

SENATE, No. 3487

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 4, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

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

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

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

35 No new health care benefits plans, other than those specified in
36 paragraph (1) of this subsection, shall be added by the employer from
37 January 1, 2021 through December 31, 2027 unless the provisions of
38 any collective negotiations agreement entered into before or after the
39 effective date of this act, P.L.2020, c.44, result in additional premium
40 cost reductions. Nothing in this section shall prohibit an employer
41 from offering health care benefits plans that existed prior to the
42 effective date of this act.

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

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 b. Prior to January 1, 2021, each employer shall provide an
2 enrollment period during which all employees who commenced
3 employment prior to the effective date of this act shall be required to
4 select affirmatively a plan provided by the employer. If an employee
5 fails to select affirmatively a plan during this enrollment period, the
6 employer shall enroll the employee, and the employee's dependents
7 if any, in the equivalent New Jersey Educators Health Plan offered
8 pursuant to subsection a. of this section for the year January 1, 2021
9 until December 31, 2021.

10 During the enrollment period, each person who is enrolled in a
11 plan offered by the employer and who is paying the full cost of
12 coverage shall also be required to select affirmatively a plan provided
13 by the employer. If a person fails to select affirmatively a plan during
14 this enrollment period, the employer shall enroll the person, and the
15 person's dependents if any, in the equivalent New Jersey Educators
16 Health Plan offered pursuant to subsection a. of this section for the
17 year January 1, 2021 until December 31, 2021. Any such person shall
18 continue to pay the full cost of coverage and shall not be subject to
19 the contribution schedule or any mandatory enrollment period as set
20 forth in this section.

21 c. (1) Beginning on January 1, 2021, an employee commencing
22 employment on or after the effective date of this act but before
23 January 1, 2028 who does not waive coverage, shall be enrolled by
24 the employer in the equivalent New Jersey Educators Health Plan, or
25 the equivalent Garden State Health Plan if selected by the employee,
26 as those plans are offered pursuant to subsection a. of this section.
27 The employee shall remain enrolled in either the equivalent New
28 Jersey Educators Health Plan or the equivalent Garden State Health
29 Plan selected by the employee at the annual open enrollment for each
30 plan year until December 31, 2027, provided that the employee
31 during this period may waive coverage as an employee and select and
32 change the type of coverage received under the plan following a
33 qualifying life event, in accordance with the plan regulations.
34 Beginning January 1, 2028, the employee may select, during any
35 open enrollment period or at such other times or under such
36 conditions as the employer may provide, any plan offered by the
37 employer.

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

41 d. An employee shall contribute annually toward the cost of
42 health care benefits coverage for the employee, and employee's
43 dependents if any, the amount specified, in the manner specified, in
44 subsection a. or b. of section 2 of this act, P.L.2020, c.44 (C.52:14-
45 17.46.14) if the employee, and the employee's dependents if any, are
46 enrolled in the equivalent New Jersey Educators Health Plan or the
47 equivalent Garden State Health Plan offered pursuant to subsection
48 a. of this section. An employee's contribution toward the cost of
49 coverage under the equivalent Garden State Health Plan offered

1 pursuant to subsection a. of this section shall be the amount required
2 in subsection b. of section 2 of this act, except that the contribution
3 specified in that subsection shall not be less than the minimum annual
4 contribution for health care benefits coverage of 1.5% of salary as
5 required by law.

6 e. (1) An employee enrolled in the equivalent New Jersey
7 Educators Health Plan or the equivalent Garden State Health Plan
8 offered pursuant to subsection a. of this section shall be required to
9 pay only the contribution specified in subsections a. and b. of section
10 2 of this act, notwithstanding any other provision of law, rule, or
11 regulation to the contrary requiring contributions by employees
12 toward the cost of health care benefits coverage provided by an
13 employer, except as provided in subsection d. of this section. No
14 other contribution may be required by collective negotiations
15 agreement, except as set forth in subsection i. of this section.

