

CHAPTER 225

AN ACT concerning small employer health benefits purchasing alliances and amending and supplementing P.L.1992, c.162.

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

C.17B:27A-25.1 Findings, declarations relative to small employer health benefits purchasing alliances.

1. The Legislature finds and declares that:

a. Small employers, that is, employers that employ between two and 50 employees, have traditionally been at an economic disadvantage with respect to the purchase and provision of health benefits for their employees because certain administrative and premium rate savings that are available to larger employers are not available to them by virtue of their size;

b. Providing for the establishment of purchasing alliances comprised of groups of small employers would enable small employers to take advantage of the economies of scale in the delivery of health benefits currently available to large employer groups; and

c. Working within the framework of the Small Employer Health Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et seq.), small employer purchasing alliances, with the voluntary participation of insurance carriers, would have access to the standard health benefits plans developed under that law at a reduced premium, along with the protections afforded under that law, including: guaranteed access to health benefits coverage for their employees; guaranteed renewability of health plans regardless of the health status of employees or their dependents; and prohibitions against the use of certain rating factors such as health status, prior claims history or occupation.

C.17B:27A-25.2 Definitions relative to small employer benefits purchasing alliances.

2. As used in this act:

"Board" means a small employer purchasing alliance board of directors provided for in section 4 of this act.

"Carrier" means a small employer carrier as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Commissioner" means the Commissioner of Banking and Insurance.

"Dependent" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Eligible employee" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Eligible group of small employers" means a group of small employers which: (1) are engaged in the same or similar type of trade or business; (2) are members of a common trade association, professional association, or other association; or (3) are located in a common geographic area.

"Health benefits plan" means a small employer health benefits plan approved by the commissioner pursuant to section 17 of P.L.1992, c.162 (C.17B:27A-33).

"Health status-related factor" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Member" means a small employer who is a member of a purchasing alliance as provided for in section 3 of this act.

"Small Employer Purchasing Alliance," "purchasing alliance" or "alliance" means a small employer purchasing alliance as established pursuant to section 3 of this act.

"Small employer" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

C.17B:27A-25.3 "Small Employer Purchasing Alliance formation."

3. Any eligible group of small employers may join together, by means of a joint contract under the procedures established by this act, to form a "Small Employer Purchasing Alliance" for the purpose of negotiating a reduced premium for its members purchasing a small employer health benefits plan or plans for their eligible employees and the employees' dependents. The joint contract shall be executed by all members of the purchasing alliance.

C.17B:27A-25.4 Board of directors.

4. The purchasing alliance, which may be a corporation, shall be governed by a board of directors, elected by the members of the purchasing alliance. No person may serve as an officer or director of an alliance who has a prior record of administrative, civil or criminal violations within the financial services industry. The directors shall serve for terms of three years, and shall serve until their successors are elected and qualified. The directors shall serve without compensation, except for reimbursement for actual expenses.

C.17B:27A-25.5 Bylaws, contents.

5. The board shall adopt by-laws for the operation of the purchasing alliance, which shall be effective upon ratification by a two-thirds majority of the members. The by-laws shall include, but not be limited to:

- a. The establishment of procedures for the organization and administration of the alliance.
- b. Procedures for the qualifications and admission of the members of the alliance. The bases for denial of membership shall include, but not be limited to:
 - (1) Performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact;
 - (2) Previous denial of membership in the alliance; or
 - (3) Previous expulsion from the alliance.
- c. Procedures for the withdrawal of members from the alliance.
- d. Procedures for the expulsion of members from the alliance. The bases for expulsion shall include, but not be limited to:
 - (1) Failure to pay membership or other fees required by the purchasing alliance;
 - (2) Failure to pay premiums in accordance with the terms of the health benefits plan or the terms of the joint contract; or
 - (3) Performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact.
- e. Procedures for the termination of the alliance.

C.17B:27A-25.6 Further authority of alliance.

6. In addition to the powers authorized under this act, a purchasing alliance shall have the authority to:

- a. Set reasonable fees for membership in the alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance;
- b. Negotiate premium rates with carriers on behalf of the members of the alliance; and
- c. Contract with third parties for any services necessary to carry out the powers and duties authorized or required pursuant to this act.

C.17B:27A-25.7 Restrictions on alliances.

7. A purchasing alliance established pursuant to the provisions of this act shall not:
- a. Purchase health care services, assume risk for the cost or provision of health care services or otherwise contract with health care providers for the provision of health care services to eligible employees or their dependents;
 - b. Exclude a small employer, eligible employee or dependent from membership in the purchasing alliance who agrees to pay fees for membership and the premium for health benefits coverage and who abides by the by-laws and rules of the purchasing alliance;
 - c. Engage in any act or practice that results in the selection of member small employers or eligible employees based on any health status-related factor; or
 - d. Engage in any trade practice or activity prohibited pursuant to chapter 30 of Title 17B of the New Jersey Statutes.

C.17B:27A-25.8 Certificate from alliance to commissioner.

