

§§1,2,4 -
C.17B:27A-57 to
17B:27A-59
§3 - T&E
§5 - Note

P.L. 2019, CHAPTER 141, *approved June 28, 2019*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 5499

1 **AN ACT** concerning health insurance and supplementing Title 17B
2 of the New Jersey Statutes.

3

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

6

7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the “Health Insurance
9 Exchange Trust Fund.” This fund shall be the repository for monies
10 collected pursuant to subsection c. of this section, any federal
11 financial participation available, and other monies received as
12 grants or otherwise appropriated for the purposes of supporting
13 health insurance outreach and enrollment efforts through an
14 exchange. The monies in the fund shall be used only for the
15 purpose of supporting the exchange through initial start-up costs
16 associated with establishment of the exchange, exchange
17 operations, outreach, enrollment, and other means of supporting the
18 exchange¹, including any efforts that can increase market
19 stabilization and that may result in a net benefit to policyholders¹.

20 b. The State Treasurer shall be the custodian of the fund and all
21 disbursements from the fund shall be made by the State Treasurer
22 upon vouchers signed by the Commissioner of Banking and
23 Insurance. The monies in the fund shall be invested and reinvested
24 by the Director of the Division of Investment in the Department of
25 the Treasury to the same extent that other trust funds that are in the
26 custody of the State Treasurer are invested and reinvested, in the
27 manner provided by law. Interest received on the monies in the
28 fund shall be credited to the fund.

29 c. The commissioner may apply a monthly assessment to each
30 ¹individual¹ health benefits plan ¹【offered by a carrier】 sold in the
31 individual market¹. The assessment shall be paid by the carrier and
32 deposited into the fund and shall be used only for the purpose of
33 supporting the exchange through initial start-up costs associated
34 with establishment of the exchange, exchange operations, outreach,

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:

¹Assembly AAP committee amendments adopted June 13, 2019.

²Senate floor amendments adopted June 27, 2019.

1 enrollment, and other means of supporting the exchange¹, including
2 any efforts that can increase market stabilization and that may result
3 in a net benefit to policyholders¹. The assessment may be applied
4 at a rate of:

5 (1) .5 percent of the total monthly premium charged by a carrier
6 for each health benefits plan during any period that the State is on a
7 federally-facilitated exchange;

8 (2) 1 percent of the total monthly premium charged by a carrier
9 for each health benefits plan during any period that the State is on a
10 State-based exchange using the federal platform; or

11 (3) 3.5 percent of the total monthly premium charged by a carrier
12 for each health benefits plan during any period that the State
13 is on a State-based exchange. The commissioner shall have the
14 discretion to adjust this rate to ensure that the State-based exchange
15 is fully funded, but in no case shall the assessment be applied at a
16 rate that exceeds ~~'[5]~~ 4¹ percent of the total monthly premium
17 charged by a carrier. 'If the commissioner determines it is
18 necessary to adjust the rate above 3.5 percent pursuant to this
19 paragraph, the commissioner shall, in advance of the adjustment,
20 post on the department's website a report describing the reasons and
21 justifications for the adjustment, which shall be consistent with the
22 purposes of supporting the exchange as provided in this section.'¹

23 ~~'[Beginning on January 1,]~~ After the¹ 2020 'plan year'¹, the
24 commissioner shall ~~'[provide]~~ notify¹ a carrier ~~'[with adequate~~
25 notice]¹ of its assessment rate for the subsequent year ~~'[to allow]~~
26 at least 20 days prior to the date¹ the carrier ~~'[to adjust]~~ is required
27 to file¹ its rate filing ~~'[based on the assessment rate]~~ with the
28 department¹. 'In the case of an assessment for the 2020 plan year,
29 the commissioner shall notify carriers as soon as is practicable of
30 the assessment amount.'¹

31 d. Any unexpended balance in the fund at the end of a year
32 shall be available for expenditure by the commissioner in the
33 subsequent year. The commissioner shall consider any unexpended
34 balance from a previous year when calculating the assessment
35 pursuant to subsection c. of this section.

