

ASSEMBLY, No. 5213

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 7, 2021

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Co-Sponsored by:

**Assemblyman Benson, Assemblywoman Timberlake, Assemblyman
Conaway and Assemblywoman Jasey**

SYNOPSIS

Establishes New Jersey Easy Enrollment Health Insurance Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2021)

1 AN ACT establishing the New Jersey Easy Enrollment Health
2 Insurance Program and supplementing P.L.2019, c.141
3 (C.17B:27A-57 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in this act:

9 “Commissioner” means the Commissioner of Banking and
10 Insurance.

11 “Cost-sharing reduction” means a reduction described in Section
12 1402(c) of the Affordable Care Act.

13 “Department” means the Department of Banking and Insurance.

14 “Insurance affordability assistance” means:

15 (1) the State Medicaid program established pursuant to P.L.1968,
16 c.413 (C.30:4D-1 et seq.);

17 (2) the NJ FamilyCare Program established pursuant to P.L.2005,
18 c.156 (C.30:4J-8 et al.);

19 (3) premium tax credits; or

20 (4) cost-sharing reductions.

21 “Modified adjusted gross income” has the meaning stated in 42
22 U.S.C. s.1395r(i)(4)(A).

23 “Poverty line” has the meaning stated in 42 U.S.C. s.1397jj(c)(5).

24 “Premium tax credits” means the tax credits described in section
25 36B of the Internal Revenue Code.

26 “Proactively contact” means an attempt by the program to reach
27 an individual by:

28 (1) making multiple attempts to contact the individual as
29 requested on a State income tax return in accordance with section 8
30 of this act;

31 (2) if the attempts described in paragraph (1) of this definition do
32 not successfully reach the individual or if no specific methods for
33 contacting the individual were requested, making multiple attempts
34 to contact the individual through telephonic and electronic means;
35 and

36 (3) if the attempts described in paragraphs (1) and (2) of this
37 definition do not successfully reach the individual to obtain the
38 requested information, sending paper forms or notices to the
39 individual by mail.

40 “Program” means the New Jersey Easy Enrollment Health
41 Insurance Program established pursuant to this act.

42 “Individual” means an individual under the age of 65 years who is
43 identified through a State income tax return under section 8 of this
44 act as not having minimum essential coverage.

45 “Workgroup” means the New Jersey Easy Enrollment Health
46 Insurance Program Advisory Workgroup established pursuant to
47 section 3 of this act.

1 2. a. The Department of Banking and Insurance shall establish
2 and have the authority to operate the New Jersey Easy Enrollment
3 Health Insurance Program. The department shall integrate the
4 program with the State-based exchange established pursuant to
5 P.L.2019, c.141 (C.17B:27A-57 et seq.), and may enter into an
6 agreement with a third-party for operation of the program. The
7 purpose of the program shall be to:

8 (1) establish a State-based reporting system to provide
9 information about the health insurance status of State residents
10 through the use of State income tax returns to identify individuals
11 without minimum essential coverage and determine whether the
12 individual is interested in obtaining minimum essential coverage;

13 (2) determine whether an individual who is interested in
14 obtaining minimum essential coverage qualifies for insurance
15 affordability assistance;

16 (3) proactively contact an individual who is interested in
17 obtaining minimum essential coverage to assist in enrolling the
18 individual in insurance affordability assistance and minimum
19 essential coverage; and

20 (4) maximize enrollment of eligible individuals in insurance
21 affordability assistance and minimum essential coverage to improve
22 access to care and reduce insurance costs for all residents of the State.

23 b. The Commissioner of Banking and Insurance, the
24 Commissioner of Human Services, and the State Treasurer shall
25 develop and implement systems, policies, and practices that
26 encourage, facilitate, and streamline determination of eligibility for
27 insurance affordability assistance and enrollment in minimum
28 essential coverage to achieve the purposes of the program.

29 c. To facilitate the most efficient implementation of the
30 program, the Commissioner of Banking and Insurance, the
31 Commissioner of Human Services, and the State Treasurer may enter
32 into agreements, adopt regulations and guidelines, establish
33 accounts, conduct trainings, provide public information, educate tax
34 preparers, and take any other steps as may be necessary to accomplish
35 the purpose of the program.

36 d. Notwithstanding the provisions of subsection a. of R.S.54:50-
37 8 to the contrary, the State Treasurer may share with the
38 Commissioner of Banking and Insurance the taxpayer information
39 that is necessary for the purposes of this act.

40 e. The Commissioner of Human Services may pursue any
41 necessary waivers from the federal Department of Health and Human
42 Services in order to implement the provisions of this act.

