

SENATE, No. 2304

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 6, 2016

Sponsored by:

Senator JENNIFER BECK

District 11 (Monmouth)

Co-Sponsored by:

Senator Cardinale

SYNOPSIS

Establishes primary health care plan with optional riders in SEHBP for school employees; requires contribution by school employees for health care benefits.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the New Jersey School Employees' Health
2 Benefits Program, supplementing P.L.2007, c.103 and P.L.1979,
3 c.391 (C.18A:16-12 et seq.), amending various parts of the
4 statutory law, and repealing section 36 of P.L.2007, c.103.

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

8
9 1. (New section) a. (1) The School Employees' Health Benefits
10 Program shall consist of the Essential Benefits Primary Plan, set
11 forth in subsection b. of this section, extended benefits riders, set
12 forth in subsection c. of this section, and alternative coverage under
13 a health maintenance organization plan, pursuant to subsection d. of
14 this section. The Essential Benefits Primary Plan shall be available
15 to all full-time, active employees, qualified retirees, and their
16 dependents as provided for in P.L.2007, c.103 (C.52:14-17.46.1 et
17 seq.).

18 (2) In the case of employees not subject to a collective
19 negotiations agreement, the benefits provided pursuant to this
20 section shall be available to the employees no later than 90 days
21 following the effective date of P.L. , c. (pending before the
22 Legislature as this bill).

23 (3) In the case of employees subject to a collective negotiations
24 agreement, the benefits provided pursuant to this section shall be
25 available to the employees on the effective date of the first
26 collective negotiations agreement entered into between a bargaining
27 unit and an employer following the effective date of P.L. , c.
28 (pending before the Legislature as this bill).

29 b. The benefits provided under the Essential Benefits Primary
30 Plan shall consist of:

31 (1) 90 days inpatient and outpatient hospital expenses, subject to
32 a copayment set by the commission of no less than \$250 per
33 hospital visit;

34 (2) outpatient and ambulatory surgery, subject to a copayment
35 set by the commission of no less than \$100 per surgery;

36 (3) physicians' fees connected with inpatient or outpatient
37 hospital care, including, but not limited to, general acute care,
38 surgery, and organ transplants;

39 (4) physicians' fees connected with outpatient and ambulatory
40 surgery;

41 (5) anesthesia and the administration of anesthesia;

42 (6) maternity benefits, including delivery room fees;

43 (7) coverage for newborns;

44 (8) treatment for complications of pregnancy;

45 (9) inpatient diagnostics tests and a \$2,000 annual allowance, in
46 the aggregate, for outpatient diagnostic tests for each covered

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 person, including, but not limited to, pap smears, mammography,
2 and prostate examinations and related diagnostic testing upon such
3 terms and conditions established by the commission;
4 (10) intravenous solutions, blood, and blood plasma;
5 (11) oxygen and the administration of oxygen;
6 (12) radiation and x-ray therapy;
7 (13) laboratory fees incident to treatment in a hospital;
8 (14) inpatient physical therapy and hydrotherapy;
9 (15) up to 30 annual visits for outpatient physical therapy for
10 each covered person, which shall include a per visit copayment
11 determined by the commission;
12 (16) operating room fees;
13 (17) fees for a special care unit;
14 (18) treatment room fees;
15 (19) emergency room services for medically necessary treatment,
16 subject to a \$100 copayment per visit;
17 (20) pharmaceuticals dispensed in a hospital;
18 (21) dressings;
19 (22) splints and crutches;
20 (23) treatment for biologically-based mental illness, as defined in
21 subsection a. of section 6 of P.L.1999, c.106 (C.17B:27A-7.5),
22 which shall include up to 90 days of inpatient stay, subject to a
23 copayment set by the commission of no less than \$250 per stay;
24 (24) treatment for alcohol and substance abuse, which shall
25 include up to 30 days of inpatient or outpatient care, subject to a
26 copayment set by the commission of no less than \$250 per visit;
27 (25) up to \$800 annually per covered person for wellness and
28 preventative care, subject to an annual deductible and a per service
29 copayment set by the commission;
30 (26) up to \$800 annually per covered person, in the aggregate,
31 for physician office visits for a diagnosed illness or injury, subject
32 to a copayment set by the commission;
33 (27) diabetic self-management education;
34 (28) dialysis;
35 (29) chemotherapy;
36 (30) hearing aids for certain persons 15 years old or younger;
37 and
38 (31) childhood immunizations and lead screening.
39 c. (1) The School Employees' Health Benefits Commission
40 shall develop extended benefits riders, which shall contain
41 groupings of benefits that enhance the benefits offered in the
42 Essential Benefits Primary Plan or provide additional benefits not
43 included in the Essential Benefits Primary Plan. Extended benefits
44 riders shall be offered to employees under terms and conditions
45 established in P.L.2007, c.103 (C.52:14-17.46.1 et seq.) and by the
46 commission pursuant to that act.
47 The extended benefits riders may:

1 (a) contain enhancements to the benefits in the Essential
2 Benefits Primary Plan set forth in subsection b. of this section;

3 (b) provide increased coverage limits, lower deductibles, and
4 lower copayments; and

5 (c) provide benefits in addition to those benefits in the Essential
6 Benefits Primary Plan set forth in subsection b. of this section.

7 (2) The commission shall determine which additional benefits in
8 the extended benefits riders to offer, which may include, but shall
9 not be limited to: reimbursements for additional office visits;
10 additional diagnostic tests; acupuncture; audiology services;
11 chiropractic care; durable medical equipment; home health care;
12 home hemophilia treatment; nutritional counseling; specialized pain
13 management; private duty nursing; scalp hair prostheses; orthotics;
14 shock therapy; allergy testing and related diagnostic and therapy
15 services; skilled nursing facility charges; hospice care; speech
16 therapy; occupational therapy; ambulance and other transportation
17 charges; treatments for infertility; benefits for therapeutic treatment
18 of inherited metabolic disease; forms of alternative medicine; and
19 treatment for non-biologically-based mental illness.

20 (3) The commission shall establish such deductibles, copayments,
21 and coinsurance for each extended benefits rider that it establishes.
22 The deductible, copayment, and coinsurance need not be the same
23 for every extended benefits rider that the commission establishes.

24 (4) Each employee may elect one or more of the available
25 extended benefits riders. The commission shall formulate all
26 groupings of additional benefits in the extended benefits riders in a
27 manner that avoids adverse or duplicative selections by employees
28 to the greatest extent possible. The groupings of enhanced or
29 additional benefits may be subject to copayments and deductibles
30 set by the commission applicable to the extended benefits riders, as
31 a whole, or to individual benefits included within each extended
32 benefits rider. Each employee may elect one or more of the
33 available extended benefits riders offered by the employer in
34 accordance with the terms and conditions established in P.L.2007,
35 c.103 (C.52:14-17.46.1 et seq.) and by the commission pursuant to
36 that act.

37 d. In addition to the Essential Benefits Primary Plan, the
38 commission shall offer school employees and retirees a choice of
39 standard health maintenance organization plans.

40 e. In the aggregate, benefits provided under the Essential
41 Benefits Primary Plan and offered as extended benefits riders shall
42 at least equal the benefit value of benefits of the School Employees'
43 Health Benefits Plan that are provided on the effective date of
44 P.L. , c. (pending before the Legislature as this bill).

