.

31 (2) The working group shall be entitled to call to its assistance
32 and avail itself of the services of the employees of any State,
33 county, or municipal department, board, bureau, commission, or
34 agency as it may require and as may be available to it for its
35 purposes.

36 d. Upon completion of the plan, the working group shall report
37 on its activities to the chairperson of the Senate and Assembly
38 standing reference committees on health and human services, and
39 include a copy of the plan and any recommendations for legislative
40 action it deems appropriate.

41 e. The Commissioner of Human Services shall post the plan on
42 the department's Internet website and include a table showing the
43 monthly enrollment goals established in the plan and the actual new
44 and continued enrollments for that month. The commissioner shall
45 update the table monthly.

46 f. The Department of Human Services shall provide staff
47 support to the working group.

48 (cf: P.L.2012, c.17, s.397)

1 ²**[5.] 4.**² (New section) There ¹**[is appropriated]** shall be an
2 annual appropriation¹ from the General Fund to the Department of
3 Human Services ¹in¹ the sum of \$20,000,000 for the purposes of
4 implementing the provisions of this act.

5
6 ²**[6.] 5.**² (New section) The Commissioner of Human Services
7 may adopt rules and regulations, pursuant to the “Administrative
8 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as shall be
9 necessary to implement the provisions of this act.

10
11 ²**[7.] 6.**² (New section) The Commissioner of Human Services
12 shall apply for such State plan amendments or waivers as may be
13 necessary to implement the provisions of this act and to secure
14 federal financial participation for State Medicaid expenditures
15 under the federal Medicaid program and for NJ FamilyCare
16 expenditures under the State Children's Health Insurance Program
17 pursuant to 42 U.S.C. s.1397aa et seq.

18
19 ²**[8.] 7.**² This act shall take immediately.

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22
23
24 Eliminates premiums and waiting periods for certain NJ
25 FamilyCare enrollees and directs DHS to implement additional
26 targeted outreach initiatives to increase enrollment.