SENATE, No. 2243



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED MARCH 16, 2020

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires health insurance consultants and carriers to provide certain information to certain local units, boards of education, and county colleges; requires local units, boards of education, and county colleges to review information.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning local unit, board of education, and county college employee health insurance and supplementing chapter 10 of Title 40A and chapters 16 and 64A of Title 18A of the New Jersey Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in sections 1 through 4 of P.L. , c. (C. ) (pending before the Legislature as this bill):

“Carrier” means an entity that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefits plan, including: an insurance company authorized to issue health benefits plans; a health maintenance organization; a health, hospital, or medical service corporation; a multiple employer welfare arrangement; an entity under contract with the State Health Benefits Program to administer a health benefits plan; or any other entity providing a health benefits plan.

“Health benefits plan” means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. “Health benefits plan” shall not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, TRICARE supplement coverage, coverage arising out of a workers’ compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement indemnity coverage.

“Health care data” means aggregate claims experience data from a carrier, including medical, dental, pharmacy, and behavioral health claims.

“Insurance consultant” means a person, who for a commission, brokerage fee, or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued in this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commission or brokerage fee is paid for those services.

“Local unit” means a county or municipality with at least 100 participants in its health benefits plan.

“Other forms of compensation” includes but is not limited to incentive payments, bonuses, rebates, or any other thing of value, whether provided directly or indirectly.

2. a. A contract for the provision of health insurance consulting services shall require that the insurance consultant provide to the local unit, no later than five months prior to the introduction of the annual budget of the local unit, a certification of the amount of commissions or other forms of compensation accepted from a carrier during the prior calendar year for any insurance consultant services provided in connection with any contract awarded to the carrier by the local unit.

b. If an insurance consultant fails to provide a certification as required by subsection a. of this section, the local unit shall be entitled to terminate any contract with the insurance consultant and the insurance consultant shall be liable to a civil penalty of $2 per employee covered under the local unit’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the local unit pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

3. a. A contract for the provision of, delivery of, arrangement for, payment for, or reimbursement of any of the costs of health care services under a health benefits plan to the local unit’s employees shall require that the carrier report to the local unit on a biannual basis health care data.

b. The carrier and local unit shall only provide or receive health care data in a manner that complies with: (1) the applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996, Pub.L.104-191 (HIPAA); (2) the applicable provisions of the HIPAA privacy rules set forth in sections 160 and 164 of Title 45, Code of Federal Regulations; and (3) other proprietary requirements related to the collection and release of health care data.

c. If a carrier fails to report information as required by subsection a. of this section, the carrier shall be liable to a civil penalty of $2 per employee covered under the local unit’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the local unit pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If a carrier fails to report information as required by subsection a. of this section, the local unit shall be entitled to terminate any contract with the carrier. The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

4. The governing body of a local unit shall, no later than four months prior to the introduction of the annual budget of the local unit, review the information provided to the local unit pursuant to sections 2 and 3 of P.L. , c. (C. ) (pending before the Legislature as this bill). The governing body shall certify that this review has been completed in the annual budget of the local unit. The Director of the Division of Local Government Services in the Department of Community Affairs shall not certify approval of an annual budget of a local unit if the annual budget does not contain the certification required by this section.

5. As used in sections 5 through 8 of P.L. , c. (C. ) (pending before the Legislature as this bill):

“Board” means a local board of education.

“Carrier” means an entity that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefits plan, including: an insurance company authorized to issue health benefits plans; a health maintenance organization; a health, hospital, or medical service corporation; a multiple employer welfare arrangement; an entity under contract with the State Health Benefits Program or School Employees’ Health Benefits Program to administer a health benefits plan; or any other entity providing a health benefits plan.

“District” means a school district.

“Health benefits plan” means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. “Health benefits plan” shall not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, TRICARE supplement coverage, coverage arising out of a workers’ compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement indemnity coverage.

“Health care data” means aggregate claims experience data from a carrier, including medical, dental, pharmacy, and behavioral health claims.

“Insurance consultant” means a person, who for a commission, brokerage fee, or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued to a districtin this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commission or brokerage fee is paid for those services.

“Other forms of compensation” includes but is not limited to incentive payments, bonuses, rebates, or any other thing of value, whether provided directly or indirectly.

6. a. A contract for the provision of health insurance consulting services shall require that the insurance consultant provide to the board of education, no later than five months prior to the introduction of the annual budget of the district, a certification of the amount of commissions or other forms of compensation accepted from a carrier during the prior calendar year for any insurance consultant services provided in connection with any contract awarded to the carrier by the board.

b. If an insurance consultant fails to provide a certification as required by subsection a. of this section, the board shall be entitled to terminate any contract with the insurance consultant and the insurance consultant shall be liable to a civil penalty of $2 per employee covered under the board’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the board pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

7. a. A contract for the provision of, delivery of, arrangement for, payment for, or reimbursement of any of the costs of health care services under a health benefits plan to the board of education’s employees shall require that the carrier report to the board on a biannual basis health care data.

b. The carrier and board shall only provide or receive health care data in a manner that complies with: (1) the privacy requirements of the federal “Health Insurance Portability and Accountability Act of 1996,” Pub.L.104-191 (HIPAA); (2) the applicable provisions of the HIPAA privacy rules set forth in sections 160 and 164 of Title 45, Code of Federal Regulations; and (3) other proprietary requirements related to the collection and release of health care data.

c. If a carrier fails to report information as required by subsection a. of this section, the carrier shall be liable to a civil penalty of $2 per employee covered under the board’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the board pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If a carrier fails to report information as required by subsection a. of this section, the board shall be entitled to terminate any contract with the carrier. The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

8. The board of education shall, no later than four months prior to the introduction of the annual budget of the district, review the information provided to the board pursuant to sections 6 and 7 of P.L. , c. (C. ) (pending before the Legislature as this bill). The board shall certify that this review has been completed in the annual budget of the district. The executive county superintendent shall not certify approval of an annual budget of a district if the annual budget does not contain the certification required by this section.