45

46 2. (New section) The amount of contribution to be paid by
47 school employees for health care benefits coverage for the Essential
48 Benefits Primary Plan or a health maintenance organization for the
49 employee and any dependent shall be as follows:

S2304 BECK

5

1 for family coverage or its equivalent -
2 an employee who earns less than \$25,000 shall pay 3 percent of
3 the cost of coverage;
4 an employee who earns \$25,000 or more but less than \$30,000
5 shall pay 4 percent of the cost of coverage;
6 an employee who earns \$30,000 or more but less than \$35,000
7 shall pay 5 percent of the cost of coverage;
8 an employee who earns \$35,000 or more but less than \$40,000
9 shall pay 6 percent of the cost of coverage;
10 an employee who earns \$40,000 or more but less than \$45,000
11 shall pay 7 percent of the cost of coverage;
12 an employee who earns \$45,000 or more but less than \$50,000
13 shall pay 9 percent of the cost of coverage;
14 an employee who earns \$50,000 or more but less than \$55,000
15 shall pay 12 percent of the cost of coverage;
16 an employee who earns \$55,000 or more but less than \$60,000
17 shall pay 14 percent of the cost of coverage;
18 an employee who earns \$60,000 or more but less than \$65,000
19 shall pay 17 percent of the cost of coverage;
20 an employee who earns \$65,000 or more but less than \$70,000
21 shall pay 19 percent of the cost of coverage;
22 an employee who earns \$70,000 or more but less than \$75,000
23 shall pay 22 percent of the cost of coverage;
24 an employee who earns \$75,000 or more but less than \$80,000
25 shall pay 23 percent of the cost of coverage;
26 an employee who earns \$80,000 or more but less than \$85,000
27 shall pay 24 percent of the cost of coverage;
28 an employee who earns \$85,000 or more but less than \$90,000
29 shall pay 26 percent of the cost of coverage;
30 an employee who earns \$90,000 or more but less than \$95,000
31 shall pay 28 percent of the cost of coverage;
32 an employee who earns \$95,000 or more but less than \$100,000
33 shall pay 29 percent of the cost of coverage;
34 an employee who earns \$100,000 or more but less than \$110,000
35 shall pay 32 percent of the cost of coverage;
36 an employee who earns \$110,000 or more shall pay 35 percent of
37 the cost of coverage;
38 for individual coverage or its equivalent -
39 an employee who earns less than \$20,000 shall pay 4.5 percent
40 of the cost of coverage;
41 an employee who earns \$20,000 or more but less than \$25,000
42 shall pay 5.5 percent of the cost of coverage;
43 an employee who earns \$25,000 or more but less than \$30,000
44 shall pay 7.5 percent of the cost of coverage;
45 an employee who earns \$30,000 or more but less than \$35,000
46 shall pay 10 percent of the cost of coverage;
47 an employee who earns \$35,000 or more but less than \$40,000
48 shall pay 11 percent of the cost of coverage;

S2304 BECK

6

1 an employee who earns \$40,000 or more but less than \$45,000
2 shall pay 12 percent of the cost of coverage;
3 an employee who earns \$45,000 or more but less than \$50,000
4 shall pay 14 percent of the cost of coverage;
5 an employee who earns \$50,000 or more but less than \$55,000
6 shall pay 20 percent of the cost of coverage;
7 an employee who earns \$55,000 or more but less than \$60,000
8 shall pay 23 percent of the cost of coverage;
9 an employee who earns \$60,000 or more but less than \$65,000
10 shall pay 27 percent of the cost of coverage;
11 an employee who earns \$65,000 or more but less than \$70,000
12 shall pay 29 percent of the cost of coverage;
13 an employee who earns \$70,000 or more but less than \$75,000
14 shall pay 32 percent of the cost of coverage;
15 an employee who earns \$75,000 or more but less than \$80,000
16 shall pay 33 percent of the cost of coverage;
17 an employee who earns \$80,000 or more but less than \$95,000
18 shall pay 34 percent of the cost of coverage;
19 an employee who earns \$95,000 or more shall pay 35 percent of
20 the cost of coverage;
21 for a covered person with child or spouse coverage or its
22 equivalent -
23 an employee who earns less than \$25,000 shall pay 3.5 percent
24 of the cost of coverage;
25 an employee who earns \$25,000 or more but less than \$30,000
26 shall pay 4.5 percent of the cost of coverage;
27 an employee who earns \$30,000 or more but less than \$35,000
28 shall pay 6 percent of the cost of coverage;
29 an employee who earns \$35,000 or more but less than \$40,000
30 shall pay 7 percent of the cost of coverage;
31 an employee who earns \$40,000 or more but less than \$45,000
32 shall pay 8 percent of the cost of coverage;
33 an employee who earns \$45,000 or more but less than \$50,000
34 shall pay 10 percent of the cost of coverage;
35 an employee who earns \$50,000 or more but less than \$55,000
36 shall pay 15 percent of the cost of coverage;
37 an employee who earns \$55,000 or more but less than \$60,000
38 shall pay 17 percent of the cost of coverage;
39 an employee who earns \$60,000 or more but less than \$65,000
40 shall pay 21 percent of the cost of coverage;
41 an employee who earns \$65,000 or more but less than \$70,000
42 shall pay 23 percent of the cost of coverage;
43 an employee who earns \$70,000 or more but less than \$75,000
44 shall pay 26 percent of the cost of coverage;
45 an employee who earns \$75,000 or more but less than \$80,000
46 shall pay 27 percent of the cost of coverage;
47 an employee who earns \$80,000 or more but less than \$85,000
48 shall pay 28 percent of the cost of coverage;

1 an employee who earns \$85,000 or more but less than \$100,000
2 shall pay 30 percent of the cost of coverage;

3 an employee who earns \$100,000 or more shall pay 35 percent of
4 the cost of coverage.

5 Base salary shall be used to determine what an employee earns
6 for the purposes of this provision.

7 As used in this section, "cost of coverage" means the annual cost
8 of coverage attributable to the coverage selected by the covered
9 person under the Essential Benefits Primary Plan or health
10 maintenance organization as set forth in section 1 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) for
12 medical and prescription drug plan coverage, but not for dental,
13 vision, or other health care benefits; extended benefits riders
14 established and made available pursuant to subsection c. section 1
15 of P.L. , c. (C.) (pending before the Legislature as this
16 bill); or the annual cost of health care coverage attributable to the
17 coverage selected by the covered person for health care,
18 prescription drug, dental, vision, or for any other health care
19 benefits provided pursuant to P.L.1979, c.391 (C.18A:16-12 et
20 seq.), N.J.S.40A:10-16 et seq., or any other law adopted by a local
21 board of education, local unit or agency thereof, including a county
22 college, when the employer is not a participant in the School
23 Employees' Health Benefits Program.

24 b. With respect to any extended benefits rider elected by a
25 person, as provided in subsection c. section 1 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the cost
27 of coverage for each rider shall be calculated on the basis of the
28 aggregate loss experience for each rider, plus administrative costs,
29 and the level of contribution by the person shall be the same as
30 established for the Essential Benefits Primary Plan pursuant to
31 subsection a. of this section.

32

33 3. (New section) a. The Essential Benefits Primary Plan and
34 any extended benefits riders offered in connection with the plan
35 may be provided through a network-preferred provider organization
36 or organizations, a health maintenance organization, or any other
37 delivery system selected by the commission. The School
38 Employees' Health Benefits Commission shall establish the level of
39 coinsurance applicable to out-of-network treatment.

40 b. The benefits provided shall be for medically necessary
41 services that are not deemed experimental, investigative, or
42 otherwise ineligible by the commission. The commission, in
43 consultation with the administrator, shall determine whether
44 services are "eligible medical services" consistent with the best
45 interests of the plan, participating employers, and the persons
46 covered under the School Employees' Health Benefits Program.
47 Benefits for services provided pursuant to the "School Employees'
48 Health Benefits Program Act," sections 31 through 41 of P.L.2007,
49 c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), shall be subject
50 to limits or exclusions consistent with those that apply to benefits

1 provided pursuant to the "New Jersey State Health Benefits
2 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.).

3 c. Benefits for the treatment of alcoholism shall be those
4 prescribed by a physician and shall include treatment while
5 confined in, or as an outpatient of, a licensed hospital or residential
6 treatment program that meets the minimum standard of care
7 prescribed by the Joint Commission on Hospital Accreditation. No
8 benefits shall be provided beyond those stipulated in the health care
9 plan established by the School Employees' Health Benefits
10 Commission.