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

22 An employee who is enrolled in a plan other than the equivalent
23 New Jersey Educators Health Plan or the equivalent Garden State
24 Health Plan offered pursuant to subsection a. of this section shall be
25 required to contribute toward the cost of health care benefits
26 coverage offered by the employer (a) in accordance with a collective
27 negotiations agreement applicable to that employee as negotiated
28 prior to or after the effective date of this act pursuant to the
29 requirements that were set forth in law on the day next preceding that
30 effective date; (b) as may be required at the discretion of the
31 employer; or (c) as required by a provision of law, whichever is
32 applicable to that employee.

33 With regard to contributions by an employee who is enrolled in a
34 plan other than the equivalent New Jersey Educators Health Plan or
35 the equivalent Garden State Health Plan offered pursuant to
36 subsection a. of this section, no provision in this section shall be
37 deemed to modify, alter, impair, or terminate the requirement in
38 sections 77 and 78 of P.L.2011, c.78 (C.18A:16-17.2 and C.52:14-
39 17.28e), as applicable, that a public employer and employees who are
40 in negotiations for the collective negotiations agreement to be
41 executed after the employees in that unit had reached full
42 implementation of the premium share set forth in section 39 of
43 P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations
44 concerning contributions for health care benefits as if the full
45 premium share was included in the prior contract. Nothing in this act
46 shall be deemed to modify, alter, impair, or terminate the continued
47 compliance after the effective date of this act with that requirement
48 for negotiations for any collective negotiations agreement for
49 employee contributions for plans other than the equivalent New

1 Jersey Educators Health Plan or the equivalent Garden State Health
2 Plan offered pursuant to subsection a. of this section.

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

7 f. The annual contribution by an employee as calculated in
8 accordance with subsection a. or b. of section 2 of this act shall not
9 exceed the amount as calculated in accordance with section 4 of this
10 act.

11 g. The contributions required by this section shall apply to
12 employees for whom the employer has assumed a health care benefits
13 payment obligation, to require that such employees pay the amount
14 of contribution specified in this section for health care benefits
15 coverage.

16 h. The level of benefits in the equivalent New Jersey Educators
17 Health Plan and the equivalent Garden State Health Plan offered by
18 the employer shall remain unchanged until December 31, 2027. No
19 change in the level of benefits in those plans shall be made before
20 that date unless such a change is required by federal or State law to
21 governmental health care benefits plans or to both governmental and
22 non-governmental health care benefits plans.

23 Commencing January 1, 2028 and for each plan year thereafter,
24 the level of benefits in the equivalent New Jersey Educators Health
25 Plan and the equivalent Garden State Health Plan offered by the
26 employer may be modified by the employer in accordance with
27 collective negotiations agreements entered into between the
28 employers who do not participate in the School Employees' Health
29 Benefits Program and their employees, or as otherwise permitted by
30 law.

31 i. Commencing January 1, 2028 and for each plan year
32 thereafter, the contributions required pursuant to subsections a. and
33 b. of section 2 of this act for employees enrolled in the equivalent
34 New Jersey Educators Health Plan or the equivalent Garden State
35 Health Plan offered pursuant to subsection a. of this section may be
36 modified in accordance with collective negotiations agreements
37 entered into between the employers who do not participate in the
38 School Employees' Health Benefits Program and their employees.
39 The contributions required pursuant to subsections a. and b. of
40 section 2 of this act shall become part of the parties' collective
41 negotiations and shall then be subject to collective negotiations in a
42 manner similar to other negotiable items between the parties.
43 Negotiations concerning contributions for health care benefits shall
44 be conducted as if the contributions required pursuant to subsections
45 a. and b. of section 2 of this act were included in the prior contract.
46 The contribution scheme of the percentage of base salary set forth in
47 those subsections may be modified or a new contribution scheme or
48 method other than a percentage of salary may be provided for in
49 accordance with a collective negotiations agreement.

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

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

(cf: P.L.2020, c.44, s.5)

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

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

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

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

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

(2) Only the plans set forth in this section shall be offered by the program regardless of any collective negotiations agreement between a participating employer and its employees in effect on the effective

1 date of this act, P.L.2020, c.44, that provides for enrollment in other
2 plans that were offered by the program prior to January 1, 2021.

