

## CHAPTER 129

**AN ACT** concerning the special interim assessment on health maintenance organizations, amending P.L.1973, c.337 and P.L.2004, c.49 and repealing sections 1 and 2 of P.L.2004, c.49.

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

1. Section 25 of P.L.1973, c.337 (C.26:2J-25) is amended to read as follows:

C.26:2J-25 Statutory construction and relationship to other laws.

25. Statutory construction and relationship to other laws.

a. Except as otherwise provided in this act, provisions of the insurance law and provisions of hospital, medical or health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this act. This provision shall not apply to an insurer or hospital, medical or health service corporation licensed and regulated pursuant to the insurance laws or the hospital, medical or health service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this act. Charges paid by or on behalf of enrollees of a health maintenance organization with respect to health care services shall not be subject to taxation by the State or any of its political subdivisions, except as otherwise provided in section 3 of P.L.2004, c.49 (C.26:2J-47).

b. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

c. Any health maintenance organization authorized under this act shall not be deemed to be practicing medicine and shall be exempt from the provisions of chapter 9 of Title 45, Medicine and Surgery, of the Revised Statutes relating to the practice of medicine.

d. Except as provided in P.L.2001, c.187 (C.2A:53A-30 et al.), no person participating in the arrangements of a health maintenance organization other than the actual provider of health care services or supplies directly to enrollees and their families shall be liable for negligence, misfeasance, nonfeasance or malpractice in connection with the furnishings of such services and supplies. The provisions of this subsection shall not be construed to eliminate any cause of action against a health maintenance organization otherwise provided by law.

e. A health maintenance organization shall be subject to the provisions of P.L.1970, c.22 (C.17:27A-1 et seq.), including those relating to merger or acquisition of control.

2. Section 3 of P.L.2004, c.49 (C.26:2J-47) is amended to read as follows:

C.26:2J-47 Issuance of special interim assessment for FY2005 and annual assessment thereafter.

3. a. (1) For the fiscal year 2005, the Commissioner of Banking and Insurance shall issue, in accordance with the provisions of this

section, a special interim assessment, and in each fiscal year thereafter, an annual assessment, in the amount of one percent on the net written premiums received by each health maintenance organization granted a certificate of authority to operate in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), to be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

(2) "Net written premiums received" means direct premiums as reported on the annual financial statement submitted pursuant to section 9 of P.L.1973, c.337 (C.26:2J-9), and to the commissioner on a quarterly basis.

b. The commissioner shall certify the amount of the annual assessment issued to each health maintenance organization as calculated pursuant to subsection a. of this section. Each health maintenance organization shall remit the amount so certified on a quarterly basis in each fiscal year to the Department of Banking and Insurance in accordance with the procedures established in P.L.1995, c.156 (C.17:1C-19 et seq.), and as prescribed by the commissioner, who may adjust the quarterly payments from time to time as necessary to meet the current and estimated

assessment obligation of each health maintenance organization in each fiscal year.

c. Amounts collected by the commissioner shall be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) and used solely for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

d. (1) A health maintenance organization shall not impose any additional premium, fee or surcharge on its premium or enrollee charge to recoup any assessment paid pursuant to this section.

(2) The provisions of paragraph (1) of this subsection shall not apply to a health maintenance organization with respect to any federally funded program underwritten by that health maintenance organization.

Repealer.

3. Sections 1 and 2 of P.L.2004, c.49 (C.26:2J-45 and 26:2J-46) are repealed.

4. This act shall take effect immediately, and shall apply to assessments made for fiscal year 2006 and thereafter.

Approved July 2, 2005.