11 d. Benefits for biologically based mental health conditions
12 shall be subject to limits and exclusions consistent with those that
13 apply to benefits for such services pursuant to section 2 of
14 P.L.1999, c.441 (C.52:14-17.29e). Coverage provided under the
15 "School Employees' Health Benefits Program Act," sections 31
16 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-
17 17.46.11), shall include coverage for all services for which
18 coverage is set forth in section 2 of P.L.1999, c.441 (C.52:14-
19 17.29e) and in the same manner, whether through the Essential
20 Benefits Primary Plan or through extended benefits riders.

21

22 4. (New section) a. Notwithstanding the provisions of
23 subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3) or any
24 other law to the contrary, an employee receiving health care
25 coverage under the School Employees' Health Benefits Program
26 plan shall not be eligible to receive plan benefits as primary
27 coverage for injuries suffered in an automobile accident in lieu of
28 personal injury protection coverage under an automobile insurance
29 policy.

30 b. With respect to any benefits paid under a School Employees'
31 Health Benefits Plan for which recovery is subsequently made in
32 any legal proceeding or otherwise, the School Employees' Health
33 Benefits Commission shall have a lien on the recovery in the
34 amount of the benefits paid to the employee or dependent under the
35 plan and shall exercise that lien.

36

37 5. (New section) a. As used in this section:

38 "Administrator" means a pharmacy benefits manager or a third
39 party administrator under an agreement or contract with the
40 commission to administer the School Employee Prescription Drug
41 Plan.

42 "Brand name" means the proprietary or trade name assigned to a
43 drug product by the manufacturer or distributor of the drug product.

44 "Generic drug product" means prescription drug products and
45 insulins that are approved and designated by the United States Food
46 and Drug Administration as a therapeutic equivalent for reference-
47 listed drug products. The term includes drug products listed in the
48 New Jersey Generic Formulary by the Drug Utilization Review
49 Council pursuant to the "Prescription Drug Price and Quality
50 Stabilization Act," P.L.1977, c.240 (C.24:6E-1 et al.).

1 "Mail-order pharmacy" means a mail order program made
2 available by the administrator for procuring prescription drugs.

3 "Other brands" means prescription drug products which are not
4 preferred brands or generic drug products. A new drug product
5 approved by the United States Food and Drug Administration,
6 which is not a generic drug product, shall be included in this
7 category until the plan administrator makes a determination
8 concerning whether to include the new drug product in the list of
9 preferred brands.

10 "Preferred brands" means brand name prescription drug products
11 and insulins that the administrator determines to be a cost effective
12 alternative for prescription drug products and insulins with
13 comparable therapeutic efficacy within a therapeutic class, as
14 defined or recognized in the United States Pharmacopeia or the
15 American Hospital Formulary Service Drug Information, or by the
16 American Society of Health Systems Pharmacists. A drug product
17 for which there is no other therapeutically equivalent drug product
18 shall be a preferred brand. Determinations of preferred brands by
19 the administrator shall be subject to review and modification by the
20 commission.

21 "Retail pharmacy" means a pharmacy, drug store, or other retail
22 establishment located in this State at which prescription drugs are
23 dispensed by a registered pharmacist under the laws of this State.
24 Retail pharmacy may include a pharmacy, drug store, or other retail
25 establishment located in another state at which prescription drug
26 products are dispensed by a registered pharmacist under the laws of
27 that state if the expense of the prescription drug products dispensed
28 at that pharmacy, drug store, or other retail establishment are
29 eligible for payment under the School Employee Prescription Drug
30 Plan.

31 "School Employee Prescription Drug Plan" means the plan for
32 providing payment for eligible prescription drug expenses of
33 covered persons under the School Employees' Health Benefits
34 Program and their dependents.

35 b. Employers that participate in the School Employees' Health
36 Benefits Program may offer to their employees and eligible
37 dependents:

38 (1) enrollment in the School Employee Prescription Drug Plan,
39 (2) enrollment in another free-standing prescription drug plan,
40 or

41 (3) election of prescription drug coverage under their health care
42 coverage through the School Employees' Health Benefits Program
43 plan or as otherwise determined by the commission.

44 c. A co-payment shall be required for each prescription drug
45 expense if the employer chooses to participate in the School
46 Employee Prescription Drug Plan. The initial amounts of the co-
47 payments shall be the same as those in effect on July 1, 2007 for the
48 employee prescription drug plan offered through the State Health
49 Benefits Program.

50 d. If an employer elects to offer a free-standing prescription
51 drug plan, the employee's share of the cost for this prescription drug

1 plan may be determined by means of a binding collective
2 negotiations agreement, including any agreements in force at the
3 time the employer commences participation in the School
4 Employees' Health Benefits Program.

5 e. If an employee declines the employer's offering of a free-
6 standing prescription drug plan, no reimbursement for prescription
7 drugs shall be provided through the School Employees' Health
8 Benefits Program plan in which the employee is enrolled.

9 f. Except as federally or State mandated, an employee may not
10 receive reimbursement for a prescription drug under the School
11 Employees' Health Benefits Program if the prescription drug is not
12 eligible for coverage under an employer's prescription drug plan.

13 g. If an employer declines to offer a free-standing prescription
14 drug plan, then the employer shall offer prescription drug coverage
15 under the School Employees' Health Benefits Program plan or in a
16 manner otherwise determined by the commission. Any plan that
17 has in-network and out-of-network coverage shall cover
18 prescription drugs at 90 percent reimbursement for in-network care
19 and at the reimbursement rate for out-of-network care applicable to
20 health care coverage in the plan. The out-of-pocket amounts paid
21 towards prescription drugs shall be combined with other out-of-
22 pocket payments in calculating the out-of-pocket maximum costs
23 permissible under the School Employees' Health Benefits Program
24 plan.

25 h. Health care coverages through the School Employees' Health
26 Benefits Program that only have in-network benefits shall include a
27 prescription card with co-payment amounts the same as those in
28 effect on July 1, 2007 for such coverages offered through the State
29 Health Benefits Program or otherwise determined by the
30 commission in consultation with the committee.

31 i. In the fifth year following the initial appointment of all of its
32 members, the commission shall audit and review the prescription
33 drug program established under this section and may make changes
34 to the program by majority vote of the full authorized membership
35 of the commission.

36

37 6. (New section) a. Notwithstanding the provisions of any other
38 law to the contrary, public employees of the State and employers
39 other than the State shall contribute, through the withholding of the
40 contribution from their pay, salary, or other compensation, toward
41 the cost of health care benefits coverage for the employees and any
42 dependents provided under the School Employees' Health Benefits
43 Program in an amount that shall be determined in accordance with
44 section 2 of P.L. , c. (C.) (pending before the Legislature as
45 this bill).

46 The amount payable by any employee under this subsection shall
47 not, under any circumstance, be less than the 1.5 percent of base
48 salary that is provided for in subsection c. of section 6 of P.L.1996,
49 c.8 (C.52:14-17.28b), subsection a. of section 7 of P.L.1964, c.125
50 (C.52:14-17.38), or subsection b. of section 39 of P.L.2007, c.103

1 (C.52:14-17.46.9). An employee who pays the contribution
2 required under this subsection shall not be required also to pay the
3 contribution of 1.5 percent of base salary under those subsections
4 listed above.

5 This section shall apply to employees for whom the employer
6 has assumed a health care benefits payment obligation, to require
7 that such employees pay, at a minimum, the amount of contribution
8 specified in this section for health care coverage.

9 b. The contribution required pursuant to subsection a. of this
10 section shall commence upon the effective date of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) for
12 employees who do not have a majority representative for collective
13 negotiations purposes or upon the expiration of any relevant
14 collective negotiations agreement setting contributions in effect on
15 the effective date of P.L. , c. (C.) (pending before the
16 Legislature as this bill) for employees who do have a majority
17 representative for collective negotiations purposes.

18 c. The provisions of law permitting the determination of an
19 amount of contribution at the discretion of the employer or by
20 means of a binding collective negotiations agreement, and by means
21 of the application of the terms of such an agreement to employees
22 who do not have a majority representative for collective
23 negotiations purposes, or the modification of the respective
24 payment obligations of the employer and those employees in a
25 manner consistent with the terms of such an agreement, shall
26 remain in effect with regard to contributions, whether as a share of
27 the cost of coverage or otherwise, in addition to the contributions
28 required under subsection a. of this section. All other provisions of
29 law concerning contributions for health care benefits shall remain
30 applicable to the extent not inconsistent with this section.