3 b. Prior to January 1, 2021, the program, through the Division of
4 Pensions and Benefits in the Department of the Treasury, shall
5 provide for an enrollment period during which all employees who
6 commenced employment prior to the effective date of this act shall
7 be required to select affirmatively one of the three plans specified in
8 subsection a. of this section. If an employee fails to select
9 affirmatively a plan during this enrollment period, the program shall
10 enroll the employee, and the employee's dependents if any, in the
11 New Jersey Educators Health Plan for the plan year beginning
12 January 1, 2021 and ending December 31, 2021.

13 During the enrollment period, any person who is enrolled in a plan
14 offered by the program and who is paying the full cost of health care
15 benefits coverage shall also be required to select affirmatively one of
16 the three plans specified in subsection a. of this section. If a person
17 fails to select affirmatively a plan during this enrollment period, the
18 program shall enroll the person, and the person's dependents if any,
19 in the New Jersey Educators Health Plan for the plan year beginning
20 January 1, 2021 and ending December 31, 2021. Any such person
21 shall continue to pay the full cost of coverage and shall not be subject
22 to the contribution schedule or any mandatory enrollment period as
23 set forth in this section.

24 c. (1) Beginning on January 1, 2021, an employee commencing
25 employment on or after the effective date of this act but before
26 January 1, 2028 who does not waive coverage shall be enrolled by
27 the program, with the employee's dependents if any, in the New
28 Jersey Educators Health Plan, or the Garden State Health Plan if
29 selected by the employee. The employee shall remain enrolled in
30 either the New Jersey Educators Health Plan or the Garden State
31 Health Plan selected by the employee at the annual open enrollment
32 for each plan year through the plan year that ends December 31,
33 2027, provided that the employee during this period may waive
34 coverage as an employee and select and change the type of coverage
35 received under the plan following a qualifying life event, in
36 accordance with the program regulations. For the plan year beginning
37 January 1, 2028, the employee may select, during any open
38 enrollment period or at such other times or under such conditions as
39 the program may provide, any plan offered by the program.

40 (2) For the plan year beginning January 1, 2021, the program
41 shall enroll a retiree who is not Medicare-eligible, and the retiree's
42 dependents if any, in the New Jersey Educators Health Plan for health
43 care benefits coverage as a retiree, if the retiree does not waive
44 coverage. The retiree shall remain enrolled in that plan for each plan
45 year through the plan year that ends December 31, 2027 or until the
46 retiree becomes eligible for Medicare, whichever comes first. The
47 retiree who becomes eligible for Medicare shall no longer be eligible
48 for enrollment in the New Jersey Educators Health Plan, except that
49 any dependent of the retiree who is not eligible for Medicare may

1 remain eligible for coverage under the New Jersey Educators Health
2 Plan. For the plan year beginning January 1, 2028, that retiree who is
3 not Medicare-eligible may select, during any open enrollment period
4 or at such other times or under such conditions as the program may
5 provide, any plan offered by the program.

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

9 d. Beginning **July 1, 2021** January 1, 2022 and for each plan
10 year thereafter, the program shall offer a fourth plan to be called the
11 Garden State Health Plan. The plan shall be developed by the School
12 Employees' Health Benefits Plan Design Committee. If the
13 committee does not adopt a design for the Garden State Health Plan
14 by December 31, 2020, the Division of Pensions and Benefits in the
15 Department of the Treasury **shall** may develop the Garden State
16 Health Plan. The program shall provide an enrollment period prior
17 to January 1, 2022.

18 The Garden State Health Plan shall provide medical and
19 prescription drug benefits that are equivalent to the level of medical
20 and prescription drug benefits provided by the New Jersey Educators
21 Health Plan, except that the benefits under the Garden State Health
22 Plan shall be available only from providers located in the State of
23 New Jersey.

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

28 Employers that participate in the School Employees' Health
29 Benefits Program shall retain the ability to enter the program for
30 medical only plans and may separately purchase pharmacy and dental
31 benefits outside of the program without limitation or restriction.

