

CHAPTER 39

AN ACT establishing the New Jersey Easy Enrollment Health Insurance Program, supplementing and amending P.L.2019, c.141, and amending R.S.54:50-9.

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

C.17B:27A-59.1 Definitions.

1. As used in this act:

“Commissioner” means the Commissioner of Banking and Insurance.

“Department” means the Department of Banking and Insurance.

“Insurance affordability assistance” means:

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

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

(3) premium tax credits; or

(4) cost-sharing reductions.

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

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

“Individual” means an individual who is identified through a State income tax return under section 6 of this act as not having minimum essential coverage.

C.17B:27A-59.2 “New Jersey Easy Enrollment Health Insurance Program” established.

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

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

(2) determine or assess, as feasible, whether an individual who is interested in obtaining minimum essential coverage qualifies for insurance affordability assistance;

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

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

b. The Commissioner of Banking and Insurance, in coordination with the Commissioner of Human Services, the Commissioner of Labor and Workforce Development, and the State Treasurer, shall develop and implement systems, policies, and practices that encourage, facilitate, and streamline determination of eligibility for insurance affordability assistance and enrollment in minimum essential coverage to achieve the purposes of the program.

c. To facilitate the most efficient implementation of the program, the Commissioner of Banking and Insurance, the Commissioner of Human Services, the Commissioner of Labor and Workforce Development, and the State Treasurer may enter into agreements, adopt

regulations and guidelines, establish accounts, conduct trainings, provide public information, educate tax preparers, and take any other steps as may be necessary to accomplish the purpose of the program.

d. Notwithstanding the provisions of subsection a. of R.S.54:50-8 to the contrary, the State Treasurer shall share with the Commissioner of Banking and Insurance the taxpayer information that is necessary for the purposes of this act and P.L.2018, c.31 (C.54A:11-1 et seq.).

e. The Commissioners of Human Services and Banking and Insurance shall apply and secure any State plan amendments or necessary waivers from the federal Department of Health and Human Services in order to implement the provisions of this act.

C.17B:27A-59.3 Assistance eligibility, Department of Banking and Insurance.

3. a. The Department of Banking and Insurance may assess or determine, as appropriate, eligibility for insurance affordability assistance as soon as possible after an individual files a State income tax return on which the individual indicates pursuant to paragraph (3) of subsection c. of section 6 of this act, that the individual or another individual indicated on the tax return is seeking coverage.

b. (1) To the extent practicable, the department may verify an individual's eligibility for insurance affordability assistance with information on a State income tax return and other data from third-party data sources, including data described in section 1413 of the Affordable Care Act or available pursuant to section 6 of this act, without requesting additional information from the individual.

(2) If additional documentation from an individual is required to establish eligibility for insurance affordability assistance, the department shall take steps to obtain such information while limiting the burden on the individual.

c. The Department of Banking and Insurance may make, or refer to the Department of Human Services to make, an assessment or determination, as appropriate, of eligibility for the State Medicaid program or the NJ FamilyCare Program. The Department of Banking and Insurance may utilize and share with the Department of Human Services any information provided to the Department of Banking and Insurance in making assessments or determinations pursuant to this subsection.

C.17B:27A-59.4 Special enrollment period, New Jersey individual health insurance market, established.

4. a. The Department of Banking and Insurance shall establish a special enrollment period for the New Jersey individual health insurance market to facilitate the objectives of the program.

The enrollment period described in this section shall last for a period of time, to be determined by the Department of Banking and Insurance, that shall not be shorter than 30 days.

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

c. The Department of Banking and Insurance shall conduct outreach to individuals described in subsection b. of this section, using methods that may include written notices and the provision of individualized assistance by insurance agents and brokers, navigators, tax preparers, and contractors and staff.

Notwithstanding any other provision of this act, the Department of Banking and Insurance may compensate an entity for outreach described in this subsection in a manner that reflects, in whole or in part, the number of individuals enrolled under this section and section 3 of this act by that entity or any other reasonable manner.

C.17B:27A-59.5 Data privacy, security safeguards.

5. a. The Department of Banking and Insurance shall develop data privacy and data security safeguards to govern the conveyance, storage, and utilization of data under the program.

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

C.17B:27A-59.6 Tax return, individual not covered, minimum essential coverage.