43
44 3. a. The Commissioner of Banking and Insurance shall
45 establish a New Jersey Easy Enrollment Health Insurance Program
46 Advisory Workgroup to provide ongoing advice regarding the
47 implementation of the program.

48 b. The workgroup shall include representation from:

1 (1) the commissioner;
 2 (2) consumer groups;
 3 (3) employers;
 4 (4) insurers;
 5 (5) health care providers;
 6 (6) navigators or other consumer assisters;
 7 (7) insurance brokers or agents;
 8 (8) labor organizations;
 9 (9) income tax preparers;
 10 (10) national policy experts; and
 11 (11) any other organizations or groups selected by the
 12 commissioner.

13 c. The workgroup shall meet at least once every six months.

14 d. This section shall not be construed to prevent the
 15 commissioner from convening other formal or informal working or
 16 advisory groups to facilitate the implementation of the program.

17

18 4. a. The New Jersey Easy Enrollment Health Insurance
 19 Program shall determine eligibility for insurance affordability
 20 assistance as soon as possible after an individual files a State income
 21 tax return on which the individual indicates pursuant to paragraph (3)
 22 of subsection c. of section 8 of this act, that the individual is seeking
 23 coverage.

24 b. (1) To the extent practicable, the program shall verify an
 25 individual's eligibility for insurance affordability assistance with
 26 information on a State income tax return and other data from third-
 27 party data sources, including data described in section 1413 of the
 28 Affordable Care Act or available pursuant to section 8 of this act,
 29 without requesting additional information from the individual.

30 (2) If additional documentation from an individual is required to
 31 establish eligibility for insurance affordability assistance, the
 32 program shall take steps to limit the burden on the individual,
 33 including:

34 (a) proactively contacting the individual who filed the tax return
 35 or the individual;

36 (b) recording, by telephonic or electronic means, documentation
 37 provided by the individual who filed the tax return or the individual;
 38 and

39 (c) if the documentation required to determine eligibility is not
 40 obtained using the steps described in subparagraphs (a) and (b) of
 41 this paragraph, facilitating the selection of an authorized
 42 representative for the individual.

43 c. (1) Before determining eligibility of an individual for
 44 insurance affordability assistance, the program shall attempt to verify
 45 the citizenship status of the individual and each household member
 46 listed on the State income tax return, based on the information
 47 available from the return and reliable third-party sources of
 48 citizenship data.

1 (2) If the process described in paragraph (1) of this subsection
2 does not confirm that the individual and each household member
3 listed on the State income tax return is a United States citizen, the
4 program shall not seek additional verification or take other steps to
5 determine eligibility for insurance affordability assistance until the
6 individual provides affirmative consent using forms and procedures
7 approved by the program.

8 (3) The affirmative consent required under paragraph (2) of this
9 subsection may be satisfied through the procedures described in 42
10 U.S.C. s.1320b-7(d).

11 (4) If citizenship is not verified and affirmative consent is not
12 provided in accordance with paragraph (2) of this subsection, the
13 program shall not take any further steps to determine an individual's
14 eligibility for insurance affordability assistance.

15

16 5. a. The program shall make a determination of eligibility, in
17 accordance with section 4 of this act, for the State Medicaid program
18 or the NJ FamilyCare Program under this section, before determining
19 eligibility for any other insurance affordability assistance.

20 b. (1) If an individual is determined to be eligible for the State
21 Medicaid program or the NJ FamilyCare Program, the procedures
22 described in this section and guidelines established by the
23 Department of Human Services, to implement this subsection shall
24 apply.

25 (2) If an individual fails to select a managed care organization
26 plan within a period of time established by the program, the program
27 may assign the individual to and promptly enroll the individual in a
28 managed care organization plan.

29 (3) Before the program assigns an individual to a managed care
30 organization plan, the individual shall receive:

31 (a) advance notice;

32 (b) an opportunity to select another managed care organization
33 plan within the period of time established by the program; and

34 (c) an opportunity to opt out of coverage.

35 c. The program may utilize any information provided to the
36 Department of Banking and Insurance or the Department of Human
37 Services in making determinations pursuant to this section.

38

39 6. a. If an individual is not determined to be eligible for the State
40 Medicaid program or the NJ FamilyCare Program pursuant to section
41 5 of this act, the program shall determine, in accordance with section
42 4 of this act, whether the individual is eligible for premium tax credits
43 or cost-sharing reductions as determined under this section.

44 b. (1) A special enrollment period for the New Jersey Individual
45 Health Coverage Program shall begin on the date an income tax
46 return is filed by or on behalf of an individual that indicates an
47 individual is seeking coverage pursuant to paragraph (3) of
48 subsection c. of section 8 of this act.

