

## CHAPTER 27

**AN ACT** concerning notification by employers and insurers with regard to health benefits plans and supplementing Title 34 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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

C.34:11A-16 Findings, declarations relative to notification with regard to health benefits plans.

1. The Legislature finds and declares that:
  - a. Many employers in this State offer health benefits coverage to their employees under a health benefits plan as an incentive to attract and retain qualified employees.
  - b. Health benefits coverage is very important to employees and their families and the availability of such coverage through an employer can be the determining factor as to whether an individual accepts employment with a particular employer.
  - c. According to data tabulated by the Urban Institute based on the 1999 National Survey of America's Families, approximately 5.5 million New Jersey residents, which includes employees and their dependents, were covered by an employer-sponsored health benefits plan in 1999.
  - d. In certain instances, an employer may make a business decision not to continue an employee health benefits plan, due to rising health care costs and other economic factors, and may not always notify the employees beforehand of its decision.
  - e. It is a disservice to the working people of this State not to require that an employer provide prior notification to its employees when the employee health benefits plan will be terminated, for whatever reason.

C.34:11A-17 Notice by employer of termination, change of benefits.

2. An employer that provides a health benefits plan as defined in section 2 of P.L.1997, c.192 (C.26:2S-2) to its employees in this State shall provide, in writing, 30 days' prior notice to those employees before the health benefits plan is terminated; except that, in the case of an employer that changes a health benefits plan, the employer shall immediately notify its employees in writing of the change upon receipt by the employer of notification from the health insurer that its employees will be covered by the new plan.

C.34:11A-18 Violations, penalties.

3. a. The Commissioner of Labor shall enforce and administer the provisions of sections 1 through 4 of this act, and the commissioner or his authorized representatives are empowered to investigate violations of those provisions.
  - b. When the commissioner finds that an employer has violated this act by failing to provide the notice required pursuant to section 2 of this act, the commissioner is authorized to assess and collect administrative penalties specified in a schedule of penalties to be promulgated by the commissioner by regulation. The penalty amount shall be based on the number of employees covered under the health benefits plan and shall not exceed \$200 an employee.
  - c. No administrative penalty shall be levied pursuant to this section unless the commissioner provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon that hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order.
  - d. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.34:11A-19 Regulations.

4. The Commissioner of Labor shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of sections 1 through 4 of this act.

C.17B:30-40 Definitions, construction, regulations on notice of premium increase to employers.

5. a. As used in this section:

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Banking and Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company authorized to issue health insurance, a health maintenance organization, a hospital service corporation, medical service corporation and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. The term "carrier" shall not include a joint insurance fund established pursuant to State law.

"Health benefits plan" means a health benefits plan as defined in section 2 of P.L.1997, c.192 (C.26:2S-2).

b. For the renewal of a health benefits plan for which the premium rate will increase, a carrier shall provide, in writing, 60 days' prior notice of the amount of the increase, to the employer that purchased that plan.

c. The provisions of this section shall not be construed to diminish the right of a carrier to negotiate with an employer that purchased a health benefits plan over the amount of any proposed increase in the premium rate for the renewal of that plan.

d. The Commissioner of Banking and Insurance shall promulgate 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 section.

6. This act shall take effect on the 60th day after enactment, but the Commissioners of Labor and Banking and Insurance may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved March 10, 2003.