

[First Reprint]

SENATE, No. 3798

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 20, 2021

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Eliminates premiums and waiting periods for certain NJ FamilyCare enrollees; directs DHS to implement additional targeted outreach initiatives to increase enrollment; revises reporting requirements.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on June 10, 2021, with amendments.



1 AN ACT concerning NJ FamilyCare, amending P.L.2005, c.156 and
2 P.L.2008, c.38 ¹【, and making an appropriation】¹

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

42 (4) shall establish, by regulation, other requirements for the
43 program, including, but not limited to, 【premium payments and】
44 copayments 【, and】 . Except as may be required for the NJ

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.

1 FamilyCare Advantage program established pursuant to subsection
2 j. of this section, premiums shall not be established within the
3 program. The commissioner may contract with one or more
4 appropriate entities, including managed care organizations, to assist
5 in administering the program. The period for which eligibility for
6 the program is determined shall be the maximum period permitted
7 under federal law.

8 d. The commissioner shall establish procedures for determining
9 eligibility, which shall include, at a minimum, the following
10 enrollment simplification practices:

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

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

25 The commissioner shall establish retrospective auditing or
26 income verification procedures, such as sample auditing and
27 matching reported income with records of the Department of the
28 Treasury and the Department of Labor and Workforce Development
29 and such other records as the commissioner determines appropriate.

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

38 (3) Online enrollment and renewal, in addition to enrollment
39 and renewal by mail. The online enrollment and renewal forms
40 shall include electronic links to other State and federal health and
41 social services programs;

42 (4) Continuous enrollment;

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

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

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

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

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

24 g. The commissioner shall provide, by regulation, for
25 presumptive eligibility for the program in accordance with the
26 following provisions:

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

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

40 (3) The parent or caretaker of a child deemed presumptively
41 eligible pursuant to this subsection shall be required to submit a
42 completed application for the program no later than the end of the
43 month following the month in which presumptive eligibility is
44 determined;

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

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

4 h. The commissioner, in consultation with the Commissioner of
5 Education, shall administer an ongoing enrollment initiative to
6 provide outreach to children throughout the State who may be
7 eligible for the program.

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

17 The commissioner, in consultation with the Commissioner of
18 Education, shall establish procedures for schools to transmit
19 information attached to, included with, or provided on the school
20 lunch application form regarding the NJ FamilyCare and Medicaid
21 programs to the Department of Human Services, in order to enable
22 the department to determine eligibility for the programs.

23 (2) The commissioner or the Commissioner of Education, as
24 applicable, shall:

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

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

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

43 i. Subject to federal approval, the commissioner shall, by
44 regulation, establish that in determining income eligibility for a
45 child, any gross family income above ~~【200%】~~ 200 percent of the
46 poverty level, up to a maximum of ~~【350%】~~ 350 percent of the
47 poverty level, shall be disregarded.

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

9 The commissioner shall establish the premium and cost sharing
10 amounts required to purchase coverage, except that the premium
11 shall not exceed the amount the program pays per month to a
12 managed care organization under NJ FamilyCare for a child of
13 comparable age whose family income is [between 200% and
14 350%] less than 350 percent of the poverty level, plus a reasonable
15 processing fee.

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

19 1. [Subject to federal approval, the] The Commissioner of
20 Human Services shall establish a hardship waiver for part or all of
21 [the] any premium [for an eligible child under the NJ FamilyCare
22 program] authorized under this section. A parent or caretaker may
23 apply to the commissioner for a hardship waiver in a manner and
24 form established by the commissioner. If the parent or caretaker
25 can demonstrate to the satisfaction of the commissioner, pursuant to
26 regulations adopted by the commissioner, that payment of all or part
27 of the premium for the parent or caretaker's child presents a
28 hardship, the commissioner shall grant the waiver for a prescribed
29 period of time.

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

31
32 2. Section 11 of P.L.2005, c.156 (C.30:4J-14) is amended to
33 read as follows:

34 11. The Commissioner of Human Services shall [report to the
35 Chairman of the Senate Health, Human Services and Senior
36 Citizens Committee and the Chairmen of the Assembly Health and
37 Human Services and Assembly Family, Women and Children's
38 Issues committees on the implementation of this act.