1 (2) The enrollment period described in this section shall last for
2 a period of time, to be determined by the Department of Banking and
3 Insurance before the start of the calendar year, that may not be shorter
4 than 14 days.

5 c. (1) Information about the enrollment period described in
6 subsection b. of this section shall be communicated to the public and
7 affected individuals through measures that may include language in
8 the instructions for the State individual income tax return, if inclusion
9 of the language is approved by the State Treasurer.

10 (2) The Department of Banking and Insurance shall conduct
11 outreach to individuals described in paragraph (1) of this subsection,
12 using methods that may include written notices and the provision of
13 individualized assistance by insurance agents and brokers,
14 navigators, tax preparers, and contractors and staff.

15 (3) Notwithstanding any other provision of this act, the
16 Department of Banking and Insurance may compensate an entity for
17 outreach described in paragraph (2) of this subsection in a manner
18 that reflects, in whole or in part, the number of individuals enrolled
19 under this section and section 4 of this act by that entity.

20
21 7. a. The Department of Banking and Insurance shall develop
22 data privacy and data security safeguards to govern the conveyance,
23 storage, and utilization of data under the program.

24 b. The safeguards developed under subsection a. of this section
25 shall ensure that the conveyance, storage, and utilization of data
26 under the program comply with applicable requirements of federal
27 and State law.

28
29 8. a. If a State income tax return indicates that an individual is
30 uninsured at the time the tax return is filed, consistent with the
31 provisions of P.L.2018, c.31 (C.54A:11-1 et seq.), the tax return shall
32 include the following information as to the uninsured individual:

33 (1) the age of each individual;

34 (2) election by the individual filing the tax return of one of the
35 two checkoff boxes described in subsection c. of this section;

36 (3) if the individual who files a tax return chooses the checkoff
37 box described in paragraph (3) of subsection c. of this section, any
38 information determined by the program as essential to determining
39 eligibility for insurance affordability assistance, if the information:

40 (a) is not available from a reliable third-party data source;

41 (b) is not otherwise required to be provided on the return; and

42 (c) does not pertain to citizenship or immigration status; and

43 (4) notification of the potential waiver the State shared
44 responsibility tax pursuant to subsection d. of this section.

45 b. For an individual who files a tax return and chooses the
46 checkoff box described in paragraph (3) of subsection c. of this
47 section, the return shall give the individual who filed the tax return
48 the option to indicate the individual's preferred method for the

1 program to contact the individual who filed the tax return to facilitate
2 either determination of eligibility for insurance affordability
3 assistance or enrollment in health coverage.

4 c. (1) In accordance with this section, the State Treasurer shall
5 include with the income tax return form a separate form that is
6 required only for individuals who file a tax return indicating that an
7 individual is uninsured at the time the tax return is filed.

8 (2) The separate form shall include two checkoff boxes as
9 described in paragraphs (3) and (4) of this subsection and the
10 information described in paragraphs (2) and (3) of subsection a. of
11 this section.

12 (3) One checkoff box shall give an individual who files a tax
13 return the choice to have the program:

14 (a) based on information in the individual's tax return, determine
15 the individual's eligibility for insurance affordability assistance; and

16 (b) obtain additional data that may be relevant to determine the
17 individual's eligibility for insurance affordability assistance.

18 (4) One checkoff box shall allow an individual who files a tax
19 return the choice to not have the program make the determination
20 described in paragraph (3) of this subsection.

21 (5) The State Treasurer, in consultation with the Department of
22 Banking and Insurance and with the advice of the workgroup, shall:

23 (a) develop language for the checkoff boxes described in
24 paragraphs (3) and (4) of this subsection;

25 (b) develop language for the instructions for the State income tax
26 return that includes a description of the effects of choosing the
27 checkoff boxes described in paragraphs (3) and (4) of this subsection,
28 including the purposes for which the information disclosed under this
29 section may be used; and

30 (c) ensure that the language developed under subparagraph (a) of
31 this paragraph is as simple, clear, and easy to understand as possible.

32 (6) If an individual who files a tax return makes the election
33 described in paragraph (3) of this subsection, the State Treasurer shall
34 convey to the program all insurance-relevant information contained
35 on the return.

36 d. The State Treasurer shall waive the State shared responsibility
37 tax imposed pursuant to section 3 of P.L.2018, c.31 (C.54A:11-3) for
38 any taxpayer who chooses the checkoff box described in paragraph
39 (3) of subsection c. of this section. If the taxpayer fails to enroll in
40 health benefits coverage and maintain that coverage in each month
41 following the enrollment period, the taxpayer shall be liable for any
42 payments to which the taxpayer would have otherwise been subject.