31 d. Paragraph (7) of subsection c. of P.L.1996, c.8 (C.52:14-
32 17.28b) shall apply with regard to contributions specified and made
33 under this section.

34

35 7. (New section) a. Notwithstanding the provisions of any
36 other law to the contrary, a public employee of a local board of
37 education shall contribute, through the withholding of the
38 contribution from the employee's pay, salary, or other
39 compensation, toward the cost of health care benefits coverage for
40 the employee and any dependent provided pursuant to P.L.1979,
41 c.391 (C.18A:16-12 et seq.) in an amount that shall be determined
42 in accordance with section 2 of P.L. , c. (C.) (pending
43 before the Legislature as this bill).

44 The amount payable by any employee under this subsection shall
45 not, under any circumstance, be less than the 1.5 percent of base
46 salary that is provided for in subsection b. of section 6 of P.L.1979,
47 c.391 (C.18A:16-17). An employee who pays the contribution
48 required under this subsection shall not also be required to pay the

1 contribution of 1.5 percent of base salary under subsection b. of
2 section 6 of P.L.1979, c.391 (C.18A:16-17).

3 This section shall apply to employees for whom the employer
4 has assumed a health care benefits payment obligation pursuant to
5 section 6 of P.L.1979, c.391 (C.18A:16-17), to require that such
6 employees pay, at a minimum, the amount of contribution specified
7 in this section for health care benefits coverage.

8 b. The contribution required pursuant to subsection a. of this
9 section shall commence upon the effective date of P.L. ,
10 c. (C.) (pending before the Legislature as this bill) for
11 employees who do not have a majority representative for collective
12 negotiations purposes or upon the expiration of any relevant
13 collective negotiations agreement setting contributions in effect on
14 the effective date of P.L. , c. (C.) (pending before the
15 Legislature as this bill) for employees who do have a majority
16 representative for collective negotiations purposes.

17 c. The provisions of law permitting the determination of an
18 amount of contribution at the discretion of the employer or by
19 means of a binding collective negotiations agreement, and by means
20 of the application of the terms of such an agreement to employees
21 who do not have a majority representative for collective
22 negotiations purposes, or the modification of the respective
23 payment obligations of the employer and those employees in a
24 manner consistent with the terms of such an agreement, shall
25 remain in effect with regard to contributions, whether as a share of
26 the cost of coverage or otherwise, in addition to the contributions
27 required under subsection a. of this section. All other provisions of
28 law concerning contributions for health care benefits shall remain
29 applicable to the extent not inconsistent with this section.

30 d. This section shall apply when the health care benefits are
31 provided through self-insurance, the purchase of commercial
32 insurance or reinsurance, an insurance fund or joint insurance fund,
33 or in any other manner, or any combination thereof.

34

35 8. Section 32 of P.L.2007, c.103 (C.52:14-17.46.2) is amended
36 to read as follows:

37 32. As used in the School Employees' Health Benefits Program
38 Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1
39 through C.52:14-17.46.11):

40 a. The term "State" means the State of New Jersey.

41 b. The term "commission" means the School Employees'
42 Health Benefits Commission, created by section 33 of P.L.2007,
43 c.103 (C.52:14-17.46.3).

44 c. The term "employer" means local school district, regional
45 school district, county vocational school district, county special
46 services school district, jointure commission, educational services
47 commission, State-operated school district, charter school, county
48 college, any officer, board, or commission under the authority of

1 the Commissioner of Education or of the State Board of Education,
2 and any other public entity which is established pursuant to
3 authority provided by Title 18A of the New Jersey Statutes, but
4 excluding the State public institutions of higher education and
5 excluding those public entities where the employer is the State of
6 New Jersey.

7 d. (1) The term "employee" means a person employed in any
8 full time capacity by an employer, and shall include persons defined
9 as a school employee by the regulations of the State Health Benefits
10 Commission in effect on the effective date of the School
11 Employees' Health Benefits Program Act. "Full-time" shall have
12 the same meaning as in the regulation of the State Health Benefits
13 Commission regarding local coverage in effect on the effective date
14 of the School Employees' Health Benefits Program Act.

15 (2) After the effective date of P.L.2010, c.2, the term
16 "employee" means (a) a person employed in any full-time capacity
17 by an employer who appears on a regular payroll and receives a
18 salary or wages for an average of the number of hours per week as
19 prescribed by the governing body of the participating employer
20 which number of hours worked shall be considered full-time,
21 determined by resolution, and not less than 25, and shall include
22 persons defined as a school employee by the regulations of the State
23 Health Benefits Commission in effect on the effective date of the
24 School Employees' Health Benefits Program Act, or (b) a person
25 employed in any full-time capacity by an employer who has or is
26 eligible for health benefits coverage provided under P.L.1961, c.49
27 (C.52:14-17.25 et seq.) or sections 31 through 41 of P.L.2007, c.103
28 (C.52:14-17.46.1 et seq.) on that effective date and continuously
29 thereafter provided the person is covered by the definition in
30 paragraph (1) of this subsection. The term "employee" shall not
31 include persons employed on a short-term, seasonal, intermittent, or
32 emergency basis, persons compensated on a fee basis, persons
33 having less than two months of continuous service or persons whose
34 compensation is limited to reimbursement of necessary expenses
35 actually incurred in the discharge of their official duties. An
36 employee paid on a 10-month basis, pursuant to an annual contract,
37 shall be deemed to have satisfied the two-month waiting period if
38 the employee begins employment at the beginning of the contract
39 year. The term "employee" shall also not include retired persons
40 who are otherwise eligible for benefits under the School Employees'
41 Health Benefits Program but who, although they meet the age or
42 disability eligibility requirement of Medicare, are not covered by
43 Medicare Hospital Insurance, also known as Medicare Part A, and
44 Medicare Medical Insurance, also known as Medicare Part B. A
45 determination by the commission that a person is an eligible
46 employee for the purposes of the School Employees' Health
47 Benefits Program shall be final and binding on all parties.

1 e. The term "dependents" means an employee's spouse,
2 domestic partner, or partner in a civil union couple, and unmarried
3 children under the age of 23 years who live in a regular parent/child
4 relationship. "Children" shall include stepchildren, legally adopted
5 children and children placed by the Division of Youth and Family
6 Services in the Department of Children and Families, provided they
7 are reported for coverage and are wholly dependent upon the
8 employee for support and maintenance. A spouse, domestic
9 partner, partner in a civil union couple, or child enlisting or
10 inducted into military service shall not be considered a dependent
11 during the military service. The term "dependents" shall not
12 include spouses, domestic partners, or partners in a civil union
13 couple, of retired persons who are otherwise eligible for the benefits
14 under the School Employees' Health Benefits Program but who,
15 although they meet the age or disability eligibility requirement of
16 Medicare, are not covered by Medicare Hospital Insurance, also
17 known as Medicare Part A, and Medicare Medical Insurance, also
18 known as Medicare Part B.

19 f. The term "carrier" means a **【**voluntary association,
20 corporation or other organization, including but not limited to**】** an
21 insurer licensed to do business in this State and a health
22 maintenance organization as defined in section 2 of the "Health
23 Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), or a
24 third party administrator licensed pursuant to P.L.2001, c.267
25 (C.17B:27B-1 et seq.), which is lawfully engaged in **【**providing or
26 paying for or reimbursing the cost of,**】** administering personal
27 health services on behalf of an employer, including hospitalization,
28 medical and surgical services **【**under insurance policies or
29 contracts, membership or subscription contracts, or the like, in
30 consideration of premiums or other periodic charges payable to the
31 carrier**】**.