39 The commissioner shall] issue an interim report six months after
40 the effective date of [this act] P.L. , c. (C.) (pending
41 before the Legislature as this bill) and shall issue an annual report
42 six months later and once each year thereafter. Each report shall be
43 submitted to the Governor and to the Legislature, pursuant to
44 section 2 of P.L.1991, c.164 (C.52:14-19.1), and published on the
45 department's Internet website.

46 The [report] reports shall be prepared with input from the
47 working group established pursuant to section 27 of P.L.2008, c.38

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

20 3. Section 26 of P.L.2008, c.38 (C.30:4J-18) is amended to
21 read as follows:

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

34 (1) the provision of training to Exchange enrollment assistors,
35 local officials, and any other pertinent staff, as determined by the
36 commissioner, on the eligibility requirements of the NJ FamilyCare
37 program and how to enroll children in the program;

38 (2) culturally sensitive, Statewide and local media public
39 awareness campaigns addressing the availability of health care
40 coverage for parents and children under the Medicaid and NJ
41 FamilyCare programs and health care coverage for children under
42 the NJ FamilyCare Advantage buy-in program [The initiative shall
43 also include] ; and

44 (3) the provision of training and support services, upon request,
45 to community groups, legislative district offices, and community-
46 based health care providers to enable these parties to assist in
47 enrolling parents and children in the applicable programs.

1 b. The Department of Banking and Insurance, in consultation
2 with the Commissioner of Human Services, shall take steps to
3 ensure the full incorporation of the Medicaid, NJ FamilyCare and
4 NJ FamilyCare Advantage Programs on the State's health insurance
5 Exchange and the individual health coverage marketplace. In order
6 to ensure that Medicaid and NJ FamilyCare eligibility is properly
7 evaluated, plan comparison and cost tools shall solicit current
8 expected monthly income in lieu of or in addition to annual income.
9 (cf: P.L.2008, c.38, s.26)

10
11 4. Section 27 of P.L.2008, c.38 (C.30:4J-19) is amended to
12 read as follows:

13 27. The Commissioner of Human Services shall establish an
14 Outreach, Enrollment, and Retention Working Group to develop a
15 plan to carry out ongoing and sustainable measures to strengthen
16 outreach to low and moderate income families who may be eligible
17 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to
18 maximize enrollment in these programs, and to ensure retention of
19 enrollees in these programs.

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

21 (1) The Commissioners of Human Services, Health, Banking
22 and Insurance, Children and Families, Labor and Workforce
23 Development, Education, and Community Affairs, and the
24 Secretary of Agriculture, or their designees, who shall serve ex
25 officio; and

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

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

41 (1) determine if there are obstacles to enrollment of minorities
42 in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
43 Advantage programs due to ethnic and cultural differences and, if
44 so, develop strategies for the Department of Human Services to
45 overcome these obstacles and increase enrollment among
46 minorities;

47 (2) recommend outreach strategies to identify and enroll all
48 eligible children in the Medicaid, NJ FamilyCare, and NJ

1 FamilyCare Advantage programs and to retain enrollment of
2 children and their parents in the programs;

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

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

12 c. The working group shall organize **as soon as practicable**
13 **following the appointment of its members and** and hold a meeting
14 no later than 60 days following the date of enactment of
15 P.L. , c. (C.) (pending before the Legislature as this bill).
16 The working group shall select a chairperson and vice-chairperson
17 from among the members. The chairperson shall appoint a
18 secretary who need not be a member of the working group.

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

23 (2) The working group shall be entitled to call to its assistance
24 and avail itself of the services of the employees of any State,
25 county, or municipal department, board, bureau, commission, or
26 agency as it may require and as may be available to it for its
27 purposes.

28 d. Upon completion of the plan, the working group shall report
29 on its activities to the chairperson of the Senate and Assembly
30 standing reference committees on health and human services, and
31 include a copy of the plan and any recommendations for legislative
32 action it deems appropriate.

33 e. The Commissioner of Human Services shall post the plan on
34 the department's Internet website and include a table showing the
35 monthly enrollment goals established in the plan and the actual new
36 and continued enrollments for that month. The commissioner shall
37 update the table monthly.

38 f. The Department of Human Services shall provide staff
39 support to the working group.

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

41
42 5. (New section) There ¹**is appropriated** shall be an annual
43 appropriation¹ from the General Fund to the Department of Human
44 Services ¹in¹ the sum of \$20,000,000 for the purposes of
45 implementing the provisions of this act.

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

5

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

13

14 8. This act shall take immediately.