32 e. The plan design of the New Jersey Educators Health Plan, the
33 Garden State Health Plan, the NJ Direct 10 plan, and the NJ Direct
34 15 plan as those plan designs are specified in subsections a., d., and
35 f. of this section shall remain unchanged until December 31, 2027.
36 No change in the plan design of those plans shall be made before that
37 date unless such a change in plan design is required by federal or
38 State law to governmental health care benefits plans or to both
39 governmental and non-governmental health care benefits plans.

40 For the plan year that commences January 1, 2028 and for each
41 plan year thereafter, the plan design of the New Jersey Educators
42 Health Plan, the Garden State Health Plan, the NJ Direct 10 plan, and
43 the NJ Direct 15 plan as those plan designs are specified in
44 subsections a., d., and f. of this section may be modified by the
45 School Employees' Health Benefits Plan Design Committee.

46 Modifications to plan design of the plans set forth in this section
47 made by the School Employees' Health Benefits Plan Design
48 Committee or the State Treasurer pursuant to section 7 of this act

1 shall be implemented by the program for the purposes of this section
 2 commencing January 1, 2024.

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

5 In Network Benefits

6 Coverage

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

9 Deductible:N/A

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

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

13 PCP Office Visit Copayment:\$10

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

15 Coverage

16 Member Coinsurance:30% of the Out-of-Network Fee Schedule

17 Deductible:\$350 / \$700

18 Out-of-Pocket Maximum:\$2,000 Single / \$5,000 Family Routine
 19 Lab:Paid at Out-of-Network Benefit Level

20 Out-of-Network Fee Schedule:200% of CMS - MedicarePharmacy

21 Out-of-Pocket Maximum:\$1,600 Single / \$3,200 Family (Indexed
 22 Annually Pursuant to Federal Law)Generic Copayment:\$5 Retail 30

23 Day Supply / \$10 Mail 90 Day SupplyBrand Copayment:\$10 Retail
 24 30 Day Supply/ \$20 Mail 90 Day SupplyMandatory Generic:Member

25 Pays Difference in Cost Between Generic and Brand, Plus Brand
 26 CopaymentFormulary: Closed Formulary as contracted with the

27 Pharmacy Benefit Manager and the School Employees' Health
 28 Benefits CommissionOther

29 Chiropractic, Physical Therapy, and Acupuncture:

30 Subject to the same Out-of-Network Limits as for the State Health
 31 Benefits Program as were in effect on June 1, 2020 to take effect as
 32 of July 1, 2020, or as soon thereafter as reasonably practicable.

33 Under a patient centered medical home model, there shall be no
 34 office visit copay for primary care for participants who select and
 35 commit to a patient centered medical home for primary care in
 36 accordance with plan rules and regulations.

37 g. Any plan offered by the School Employees' Health Benefits
 38 Program shall require that chiropractic, physical therapy, and
 39 acupuncture benefits shall be subject to the same out-of-network
 40 limits as for the State Health Benefits Program that were in effect on
 41 June 1, 2020 to take effect as of July 1, 2020 or as soon thereafter as
 42 reasonably practicable.

43 (cf: P.L.2020, c.44, s.1)

44

45 3. This act shall take effect immediately.

STATEMENT

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3 A recently enacted law, P.L.2020, c.44, requires local boards of
4 education who do not participate in the School Employees' Health
5 Benefits Plan (SEHBP) to provide to their employees the equivalent
6 of the New Jersey Educators Health Plan and the Garden State Health
7 Plan offered by the SEHBP. Under this bill, charter school employers
8 do not have to implement the law unless they have a collective
9 negotiation agreement with any of their employees in effect on or
10 after the effective date of P.L.2020, c.44, July 1, 2020.
11 This bill changes the effective date of the new Garden State Health
12 Plan for the School Employees' Health Benefits Program and for
13 local education employers, as established by P.L.2020, c.44, from
14 July 1, 2021 to January 1, 2022 to provide additional time to develop
15 the plan and to require an enrollment period. The bill changes the
16 requirement that the Division of Pensions and Benefits design the
17 Garden State Health Plan if the School Employees' Health Benefits
18 Program plan design committee does not design a plan by December
19 31, 2020. Instead, the bill permits the division to design the plan.