32 g. The term "hospital" means:

33 (1) an institution operated pursuant to law which is primarily
34 engaged in providing on its own premises, for compensation from
35 its patients, medical diagnostic and major surgical facilities for the
36 care and treatment of sick and injured persons on an inpatient basis,
37 and which provides such facilities under the supervision of a staff
38 of physicians and with 24 hour a day nursing service by registered
39 graduate nurses, or

40 (2) an institution not meeting all of the requirements of
41 paragraph (1) but which is accredited as a hospital by the Joint
42 Commission on Accreditation of Hospitals. In no event shall the
43 term "hospital" include a convalescent nursing home or any
44 institution or part thereof which is used principally as a
45 convalescent facility, residential center for the treatment and
46 education of children with mental disorders, rest facility, nursing
47 facility or facility for the aged or for the care of drug addicts or
48 alcoholics.

1 h. The term "Medicare" means the program established by the
2 "Health Insurance for the Aged Act," Title XVIII of the "Social
3 Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended,
4 or its successor plan or plans.

5 i. The term "**managed** health care plan" means a health care
6 plan under which comprehensive health care services and supplies
7 are provided to eligible employees, retirees, and dependents: (1)
8 through a group of doctors and other providers employed by the
9 plan; or (2) through an individual practice association, preferred
10 provider organization, or point of service plan under which services
11 and supplies are furnished to plan participants through a network of
12 doctors and other providers under contracts or agreements with the
13 plan on a prepayment or reimbursement basis and which may
14 provide for payment or reimbursement for services and supplies
15 obtained outside the network. The plan **may** shall be provided
16 **on an insured basis through contracts with carriers or** on a self-
17 insured basis, and may be operated and administered by the State
18 **or** , by carriers , or by other administrators of health care benefits
19 plans under administrative services only contracts with the State.

20 j. The term "successor plan" means a **managed** health care
21 plan that shall replace the "traditional plan," as defined in section 2
22 of P.L.1961, c.49 (C.52:14-17.26), and that shall provide benefits as
23 set forth in **section 36 of P.L.2007, c.103 (C.52:14-17.46.6)** the
24 Essential Benefits Primary Plan, established pursuant to subsection
25 b. of section 1 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), and any optional riders offered in
27 connection with that plan, and provide out-of-network benefits to
28 participants with a payment by the plan of **80%** 80 percent of
29 reasonable and customary charges as set forth in section 37 of
30 P.L.2007, c.103 (C.52:14-17.46.7) and as may be adjusted in
31 accordance with section 40 of P.L.2007, c.103 (C.52:14-17.46.10).

32 k. The term "third party administrator" or "administrator"
33 means a third party administrator licensed by the Department of
34 Banking and Insurance or a carrier licensed or otherwise authorized
35 to act as a third party administrator.

36 l. The term "reasonable and customary charges" means charges
37 based upon the 90th percentile of the usual, customary, and
38 reasonable (UCR) fee schedule determined by the Health Insurance
39 Association of America or a similar nationally recognized database
40 of prevailing health care charges.

41 m. The term "cost of coverage" means the actual cost of the
42 health care benefits set forth in the plan, plus any anticipated loss
43 development for the subsequent coverage period, as determined by
44 the administrator or health maintenance organization, plus
45 administrative costs paid to the administrator, pharmacy benefits
46 manager, or any other ancillary organization engaged to manage the
47 administration of the plan or plans.

48 (cf: P.L.2010, c.2, s.10)

1 9. Section 33 of P.L.2007, c.103 (C.52:14-17.46.3) is amended
2 to read as follows:

3 33. a. There is hereby created a School Employees' Health
4 Benefits Commission **【,consisting】** . The commission may
5 periodically propose changes to the Essential Benefits Primary Plan.
6 The Legislature shall approve, by law, any proposed changes to the
7 Essential Benefits Primary Plan before the changes take effect. The
8 commission shall have the sole authority to decide which proposed
9 changes to the Essential Benefits Primary Plan are submitted to the
10 Legislature for approval. The commission shall consist of nine
11 members:

12 (1) the State Treasurer and the Commissioner of the Department
13 of Banking and Insurance serving ex officio;

14 (2) **【a member】** two public members appointed by the Governor
15 who **【is a】** are New Jersey **【resident】** residents and **【is】** qualified
16 by experience, education, or training in the review, administration,
17 or design of health **【insurance】** care plans for self-insured
18 employers;

19 (3) a member appointed by the Governor from among three
20 persons nominated by the New Jersey School Boards' Association,
21 which member shall be qualified by experience, education, or
22 training in the review, administration, or design of health
23 **【insurance】** care plans for self-insured employers;

24 (4) three members appointed by the Governor from among five
25 persons nominated by the New Jersey Education Association, of
26 whom two shall be qualified by experience, education, or training in
27 the review, administration, or design of health **【insurance】** care
28 plans for self-insured employers;

29 (5) a member appointed by the Governor from among three
30 persons nominated by the education section of the New Jersey State
31 AFL-CIO, which member shall be qualified by experience,
32 education, or training in the review, administration, or design of
33 health **【insurance】** care plans for self-insured employers; and

34 (6) **【a member appointed pursuant to subsection b. of this**
35 **section who shall be the chairperson】** the State Treasurer shall be
36 the chairperson.

37 b. **【The Governor shall appoint the chairperson from among**
38 **three persons nominated jointly by at least six of the eight members**
39 **appointed pursuant to subsection a. of this section.】** (Deleted by
40 amendment, P.L. , c.) (pending before the Legislature as this
41 bill)

42 c. If the Governor declines to make an appointment from
43 among the persons nominated for membership, the Governor shall
44 request that a new list of nominees be provided in compliance with
45 subsection a. of this section. If the Governor declines to make an
46 appointment from the new list, the process set forth in this
47 subsection shall be repeated until the Governor makes an

1 appointment from a list of nominees. ~~【Except with respect to the~~
2 appointment of the chairperson, if ~~】~~ If a new list of nominees is not
3 submitted within 45 days of the Governor's request, the Governor
4 shall make the appointment without the need to select from any list
5 of nominees.

6 d. The initial terms of the members of the commission shall be
7 as follows:

8 (1) the member appointed pursuant to paragraph (3) of
9 subsection a. of this section and the two members appointed
10 pursuant to paragraph (4) of subsection a. of this section who are
11 required to be qualified by experience, education, or training shall
12 serve for a term of three years; and

13 (2) the member appointed pursuant to paragraph (2) of
14 subsection a. of this section, the member appointed pursuant to
15 paragraph (4) of subsection a. of this section who is not required to
16 be qualified by experience, education, or training, and the member
17 appointed pursuant to paragraph (5) of subsection a. of this section
18 shall serve for a term of two years ~~【~~; and

19 (3) the chairperson shall serve for a term of six years ~~】~~.

20 All subsequent terms shall be for three years ~~【~~, except that the
21 term of the chairperson shall be five years ~~】~~. A member of the
22 commission may be reappointed to succeeding terms without limit
23 in the same manner as the original appointment. A vacancy
24 occurring on the commission shall be filled in the same manner as
25 the original appointment and only for the unexpired term.

26 e. There is established a School Employees' Health Benefits
27 Plan Design Committee, composed of ~~【six】~~ seven members as
28 follows:

29 three members who shall be appointed by the Governor as
30 representatives of public employers whose employees are enrolled
31 in the program;

32 two members who shall be appointed by the Governor upon the
33 recommendation of the New Jersey Education Association; ~~【and】~~

34 one member who shall be appointed by the Governor upon the
35 recommendation of the education section of the New Jersey State
36 AFL-CIO; and

37 one public member who shall be appointed by the Governor.

38 The members of the committee shall serve for a term of three
39 years and until a successor is appointed and qualified. Of the initial
40 appointments by the Governor, two members shall serve for two
41 years and until a successor is appointed and qualified, and one shall
42 serve for one year and until a successor is appointed and qualified.
43 Of the initial appointments ~~【by】~~ of members of the New Jersey
44 Education Association, one member shall serve for one year and
45 until a successor is appointed and qualified.

46 The members of the committee shall select a chairperson from
47 among the members, who shall serve for a term of one year, with no
48 member serving more than one term as chairperson until all the

1 members of the committee have served a term in a manner
2 alternating among the employer representatives and employee
3 representatives, unless the committee determines otherwise with
4 regard to this process.