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37 2. a. Notwithstanding any other law to the contrary, the
38 Department of Banking and Insurance shall have the authority to
39 operate a State-based exchange and coordinate the operations of the
40 exchange with the operations of the New Jersey Individual Health
41 Coverage Program and the New Jersey Small Employer Health
42 Benefits Program, including reorganization of the boards, as the
43 commissioner deems appropriate. The department's authority to
44 regulate the insurance market shall be separate and distinct from the
45 department's duty to oversee exchange operations, to ensure the
46 best interests of and protection for consumers of the State. 'The

1 commissioner may require that all plans in the individual and small
2 employer markets be made available for comparison on the State-
3 based exchange, but nothing in this section shall allow the
4 commissioner to require all plans in the individual and small
5 employer markets to be purchased exclusively on the State-based
6 exchange.¹ The department shall ²also have the authority to²
7 coordinate the operations of the exchange with the operations of the
8 State Medicaid program established pursuant to P.L.1968, c.413
9 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established
10 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) ²to determine
11 eligibility for those programs as soon as practicable².

12 b. The Commissioner of ²Banking and Insurance shall
13 Human Services², in consultation with the Commissioner of
14 ²Human Services, examine whether federal financial participation
15 is available for the exchange as a State administrative expenditure
16 necessary for the proper and efficient administration of the State
17 Medicaid plan. If the commissioner, in consultation with the
18 Commissioner of Human Services, finds that federal financial
19 participation is available and practicable, the commissioners shall,
20 in consultation with one another, secure the maximum federal
21 financial participation available] Banking and Insurance, shall
22 submit a proposal for available federal financial participation funds
23 to the Centers for Medicare & Medicaid Services of the U.S.
24 Department of Health and Human Services pursuant to 42 C.F.R.
25 433.112 for the Medicaid eligibility platform and the exchange to
26 be integrated. Notwithstanding the foregoing, the Department of
27 Banking and Insurance may proceed to implement the provisions of
28 this act, including the operation of the State-based exchange².

29 c. The Commissioner of Banking and Insurance shall have the
30 authority to require that plans offered on the exchange conform
31 with standardized plan designs that provide for standardized cost-
32 sharing for covered health services.

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

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

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

41 (3) the Commissioner of Health, or a designee, who shall serve
42 ex-officio; and

43 (4) six public members, who shall be residents of the State,
44 appointed by the Commissioner of Banking and Insurance. Each
45 public member shall have demonstrated experience in one or more
46 of the following areas: health insurance consumer advocacy;

1 individual health insurance coverage; small employer health
2 insurance coverage; health benefits plan marketing; the provision of
3 health care services; or academic or professional research relating
4 to health insurance.¹

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6 3. a. The Commissioner of Banking and Insurance shall
7 present a report to the Governor, and to the Legislature pursuant to
8 section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1,
9 2022, which contains the commissioner's findings and
10 recommendations, including such recommendations for
11 administrative or legislative action as the commissioner deems
12 appropriate, and the status of any decisions or efforts pursuant to
13 subsection a. of section 2 of this act to coordinate the operations of
14 the exchange with:

15 (1) the New Jersey Individual Health Coverage Program
16 established pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and
17 the New Jersey Small Employer Health Benefits Program
18 established pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.);
19 and

20 (2) the operations of the State Medicaid and NJ FamilyCare
21 programs.

22 b. The Commissioner of Banking and Insurance and the
23 Commissioner of Human Services shall present a report to the
24 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
25 c.164 (C.52:14-19.1), no later than June 1, 2022, which contains an
26 evaluation of the actions of those departments in securing federal
27 financial participation pursuant to subsection b. of section 2 of this
28 act, including details on any grants or federal funding matches
29 which were evaluated, any applications for grants or funding that
30 were made, any applications that were denied, and any funding that
31 was or may be received.

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33 4. The Department of Banking and Insurance shall adopt rules
34 and regulations pursuant to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
36 this act.

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38 5. This act shall take effect on January 1, 2020, except the
39 commissioner may take any anticipatory administrative action in
40 advance as shall be necessary for the implementation of this act.

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45 Authorizes DOBI to establish State-based exchange for certain
46 health insurance plans; requires DHS to apply for federal funds for
47 integration of Medicaid eligibility platform and exchange.