6. a. If a State income tax return indicates that an individual is not covered under minimum essential coverage at the time the tax return is filed, consistent with the provisions of P.L.2018, c.31 (C.54A:11-1 et seq.), the tax return shall include the following information as to each such individual included in the tax return:

(1) the age of each individual;

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

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

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

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

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

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

b. For an individual who files a tax return and chooses the checkoff box described in paragraph (3) of subsection c. of this section, the return or separate form shall facilitate the collection of contact information, including a phone number, electronic mail address, and mailing address, from the individual who filed the tax return and provide an option to indicate the individual's preferred method for the department to contact the individual who filed the tax return to facilitate either determination of eligibility for insurance affordability assistance or enrollment in minimum essential coverage.

c. (1) In accordance with this section, the State Treasurer shall include with the income tax return form a separate form that is required only for individuals who file a tax return indicating that an individual included in the tax return is not covered under minimum essential coverage at the time the tax return is filed.

(2) The separate form shall include two checkoff boxes as described in paragraphs (3) and (4) of this subsection for each individual included in the tax return and the information described in paragraphs (2) and (3) of subsection a. and in subsection b. of this section.

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

(a) based on information in the individual's tax return, determine eligibility for insurance affordability assistance for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage; and

(b) obtain additional data that may be relevant to determine eligibility for insurance affordability assistance for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage.

(4) One checkoff box shall allow an individual who files a tax return the choice to not have the department make the determination described in paragraph (3) of this subsection for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage.

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

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

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

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

(6) If an individual who files a tax return makes the election described in paragraph (3) of this subsection, the State Treasurer shall convey to the department all eligibility-relevant information contained on the return for all individuals included in that tax return.

d. The State Treasurer shall waive the State shared responsibility tax imposed pursuant to section 3 of P.L.2018, c.31 (C.54A:11-3) applicable to months of the year that the tax return is filed for any taxpayer who chooses the checkoff box described in paragraph (3) of subsection c. of this section. If the taxpayer fails to enroll in minimum essential coverage and maintain that coverage in each month following the enrollment period, the taxpayer shall be liable for any payments to which the taxpayer would have otherwise been subject.

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

C.17B:27A-59.7 Consenting to information sharing, system established.

7. a. An individual that consents to share information through the system established pursuant to section 8 of this act shall be eligible for a special enrollment period pursuant to subsection b. of this section. The Department of Banking and Insurance shall determine, in accordance with sections 3 and 4 of this act, whether the individual is eligible for the State Medicaid program or the NJ FamilyCare Program, premium tax credits, or cost-sharing reductions.

b. (1) The Department of Banking and Insurance shall establish a special enrollment period for the New Jersey individual health insurance market.

(2) The enrollment period described in this section shall last for a period of time, to be determined by the Department of Banking and Insurance, that shall not be shorter than 30 days.

c. The Department of Banking and Insurance shall conduct outreach to affected individuals, using methods that may include written notices and the provision of individualized assistance by insurance agents and brokers, navigators, tax preparers, and contractors and staff.

C.17B:27A-59.8 Unemployment claim, indication of interest in obtaining minimum coverage, information sharing, consent.

8. a. The Department of Labor and Workforce Development shall implement a system through which an individual who has filed a claim for unemployment insurance benefits may, as part of the claim filing application, indicate that the individual is interested in obtaining minimum essential coverage and consent to the sharing of relevant information collected by the Department of Labor and Workforce Development with the Department of Banking and Insurance and the Department of Human Services to determine whether the individual qualifies for the State Medicaid program or the NJ FamilyCare Program, or any other insurance affordability assistance and to support minimum essential coverage outreach and enrollment efforts. If an individual indicates that the individual is interested in obtaining minimum essential coverage and consents to share information pursuant to this subsection, then the Department of Labor and Workforce Development shall notify the Department of Banking and Insurance, which may assess or determine, as appropriate, eligibility for insurance affordability assistance or make, or refer to the Department of Human Services to make, an assessment or determination, as appropriate, of eligibility for the State Medicaid program or the NJ FamilyCare Program.

b. The Department of Labor and Workforce Development shall enter into an agreement with the Department of Banking and Insurance and the Department of Human Services, before the system described in subsection a. of this section begins to operate, that enables the system to operate in compliance with all applicable State and federal requirements related to privacy, data security, and funding.

c. The consent request described in subsection a. of this section shall be prominently placed on the claim filing application in clear and understandable language that is easy to read.

d. The Department of Labor and Workforce Development shall cooperate with the Department of Banking and Insurance and the Department of Human Services to claim the maximum amount of available federal funding for the establishment and operation of the system established pursuant to this section.

e. To facilitate the most efficient implementation of the system, the Commissioner of Banking and Insurance, the Commissioner of Human Services, and the Commissioner of Labor and Workforce Development may enter into agreements, adopt regulations and guidelines, establish accounts, conduct trainings, provide public information, educate tax preparers, and take any other steps as may be necessary to accomplish the purpose of the system.