5 The committee shall **have** the responsibility for and authority
6 over the various plans and components of those plans, including for
7 medical benefits, prescription benefits, dental, vision, and any other
8 health care benefits, offered and administered by the program. The
9 committee shall have the authority to create, modify, or terminate
10 any plan or component, at its sole discretion. Any reference in law
11 to the School Employees' Health Benefits Commission in the
12 context of the creation, modification, or termination of a plan or
13 plan component shall be deemed to apply to the committee **consult**
14 with the commission on the development and composition of
15 extended benefits riders that employees and retirees may purchase
16 in connection with the Essential Benefits Primary Plan. The
17 commission, however, shall retain sole authority over the
18 development and composition of extended benefits riders.

19 **【**The members of the committee shall have the same duty and
20 responsibility to the program as do the members of the commission.

21 If any matter before the committee receives at least four votes in
22 the affirmative, the commission shall approve and implement the
23 committee's decision.

24 If any matter before the committee receives three votes in the
25 affirmative and three votes in the negative or the committee
26 otherwise reaches an impasse on a decision, the provisions of
27 section 55 of P.L.2011, c.78 (C.52:14-17.27b) shall be followed. **】**
28 (cf: P.L.2011, c.78, s.46)
29

30 10. Section 35 of P.L.2007, c.103 (C.52:14-17.46.5) is amended
31 to read as follows:

32 35. a. The commission shall **negotiate** with and arrange for the
33 purchase, on such terms as it deems in the best interests of the State,
34 participating employers and those persons covered hereunder from
35 carriers licensed to operate in the State or in other jurisdictions, as
36 appropriate, contracts providing benefits required by the School
37 Employees' Health Benefits Program Act, as specified in section 36
38 of P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the
39 commission may determine to provide, so long as such modification
40 of benefits is in the best interests of the State, participating
41 employers and those persons covered hereunder, and is consistent
42 with the provisions of section 40 of that act (C.52:14-17.46.10) **】**
43 establish a health care plan covering school employees in
44 accordance with the provisions of sections 1 through 5 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill) and
46 P.L.2007, c.103 (C.52:14-17.46.1 et seq.), including the Essential
47 Benefits Primary Plan, established pursuant to subsection b. of
48 section 1 of P.L. , c. (C.) (pending before the Legislature as

1 this bill), any optional riders offered in connection with that plan,
2 and alternative coverage under a health maintenance organization
3 plan. The commission shall have authority to execute all documents
4 pertaining thereto for and on behalf of the State. **【The commission**
5 **shall not enter into a contract under the School Employees' Health**
6 **Benefits Program Act, unless the benefits provided thereunder are**
7 **equal to or exceed the standards specified in section 36 of that act,**
8 **or as such standards are modified pursuant to section 40 of that**
9 **act.】**

10 b. The **【rates charged for any contract purchased】** cost of
11 coverage for health benefits plans provided under the authority of
12 the School Employees' Health Benefits Program Act shall
13 reasonably and equitably reflect the cost of the benefits provided
14 based on principles which in the judgment of the commission are
15 actuarially sound. The **【rates charged】** cost of coverage shall be
16 determined based upon **【accepted group rating principles with due**
17 **regard to】** the loss experience, both past and **【contemplated, under**
18 **the contract】** prospective, as well as the cost of administering the
19 plan. The commission shall have the right to particularize
20 subgroups for experience purposes and rates. No increase in rates
21 shall be retroactive.

22 c. The commission shall be authorized to **【accept an**
23 **assignment of contract rights from or】** enter into an agreement,
24 contract, memorandum of understanding or other terms with the
25 State Health Benefits Commission to ensure that coverage for
26 eligible employees, retirees and dependents under the School
27 Employees' Health Benefits Program whose benefits had been
28 provided through the State Health Benefits Program is continued
29 without interruption. The transition provided for in this subsection
30 shall occur within one year of the effective date of the School
31 Employees' Health Benefits Program Act, sections 31 through 41 of
32 P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11).

33 d. Benefits **【under the contract or contracts purchased as**
34 **authorized by the School Employees' Health Benefits Program Act】**
35 may be subject to such limitations, exclusions, or waiting periods as
36 the commission finds to be necessary or desirable to avoid inequity,
37 unnecessary utilization, duplication of services or benefits
38 otherwise available, including coverage afforded under the laws of
39 the United States, such as the federal Medicare program, or for
40 other reasons.

41 e. The **【initial】** term of any contract **【purchased by the**
42 **commission under the authority of the School Employees' Health**
43 **Benefits Program Act】** with an administrator of the plan or any
44 health maintenance organization shall be for such period to which
45 the commission and the **【carrier】** administrator or health
46 maintenance organization may agree, but permission may be made
47 for automatic renewal in the absence of notice of termination by the

1 commission. Subsequent terms for which any contract may be
2 renewed as herein provided shall each be limited to a period not to
3 exceed one year.

4 (cf: P.L.2007, c.103, s.35)

5
6 11. Section 10 of P.L.2009, c.115 (C.52:14-17.46.6b) is
7 amended to read as follows:

8 10. Notwithstanding any other provision of law to the contrary,
9 the School Employees' Health Benefits Commission shall [ensure
10 that every contract purchased by the commission on or after the
11 effective date of this act that provides hospital or medical expense
12 benefits shall] provide coverage pursuant to the provisions of this
13 section.

14 a. The [contract] health care plan shall provide coverage for
15 expenses incurred in screening and diagnosing autism or another
16 developmental disability.

17 b. When the covered person's primary diagnosis is autism or
18 another developmental disability, the [contract] health care plan
19 shall provide coverage for expenses incurred for medically
20 necessary occupational therapy, physical therapy, and speech
21 therapy, as prescribed through a treatment plan. Coverage of these
22 therapies shall not be denied on the basis that the treatment is not
23 restorative.

24 c. When the covered person is under 21 years of age and the
25 covered person's primary diagnosis is autism, the [contract] health
26 care plan shall provide coverage for expenses incurred for
27 medically necessary behavioral interventions based on the
28 principles of applied behavioral analysis and related structured
29 behavioral programs, as prescribed through a treatment plan,
30 subject to the provisions of this subsection.

31 (1) Except as provided in paragraph (3) of this subsection, the
32 benefits provided pursuant to this subsection shall be provided to
33 the same extent as for any other medical condition under the
34 [contract] health care plan, but shall not be subject to limits on the
35 number of visits that a covered person may make to a provider of
36 behavioral interventions.

37 (2) The benefits provided pursuant to this subsection shall not
38 be denied on the basis that the treatment is not restorative.

39 (3) (a) The maximum benefit amount for a covered person in any
40 calendar year through 2011 shall be \$36,000.

41 (b) Commencing on January 1, 2012, the maximum benefit
42 amount shall be subject to an adjustment, to be promulgated by the
43 Commissioner of Banking and Insurance and published in the New
44 Jersey Register no later than February 1 of each calendar year,
45 which shall be equal to the change in the consumer price index for
46 all urban consumers for the nation, as prepared by the United States
47 Department of Labor, for the calendar year preceding the calendar

1 year in which the adjustment to the maximum benefit amount is
2 promulgated.

3 (c) The adjusted maximum benefit amount shall apply to [a
4 contract that is delivered, issued, executed, or renewed, or approved
5 for issuance or renewal, in] the 12-month period following the date
6 on which the adjustment is promulgated.

7 (d) Notwithstanding the provisions of this paragraph to the
8 contrary, the commission shall not be precluded from providing a
9 benefit amount for a covered person in any calendar year that
10 exceeds the benefit amounts set forth in subparagraphs (a) and (b)
11 of this paragraph.

12 d. The treatment plan required pursuant to subsections b. and c.
13 of this section shall include all elements necessary for the [carrier]
14 administrator to appropriately provide benefits, including, but not
15 limited to: a diagnosis; proposed treatment by type, frequency, and
16 duration; the anticipated outcomes stated as goals; the frequency by
17 which the treatment plan will be updated; and the treating
18 physician's signature. The [carrier] administrator may only request
19 an updated treatment plan once every six months from the treating
20 physician to review medical necessity, unless the [carrier]
21 administrator and the treating physician agree that a more frequent
22 review is necessary due to emerging clinical circumstances.