9. As used in sections 9 through 12 of P.L. , c. (C. ) (pending before the Legislature as this bill):

“County college” means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

“Carrier” means an entity that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefits plan, including: an insurance company authorized to issue health benefits plans; a health maintenance organization; a health, hospital, or medical service corporation; a multiple employer welfare arrangement; an entity under contract with the State Health Benefits Program or School Employees’ Health Benefits Program to administer a health benefits plan; or any other entity providing a health benefits plan.

“Health benefits plan” means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. “Health benefits plan” shall not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, TRICARE supplement coverage, coverage arising out of a workers’ compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement indemnity coverage.

“Health care data” means aggregateclaims experience data from a carrier, including medical, dental, pharmacy, and behavioral health claims.

“Insurance consultant” means a person, who for a commission, brokerage fee, or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued to a county collegein this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commission or brokerage fee is paid for those services.

“Other forms of compensation” includes but is not limited to incentive payments, bonuses, rebates, or any other thing of value, whether provided directly or indirectly.

10. a. A contract for the provision of health insurance consulting services shall require that the insurance consultant provide to the county college, no later than five months prior to the introduction of the annual budget of the college, a certification of the amount of commissions or other forms of compensation accepted from a carrier during the prior calendar year for any insurance consultant services provided in connection with any contract awarded to the carrier by the college.

b. If an insurance consultant fails to provide a certification as required by subsection a. of this section, the county college shall be entitled to terminate any contract with the insurance consultant and the insurance consultant shall be liable to a civil penalty of $2 per employee covered under the college’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the board pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

11. a. A contract for the provision of, delivery of, arrangement for, payment for, or reimbursement of any of the costs of health care services under a health benefits plan to the county college’s employees shall require that the carrier report to the county college on a biannual basis health care data.

b. The carrier and college shall only provide or receive health care data in a manner that complies with: (1) the privacy requirements of the federal “Health Insurance Portability and Accountability Act of 1996,” Pub.L.104-191 (HIPAA); (2) the applicable provisions of the HIPAAprivacy rules set forth in sections 160 and 164 of Title 45, Code of Federal Regulations; and (3) other proprietary requirements related to the collection and release of health care data.

c. If a carrier fails to report information as required by subsection a. of this section, the carrier shall be liable to a civil penalty of $2 per employee covered under the college’s health benefits plan for each day the violation continues, which penalty may be collected in a summary proceeding by the college pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If a carrier fails to report information as required by subsection a. of this section, the county college shall be entitled to terminate any contract with the carrier. The remedies for a violation provided under this subsection shall be in addition to any other remedies that may be provided by contract.

12. The county college shall, no later than four months prior to the introduction of the annual budget of the college, review the information provided to the college pursuant to sections 10 and 11 of P.L. , c. (C. ) (pending before the Legislature as this bill). The board shall certify that this review has been completed in the annual budget of the district. The county college shall not certify approval of an annual budget of the college if the annual budget does not contain the certification required by this section.

13. This act shall take effect immediately.

STATEMENT

This bill would require health insurance consultants and carriers to provide certain health insurance information to local units, school boards, and county colleges, and require this information to be reviewed in advance of the preparation of their annual budgets. Health insurance is a major expense for local units, school boards, and county colleges. By requiring greater transparency in health insurance usage and costs as well as requiring review of this information, this bill would help local units, school boards, and county colleges ensure that taxpayer funds are being spent on their employees’ health insurance in a cost-effective manner.

Under the bill, a health insurance consultant that contracts with a local unit, school board, or county college would be required to annually disclose to the unit, board, or college the amount of compensation received in the prior year from a carrier for any insurance consultant services provided in connection with a contract awarded to the carrier by the unit or the board. The bill would make the compensation disclosure requirement a part of the contract between the health insurance consultant and the unit, board, or college. If a health insurance consultant fails to make a required annual disclosure, the unit, board, or college would be permitted to terminate any contract with the consultant and collect a civil penalty from the consultant in addition to any other remedies that may be provided by contract.

The bill would also require a carrier that contracts with a local unit, school board, or county college to provide health care data on a biannual basis. The carrier, local unit, school board, and county college would be required to comply with the applicable provisions of federal health privacy rules, and with other proprietary requirements related to the collection and release of health care data. The bill would make these reporting requirements a part of the contract between a carrier and the unit, board, or college. If a carrier fails to meet a biannual reporting requirement, the unit, board, or college would be permitted to collect a civil penalty from the carrier and to terminate any contract with the carrier, in addition to any other remedies that may be provided by contract.

The local units that would be subject to this bill are counties and municipalities with at least 100 participants covered under their health insurance plans.