9. Section 2 of P.L.2019, c.141 (C.17B:27A-58) is amended to read as follows:

C.17B:27A-58 Authority to operate a State-based exchange, coordinate operations with other entities; advisory committee.

2. a. Notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The commissioner may require that all plans in the individual and small employer markets be made available for comparison on the State-based exchange, but nothing in this section shall allow the commissioner to require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange. The department shall coordinate the operations of the exchange with the operations of the State

Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) to determine eligibility for those programs as soon as practicable.

b. The Commissioner of Human Services, in consultation with the Commissioner of Banking and Insurance, shall submit a proposal for available federal financial participation funds to the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services pursuant to 42 C.F.R. 433.112 for the Medicaid eligibility platform and the exchange to be integrated. Notwithstanding the foregoing, the Department of Banking and Insurance may proceed to implement the provisions of this act, including the operation of the State-based exchange.

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

d. The Commissioner of Banking and Insurance shall establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange and the implementation of the New Jersey Easy Enrollment Health Insurance Program established pursuant to P.L.2022, c.39 (C.17B:27A-59.1 et al.). The advisory committee shall include at least nine members, as follows:

- (1) The Commissioner of Banking and Insurance, or a designee, who shall serve ex-officio;
- (2) The Commissioner of Human Services, or a designee, who shall serve ex-officio;
- (3) The Commissioner of Health, or a designee, who shall serve ex-officio; and

(4) six public members, who shall be residents of the State, appointed by the Commissioner of Banking and Insurance. Each public member shall have demonstrated experience in one or more of the following areas: health insurance consumer advocacy; individual health insurance coverage; small employer health insurance coverage; health benefits plan marketing; the provision of health care services; or academic or professional research relating to health insurance.

10. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect

thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer-provided wage and tax withholding information contained in tax reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll Tax)

of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the director to the New Jersey Economic Development Authority any information contained in tax information statements, reports or returns, or any audit thereof or a report of any investigation made with respect thereto, as may be relevant to assist the authority in the implementation of programs through which grants, loans, tax credits, or other forms of financial assistance are provided. The director shall provide to the New Jersey Economic Development Authority, upon request, such information.

s. The furnishing by the director to the Commissioner of Banking and Insurance of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of assisting in investigations pursuant to any insurance fraud investigation as enumerated in P.L.1983, c.320 (C.17:33A-1 et seq.).

t. The furnishing by the director to the Commissioner of Banking and Insurance or the Commissioner of Human Services of any information contained in tax reports or returns for the purpose of determining a taxpayer's eligibility for insurance affordability assistance, the State Medicaid program, or the NJ FamilyCare Program and to otherwise support minimum essential coverage outreach and enrollment efforts.

11. This act shall take effect immediately.

a. (1) Except as provided in paragraph (2) of this subsection, sections 2 through 6 of this act shall apply to returns filed for taxable years beginning after December 31, 2022.

(2) If the State Treasurer determines, after consultation with the Department of Banking and Insurance, that the implementation of sections 2 through 6 of this act is not administratively feasible for taxable years beginning after December 31, 2022, the Treasurer may delay implementation of sections 2 through 6 of this act to begin as soon as feasible thereafter.

b. (1) Except as provided in paragraph (2) of this subsection, sections 7 and 8 of this act shall apply to claims filed after the first day of the fifth month next following the date of enactment.

(2) If the Department of Labor and Workforce Development determines, after consultation with the Department of Banking and Insurance, that the implementation of sections 7 and 8 of this act is not administratively feasible beginning after the first day of the fifth month next following the date of enactment, the Department of Labor and Workforce Development may delay implementation of sections 7 and 8 of this act to begin as soon as feasible thereafter.

Approved June 30, 2022.