43 e. The State Treasurer shall coordinate the requirements of this
44 subsection with the requirements of the "New Jersey Health
45 Insurance Market Preservation Act," P.L.2018, c.31 (C.54A:11-1 et
46 seq.).

1 State income tax return on which the individual indicates that the
2 individual is seeking health benefits coverage.

3 To the extent practicable, the program must verify an individual's
4 eligibility for insurance affordability assistance with information on
5 a State income tax return and other data from third-party data sources,
6 without requesting additional information from the individual.

7 The bill provides that if additional documentation from an
8 individual is required to establish eligibility for insurance
9 affordability assistance, the program must take certain steps to limit
10 the burden on the individual.

11 Before determining eligibility of an individual for insurance
12 affordability assistance, the program is required to attempt to verify
13 the citizenship status of the individual and each household member
14 listed on the State income tax return, based on the information
15 available from the return and reliable third-party sources of
16 citizenship data. If this process does not confirm that the individual
17 and each household member listed on the State income tax return is
18 a United States citizen, the program may not seek additional
19 verification or take other steps to determine eligibility for or enroll
20 the individual in insurance affordability assistance until the
21 individual provides affirmative consent using forms and procedures
22 approved by the program.

23 If citizenship is not verified and affirmative consent is not
24 provided in accordance with the bill, the program may not take any
25 further steps to determine an individual's eligibility for or enroll an
26 individual in insurance affordability assistance.

27 The bill requires the program to make a determination of
28 eligibility for the State Medicaid program or the NJ FamilyCare
29 Program before determining eligibility for any other insurance
30 affordability assistance. If an individual is determined to be eligible
31 for the State Medicaid program or the NJ FamilyCare Program, the
32 procedures described in the bill and the guidelines established by the
33 program to implement the bill apply.

34 If an individual fails to select a managed care organization plan
35 within a period of time established by the program, the program may
36 assign the individual to and promptly enroll the individual in a
37 managed care organization plan.

38 Before an individual is assigned to a managed care organization
39 plan, the individual is required to receive advance notice, an
40 opportunity to select another managed care organization plan, and an
41 opportunity to opt out of coverage.

42 If an individual is determined to not be eligible for the State
43 Medicaid program or the NJ FamilyCare Program, the program is
44 required to determine whether the individual is eligible for premium
45 tax credits or cost-sharing reductions.

46 The bill provides that a special enrollment period for the New
47 Jersey Individual Health Coverage Program will begin on the date an
48 income tax return is filed by or on behalf of an individual that

1 indicates the individual is seeking insurance coverage. The
2 enrollment period is to last for a period of time, to be determined by
3 the program before the start of the calendar year, that may not be
4 shorter than 14 days.

5 Information about the enrollment period described in the bill must
6 be communicated to the public and affected individuals through
7 measures that may include language in the instructions for the State
8 individual income tax return, if inclusion of the language is approved
9 by the State Treasurer.

10 The bill requires the Department of Banking and Insurance to
11 develop data privacy and data security safeguards to govern the
12 conveyance, storage, and utilization of data under the program.

13 The bill requires the State Treasurer to include on the individual
14 income tax return form a checkoff box for indicating whether the
15 individual, or each spouse in the case of a joint return, and any
16 individual claimed as a dependent on the tax return is uninsured at
17 the time the tax return is filed.

18 The bill requires the State Treasurer to include with the income
19 tax return form a separate form that is required only for individuals
20 who file a tax return indicating that an individual is uninsured at the
21 time the tax return is filed.

22 The form is required to include two checkoff boxes. One checkoff
23 box shall give an individual who files a tax return the choice to have
24 the program determine the individual's eligibility for insurance
25 affordability assistance, and obtain additional data that may be
26 relevant to determine the individual's eligibility for insurance
27 affordability assistance. The other checkoff box shall allow an
28 individual who files a tax return the choice to not have the program
29 make that determination.

30 The bill requires the State Treasurer to waive the State shared
31 responsibility tax for any taxpayer who chooses the checkoff box
32 indicating the taxpayer wishes the program to determine the
33 individual's eligibility for insurance affordability assistance. If the
34 taxpayer fails to enroll in health benefits coverage and maintain that
35 coverage in each month following the enrollment period, the taxpayer
36 is liable for any payments to which the taxpayer would have
37 otherwise been subject.

38 The bill takes effect immediately and applies to tax returns filed
39 for taxable years beginning after December 31, 2020, unless the State
40 Treasurer determines, after consultation with the Department of
41 Banking and Insurance, that the implementation of the bill is not
42 administratively feasible for taxable years beginning after December
43 31, 2020, in which case the Treasurer may delay implementation to
44 taxable years beginning after December 31, 2021.