8. a. Within 30 days after its organization, the purchasing alliance board shall file with the commissioner a certificate which shall list the members of the alliance, the names of the board of directors and the chairman, treasurer, and secretary of the purchasing alliance, and the address

at which communications for the purchasing alliance are to be received, a copy of the certificate of incorporation of the purchasing alliance, if any, and a copy of the joint contract executed by all of the members. Any change in the information required by the provisions of this section shall be filed with the commissioner within 30 days of the change.

b. If the commissioner determines that the premium reduction, permitted pursuant to subsection k. of section 9 of P.L.1992, c.162 (C.17B:27A-25) and filed by a carrier in the informational filing required pursuant to subsection f. of that section, results in rates that are excessive, inadequate or unfairly discriminatory, the commissioner may disapprove or deny the premium reduction. If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), a carrier or purchasing alliance is found by the commissioner to be in violation of any provision of this act, the commissioner may disapprove or deny the premium reduction permitted pursuant to subsection k. of section 9 of P.L.1992, c.162 (C.17B:27A-25).

9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to read as follows:

C.17B:27A-25 Premium rates; other plan requirements.

9. a. (1) (Deleted by amendment, P.L.1997, c.146).

(2) (Deleted by amendment, P.L.1997, c.146).

(3) For all policies or contracts providing health benefits plans for small employers issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19), and including policies or contracts offered by a carrier to a small employer who is a member of a Small Employer Purchasing Alliance pursuant to the provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.) the premium rate charged by a carrier to the highest rated small group purchasing a small employer health benefits plan issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) shall not be greater than 200% of the premium rate charged for the lowest rated small group purchasing that same health benefits plan; provided, however, that the only factors upon which the rate differential may be based are age, gender and geography, and provided further, that such factors are applied in a manner consistent with regulations adopted by the board.

A health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this paragraph.

(4) (Deleted by amendment, P.L.1994, c.11).

(5) Any policy or contract issued after January 1, 1994 to a small employer who was not previously covered by a health benefits plan issued by the issuing small employer carrier, shall be subject to the same premium rate restrictions as provided in paragraphs (1), (2) and (3) of this subsection, which rate restrictions shall be effective on the date the policy or contract is issued.

(6) The board shall establish, pursuant to section 17 of P.L.1993, c.162 (C.17B:27A-51):

(a) up to six geographic territories, none of which is smaller than a county; and

(b) age classifications which, at a minimum, shall be in five-year increments.

b. (Deleted by amendment, P.L.1993, c.162).

c. (Deleted by amendment, P.L.1995, c.298).

d. Notwithstanding any other provision of law to the contrary, this act shall apply to a carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers.

A carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers after the effective date of P.L.1992, c.162 (C.17B:27A-17 et seq.), shall be required to offer small employer health benefits plans to non-association or trust employers in the same manner as any other small employer carrier is required pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

e. Nothing contained herein shall prohibit the use of premium rate structures to establish different premium rates for individuals and family units.

f. No insurance contract or policy subject to this act, including a contract or policy entered

into with a small employer who is a member of a Small Employer Purchasing Alliance pursuant to the provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be entered into unless and until the carrier has made an informational filing with the commissioner of a schedule of premiums, not to exceed 12 months in duration, to be paid pursuant to such contract or policy, of the carrier's rating plan and classification system in connection with such contract or policy, and of the actuarial assumptions and methods used by the carrier in establishing premium rates for such contract or policy.

g. (1) Beginning January 1, 1995, a carrier desiring to increase or decrease premiums for any policy form or benefit rider offered pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-19) subject to this act may implement such increase or decrease upon making an informational filing with the commissioner of such increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing such increase or decrease, provided that the anticipated minimum loss ratio for all policy forms shall not be less than 75% of the premium therefor as provided in paragraph (2) of this subsection. Until December 31, 1996, the informational filing shall also include the carrier's rating plan and classification system in connection with such increase or decrease.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for all of the five standard policy forms offered by the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162 (C.17B:27A-19), at least 75% of the aggregate premiums collected for all of the standard policy forms, other than alliance policy forms, at least 75% of the aggregate premiums collected for all of the non-standard policy forms and at least 75% of the aggregate premiums collected for all of the alliance policy forms during that calendar year. Carriers shall annually report, no later than August 1st of each year, the loss ratio calculated pursuant to this section for all of the standard, other than alliance policy forms, non-standard policy forms and alliance policy forms for the previous calendar year. In each case where the loss ratio fails to substantially comply with the 75% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policyholders with the standard, other than alliance policy forms, nonstandard policy forms or alliance policy forms, as applicable, in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits shall equal 75% of the aggregate premiums collected for the respective policy forms in the previous calendar year. All dividends and credits must be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this paragraph shall include a carrier's calculation of the dividends and credits applicable to standard, other than alliance policy forms, non-standard policy forms and alliance policy forms, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Such regulations shall include provisions for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder. For purposes of this paragraph, "alliance policy forms" means policies purchased by small employers who are members of Small Employer Purchasing Alliances.

(3) The loss ratio of a health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be calculated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this subsection.

h. (Deleted by amendment, P.L.1993, c.162).

i. The provisions of this act shall apply to health benefits plans which are delivered, issued for delivery, renewed or continued on or after January 1, 1994.

j. (Deleted by amendment, P.L.1995, c.340).

k. A carrier who negotiates a reduced premium rate with a Small Employer Purchasing Alliance for members of that alliance shall provide a reduction in the premium rate filed in accordance with paragraph (3) of subsection a. of this section, expressed as a percentage, which reduction shall be based on volume or other efficiencies or economies of scale and shall not be based on health status-related factors.(cf: P.L.1997, c.146, s.11)

C.17B:27A-25.9 Rules, regulations.

10. The commissioner shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act.

11. This act shall take effect 180 days after enactment.

Approved August 24, 2001.