23 e. The provisions of subsections b. and c. of this section shall
24 not be construed as limiting benefits otherwise available to a
25 covered person.

26 f. The provisions of subsections b. and c. of this section shall
27 not be construed to require that benefits be provided to reimburse
28 the cost of services provided under an individualized family service
29 plan or an individualized education program, or affect any
30 requirement to provide those services; except that the benefits
31 provided pursuant to those subsections shall include coverage for
32 expenses incurred by participants in an individualized family
33 service plan through a family cost share.

34 g. The coverage required under this section may be subject to
35 utilization review, including periodic review, by the [carrier]
36 administrator of the continued medical necessity of the specified
37 therapies and interventions.

38 (cf: P.L.2009, c.115, s.10)

39

40 12. Section 10 of P.L.2011, c.188 (C.52:14-17.46.6c) is
41 amended to read as follows:

42 10. a. The School Employees' Health Benefits Commission shall
43 [ensure that every contract purchased on or after the effective date
44 of this act that provides hospital or medical expense benefits shall]
45 provide coverage for expenses for prescribed, orally administered
46 anticancer medications used to kill or slow the growth of cancerous
47 cells on a basis no less favorable than the [contract] health care

1 plan provides for intravenously administered or injected anticancer
2 medications.

3 b. Pursuant to subsection a. of this section, coverage for
4 expenses for prescribed, orally administered anticancer medications
5 used to kill or slow the growth of cancerous cells shall not be
6 subject to any prior authorization, dollar limit, copayment,
7 deductible or coinsurance provision that does not apply to
8 intravenously administered or injected anticancer medications.

9 c. A School Employees' Health Benefits Commission
10 **【contract】** health care plan shall not achieve compliance with the
11 provisions of this section by imposing an increase in patient cost
12 sharing, including any copayment, deductible or coinsurance, for
13 anticancer medications, whether intravenously administered or
14 injected or orally administered, that are covered under the
15 **【contract】** health care plan as of the effective date of **【this act】**
16 P.L.2011, c.188.

17 (cf: P.L.2011, c.188, s.10)

18

19 13. Section 10 of P.L.2013, c.50 (C.52:14-17.46.6d) is amended
20 to read as follows:

21 10. The health care plan established by the School Employees'
22 Health Benefits Commission shall **【ensure that every contract**
23 **purchased by the commission on or after the effective date of this**
24 **act that provides hospital or medical expense benefits that】** include
25 coverage for prescription eye drops**【,】** and shall provide coverage
26 for expenses incurred for refills of prescription eye drops in
27 accordance with the Guidance for Early Refill Edits of Topical
28 Ophthalmic Products provided to Medicare Part D plan sponsors by
29 the Centers for Medicare & Medicaid Services of the U.S.
30 Department of Health and Human Services, provided that:

31 (1) the prescribing health care practitioner indicates on the
32 original prescription that additional quantities of the prescription
33 eye drops are needed; and

34 (2) the refill requested by the covered person does not exceed
35 the number of additional quantities indicated on the original
36 prescription by the prescribing health care practitioner.

37 (cf: P.L.2013, c.50, s.10)

38

39 14. Section 10 of P.L.2015, c.206 (C.52:14-17.46.6e) is
40 amended to read as follows:

41 10. The School Employees' Health Benefits Commission shall
42 **【ensure that every contract under the School Employees' Health**
43 **Benefits Program purchased on or after the effective date of this act,**
44 **which provides benefits for pharmacy services, prescription drugs,**
45 **or for participation in a prescription drug plan, shall,】** on at least
46 one occasion per year for each covered person:

47 (1) apply a prorated daily cost-sharing rate to prescriptions that
48 are dispensed by a network pharmacy for less than a 30 days' supply

1 if the prescriber or pharmacist indicates the fill or refill is in the
2 best interest of the covered person or is for the purpose of
3 synchronizing the covered person's chronic medications;

4 (2) provide coverage for a drug prescribed for the treatment of a
5 chronic illness dispensed in accordance with a plan among the
6 covered person, the prescriber and the pharmacist to synchronize
7 the refilling of multiple prescriptions for the covered person; and

8 (3) determine dispensing fees based exclusively on the total
9 number of prescriptions dispensed; dispensing fees shall not be
10 prorated or based on the number of the days' supply of medication
11 prescribed or dispensed.

12 This section shall not apply to prescriptions for opioid
13 analgesics. "Opioid analgesic" means a drug in the opioid analgesic
14 drug class prescribed to treat moderate to severe pain or other
15 conditions, whether in immediate release or extended release form,
16 and whether or not combined with other drug substances to form a
17 single drug product or dosage form.

18 (cf: P.L.2015, c.206, s.10)

19
20 15. Section 37 of P.L.2007, c.103 (C.52:14-17.46.7) is amended
21 to read as follows:

22 37. Beginning with the initial year of the School Employees'
23 Health Benefits Program, the commission shall offer to
24 participating employers and to qualified employees, retirees and
25 dependents a managed care plan in which the office co-payment
26 amount shall be \$10 per visit with a maximum out-of-pocket of
27 \$400 per individual and \$1,000 per family for in-network services
28 for each calendar year. The out-of-network deductible shall be
29 \$100 per individual and \$250 per family for each calendar year with
30 the plan paying for **80%** 80 percent of reasonable and customary
31 charges as defined herein up to an out-of-pocket maximum that
32 shall not exceed \$2,000 per individual and \$5,000 per family for
33 each calendar year. Beginning with the implementation of the
34 Essential Benefits Primary Plan established by P.L. , c. (C.)
35 (pending before the Legislature as this bill), the office co-payment
36 amount shall be \$25 per visit with an annual maximum out-of-
37 pocket cost of \$500 for an individual and \$1,100 for a family.

38 In the successor plan, the in-network out-of-pocket payments
39 shall count toward the out-of-network out-of-pocket maximums.
40 Any lifetime maximum for out-of-network services shall not be less
41 than any maximums in effect under the State Health Benefits
42 Program as of July 1, 2007. There shall be no lifetime maximum for
43 in-network services.

44 The **carrier that administers** administrator of the successor
45 plan shall make available to the plan participants through in-
46 network and out-of-network providers access to physicians and
47 hospitals sufficient in geographic scope and number to provide
48 access to health care services that is substantially equivalent to the

1 access to health care services available through the State Health
2 Benefits Program as of July 1, 2007.

3 Beginning with the initial year of the School Employees' Health
4 Benefits Program, the commission shall be authorized to offer to
5 participating employers and qualified employees, retirees and
6 dependents managed care plans in which the in-network per visit
7 charge shall not exceed \$15 per visit and the out of network
8 reimbursement shall be **【70%】** 70 percent of the usual, reasonable
9 and customary charges as defined herein, provided the in-network
10 and out-of-network maximums and deductibles do not exceed the
11 limits set forth above. Beginning with the implementation of the
12 Essential Benefits Primary Plan established by P.L. , c. (C.)
13 (pending before the Legislature as this bill), the in-network per visit
14 charge shall be \$25 per visit and the out-of-network reimbursement
15 shall be 70 percent of the reasonable and customary charges.

16 The amounts of maximums, co-pays, deductibles, and other
17 participant costs shall be reviewed, as part of the fifth year audit
18 undertaken pursuant to section 40 of P.L.2007, c.103 (C.52:14-
19 17.46.10). The commission shall make changes in such amounts
20 pursuant to section 40 by majority vote of the full authorized
21 membership of the commission.

22 **【Beginning January 1, 2012, the School Employees' Health**
23 **Benefits Plan Design Committee shall have the sole discretion to set**
24 **the amounts for maximums, co-pays, deductibles, and other such**
25 **participant costs for all plans offered in the program,**
26 **notwithstanding any other provision of law to the contrary.】**

27 "Reasonable and customary charges" means, for any out-of-
28 network payment made by a carrier, charges based upon the 90th
29 percentile of the usual, customary, and reasonable (UCR) fee
30 schedule determined by the Health Insurance Association of
31 America or a similar nationally recognized database of prevailing
32 health care charges.

33 Beginning with the initial year of the School Employees' Health
34 Benefits Program, the commission shall offer to participating
35 employers and qualified employees, retirees and dependents one or
36 more health maintenance organization plans.

37 (cf: P.L.2011, c.78, s.49)

38

39 16. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended
40 to read as follows:

41 39. a. For each active covered employee and for the eligible
42 dependents the employee may have enrolled at the employee's
43 option, from funds appropriated therefor, the employer shall pay to
44 the commission the **【premium or periodic charges】** cost of coverage
45 for the benefits provided under the **【contract】** health care plan in
46 amounts equal to the premium or periodic charges for the benefits
47 provided under such a **【contract】** plan covering the employee and
48 the employee's enrolled dependents.

1 b. The obligations of any employer to pay the **【premium or**
2 periodic charges**】** cost of coverage for health benefits coverage
3 provided under the School Employees' Health Benefits Program
4 Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1
5 through C.52:14-17.46.11), may be determined by means of a
6 binding collective negotiations agreement, including any agreement
7 in force at the time the employer commences participation in the
8 School Employees' Health Benefits Program. With respect to
9 employees for whom there is no majority representative for
10 collective negotiations purposes, the employer may, in its sole
11 discretion, modify the respective payment obligations set forth in
12 law for the employer and such employees in a manner consistent
13 with the terms of any collective negotiations agreement binding on
14 the employer.

15 Commencing on the effective date of P.L.2010, c.2 and upon the
16 expiration of any applicable binding collective negotiations
17 agreement in force on that effective date, employees shall pay 1.5
18 percent of base salary, through the withholding of the contribution,
19 for health benefits coverage provided under P.L.2007, c.103
20 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that
21 may be required additionally pursuant to this subsection by means
22 of a binding collective negotiations agreement or the modification
23 of payment obligations by law.

24 c. There is hereby established a School Employee Health
25 Benefits Program fund consisting of all contributions to **【premiums**
26 and periodic charges**】** the cost of coverage remitted to the State
27 treasury by participating employers for employee coverage. All
28 such contributions shall be deposited in the fund and the fund shall
29 be used to pay the portion of the **【premium and periodic charges】**
30 cost of coverage attributable to employee and dependent coverage.

31 d. Notwithstanding any law to the contrary and except as
32 provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78,
33 the payment in full of **【premium or periodic charges】** the cost of
34 coverage for eligible retirees and their dependents pursuant to
35 section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of
36 P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357
37 (C.52:14-17.32f2) shall be continued without alteration or
38 interruption and there shall be no premium sharing or periodic
39 charges for certain school employees in retirement once they have
40 met the criteria for vesting for pension benefits, which criteria for
41 purposes of this subsection only shall mean the criteria for vesting
42 in the Teachers' Pension and Annuity Fund. **【For purposes of this**
43 subsection, "premium sharing or periodic charges" shall mean
44 payments by eligible retirees based upon a proportion of the
45 premiums for health care benefits.**】**

46 (cf: P.L.2011, c.78, s.54)

47

48 17. Section 36 of P.L.2007, c.103 (C.52:14-17.46.6) is repealed.

1 18. This act shall take effect on the 180th day next following
2 enactment, except the School Employees' Health Benefits
3 Commission may take any anticipatory administrative action in
4 advance as shall be necessary for the implementation of this act.

5
6
7 STATEMENT

8
9 This bill makes a number of changes to the School Employees
10 Health Benefits Program. In lieu of the present benefits currently in
11 the plan, the bill divides the existing plan into several parts,
12 permitting persons covered by the plan to elect the benefits they
13 want. The core of the plan is an Essential Benefits Primary Plan,
14 the benefits in which are statutory; it would be the default plan for
15 all covered persons. The Essential Benefits Primary Plan is
16 modeled after the indemnity plans most commonly purchased in the
17 1950s and 1960s. It contains the basic health benefits that the
18 majority of people use most frequently; a similar policy sold in the
19 commercial insurance market in New Jersey until very recently
20 proved to be very successful because individuals were able to
21 protect themselves at a lower cost than the cost of the other
22 commercial policies. Under the provisions of the bill, no additions
23 can be made to the statutory benefits listed in the Essential Benefits
24 Primary Plan without the assent of the Legislature and the Governor
25 by law.

26 As an adjunct to the Essential Benefits Primary Plan, the bill
27 provides for the formulation of extended benefits riders, which
28 would be groupings of additional benefits presently included in the
29 School Employees' Health Benefits Program and the State Health
30 Benefits Plan, but which are not included in the Essential Benefits
31 Primary Plan. These would include additional or enhanced benefits.
32 The riders would be formulated by the State Health Benefits
33 Commission with the assistance of the Health Benefits Design
34 Committee. Each rider would be rated separately, based on its loss
35 experience. Any new benefits added to the benefits plan, whether
36 by negotiation or by statute, would be added to a plan rider. Riders
37 are to be formulated as groupings of benefits in a manner that will
38 avoid, to the extent possible, adverse selection with respect to the
39 persons electing them.

40 The extent of coverage in the revised School Employees' Health
41 Benefits Program would be selected at the option of the covered
42 person. If the covered person elected only the Essential Benefits
43 Primary Plan, his contribution to his coverage would be reduced
44 from his existing contribution because he would not be paying for
45 benefits he may neither want, need, nor can afford. Taken together,
46 the Essential Benefits Primary Plan and all of the extended benefits
47 riders would contain all of the benefits now in the School
48 Employees Health Benefits Program and the State Health Benefits

1 Plan, giving covered persons the option of retaining their existing
2 coverage and their contribution to the coverage would not be
3 reduced from present levels. The bill renews the existing
4 contribution percentages required under current law, which were
5 due to expire in 2015. The cost of coverage of the respective parts
6 of the plan would be based on the actual loss experience of the
7 benefits of those parts, plus any anticipated loss development for
8 the subsequent coverage period, and the cost of administration.

9 The bill adds two public members appointed by the Governor to
10 the School Employees' Health Benefits Commission. The State
11 Treasurer would be the chairperson. The bill adds one public
12 member, appointed by the Governor, to the School Employees'
13 Health Benefits Plan Design Committee. The role of the Design
14 Committee would be a consultative one, collaborating with the
15 commission on the development and composition of the extended
16 benefits riders. The commission would retain the sole authority to
17 submit to the Legislature proposed changes to the Essential Benefits
18 Primary Plan.

19 The bill would prohibit any covered person from using the
20 benefits in the School Employees' Health Benefits Program in lieu
21 of the personal injury protection coverage under an automobile
22 insurance policy. Personal injury protection coverage, which
23 provides medical benefits under the no-fault law, is one of the least
24 expensive benefits in an automobile insurance policy, and these
25 costs would no longer be paid by public money, which adds
26 considerably to the cost of the school employees' health benefits
27 coverage.

28 The bill is intended not only to reduce the cost of the School
29 Employees' Health Benefits Program for the State and local
30 governments, but to give employees choices as to their coverage,
31 which can reduce their costs as well by permitting them to select
32 the coverage which is best suited to their needs; it is likely that
33 many will elect the Essential Benefits Primary package, with or
34 without one or more riders, but will not prohibit any person from
35 selecting the full package of benefits now offered under the current
36 plan. It is the sponsor's intent that, to the extent that the total
37 average cost of coverage per covered person in the State plan is
38 reduced, it would be possible for the State and local employers to
39 avoid paying the "Cadillac" tax due to be levied in several years by
40 the federal government pursuant to the Patient Protection and
41 Affordable Care Act.

42 Finally, the bill makes a number of technical changes to existing
43 law to accommodate the fact that the plan is a self-insured plan,
44 rather than an insured plan as in the past. This consists primarily of
45 changes in terminology to reflect the manner in which the plan is
46 now administered.