

# ASSEMBLY, No. 5021

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 10, 2023

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

### **SYNOPSIS**

Requires non-invasive prenatal testing for pregnant persons and health insurance coverage for non-invasive prenatal testing.

### **CURRENT VERSION OF TEXT**

As introduced.



A5021 SPEIGHT

2

1 AN ACT concerning prenatal testing for pregnant persons and health  
2 benefits coverage for prenatal testing, and supplementing Titles  
3 17, 26, 30, and 52 of the Revised Statutes and Title 17B of the  
4 New Jersey Statutes.

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

8  
9 1. A hospital service corporation which provides hospital or  
10 medical expense benefits under a contract that is delivered, issued,  
11 executed, or renewed in this State or approved for issuance or  
12 renewal in this State by the Commissioner of Banking and  
13 Insurance, on or after the effective date of this act, shall provide  
14 benefits under the contract for expenses incurred in conducting a  
15 non-invasive prenatal test for a pregnant person. The methods of  
16 testing for which benefits shall be provided shall include the most  
17 reliable, medically recognized screening test available. The method  
18 and frequency of testing to be utilized shall be in accordance with  
19 the most recent published guidelines of the American College of  
20 Obstetricians and Gynecologists.

21 The benefits shall be provided to the same extent as for any other  
22 medical condition under the contract.

23 As used in this section, “non-invasive prenatal test” means a  
24 blood test performed beginning at ten weeks of pregnancy that is  
25 used to screen for Down syndrome and other chromosomal  
26 abnormalities.

27 This section shall apply to those hospital service corporation  
28 contracts in which the hospital service corporation has reserved the  
29 right to change the premium.

30

31 2. A medical service corporation which provides hospital or  
32 medical expense benefits under a contract that is delivered, issued,  
33 executed, or renewed in this State or approved for issuance or  
34 renewal in this State by the Commissioner of Banking and  
35 Insurance, on or after the effective date of this act, shall provide  
36 benefits under the contract for expenses incurred in conducting a  
37 non-invasive prenatal test for a pregnant person. The methods of  
38 testing for which benefits shall be provided shall include the most  
39 reliable, medically recognized screening test available. The method  
40 and frequency of testing to be utilized shall be in accordance with  
41 the most recent published guidelines of the American College of  
42 Obstetricians and Gynecologists.

43 The benefits shall be provided to the same extent as for any other  
44 medical condition under the contract.

45 As used in this section, “non-invasive prenatal test” means a  
46 blood test performed beginning at ten weeks of pregnancy that is  
47 used to screen for Down syndrome and other chromosomal  
48 abnormalities.

1 This section shall apply to those medical service corporation  
2 contracts in which the medical service corporation has reserved the  
3 right to change the premium.

4  
5 3. A health service corporation which provides hospital or  
6 medical expense benefits under a contract that is delivered, issued,  
7 executed, or renewed in this State or approved for issuance or  
8 renewal in this State by the Commissioner of Banking and  
9 Insurance, on or after the effective date of this act, shall provide  
10 benefits under the contract for expenses incurred in conducting a  
11 non-invasive prenatal test for a pregnant person. The methods of  
12 testing for which benefits shall be provided shall include the most  
13 reliable, medically recognized screening test available. The method  
14 and frequency of testing to be utilized shall be in accordance with  
15 the most recent published guidelines of the American College of  
16 Obstetricians and Gynecologists.

17 The benefits shall be provided to the same extent as for any other  
18 medical condition under the contract.

19 As used in this section, “non-invasive prenatal test” means a  
20 blood test performed beginning at ten weeks of pregnancy that is  
21 used to screen for Down syndrome and other chromosomal  
22 abnormalities.

23 This section shall apply to those health service corporation  
24 contracts in which the health service corporation has reserved the  
25 right to change the premium.

26  
27 4. An individual health insurer which provides hospital or  
28 medical expense benefits under a policy that is delivered, issued,  
29 executed, or renewed in this State or approved for issuance or  
30 renewal in this State by the Commissioner of Banking and  
31 Insurance, on or after the effective date of this act, shall provide  
32 benefits under the contract for expenses incurred in conducting a  
33 non-invasive prenatal test for a pregnant person. The methods of  
34 testing for which benefits shall be provided shall include the most  
35 reliable, medically recognized screening test available. The method  
36 and frequency of testing to be utilized shall be in accordance with  
37 the most recent published guidelines of the American College of  
38 Obstetricians and Gynecologists.

39 The benefits shall be provided to the same extent as for any other  
40 medical condition under the contract.

41 As used in this section, “non-invasive prenatal test” means a  
42 blood test performed beginning at ten weeks of pregnancy that is  
43 used to screen for Down syndrome and other chromosomal  
44 abnormalities.

45 This section shall apply to those policies in which the insurer has  
46 reserved the right to change the premium.

1       5. A group health insurer which provides hospital or medical  
2 expense benefits under a policy that is delivered, issued, executed,  
3 or renewed in this State or approved for issuance or renewal in this  
4 State by the Commissioner of Banking and Insurance, on or after  
5 the effective date of this act, shall provide benefits under the  
6 contract for expenses incurred in conducting a non-invasive  
7 prenatal test for a pregnant person. The methods of testing for  
8 which benefits shall be provided shall include the most reliable,  
9 medically recognized screening test available. The method and  
10 frequency of testing to be utilized shall be in accordance with the  
11 most recent published guidelines of the American College of  
12 Obstetricians and Gynecologists.

13       The benefits shall be provided to the same extent as for any other  
14 medical condition under the contract.

15       As used in this section, “non-invasive prenatal test” means a  
16 blood test performed beginning at ten weeks of pregnancy that is  
17 used to screen for Down syndrome and other chromosomal  
18 abnormalities.

19       This section shall apply to those policies in which the insurer has  
20 reserved the right to change the premium.

21

22       6. A certificate of authority to establish and operate a health  
23 maintenance organization in this State shall not be issued or  
24 continued on or after the effective date of this act by the  
25 Commissioner of Banking and Insurance unless the health  
26 maintenance organization provides health care services in  
27 conducting a non-invasive prenatal test for a pregnant person. The  
28 methods of testing for which benefits shall be provided shall  
29 include the most reliable, medically recognized screening test  
30 available. The method and frequency of testing to be utilized shall  
31 be in accordance with the most recent published guidelines of the  
32 American College of Obstetricians and Gynecologists.

33       The health care services shall be provided to the same extent as  
34 for any other medical condition under the contract.

35       As used in this section, “non-invasive prenatal test” means a  
36 blood test performed beginning at ten weeks of pregnancy that is  
37 used to screen for Down syndrome and other chromosomal  
38 abnormalities.

39       The provisions of this section shall apply to those contracts for  
40 health care services by health maintenance organizations under  
41 which the health maintenance organization has reserved the right to  
42 change the schedule of charges for enrollee coverage.

43

44       7. Notwithstanding any other provision of law to the contrary,  
45 an individual health benefits plan that is delivered, issued, executed,  
46 renewed, or approved for issuance or renewal in this State pursuant  
47 to P.L.1992, c.161 (C.17B:27A-2 et seq.), or approved for issuance  
48 or renewal in this State by the Commissioner of Banking and

1 Insurance, on or after the effective date of this act, shall provide  
2 benefits under the contract for expenses incurred in conducting a  
3 non-invasive prenatal test for a pregnant person. The methods of  
4 testing for which benefits shall be provided shall include the most  
5 reliable, medically recognized screening test available. The method  
6 and frequency of testing to be utilized shall be in accordance with  
7 the most recent published guidelines of the American College of  
8 Obstetricians and Gynecologists.

9 The benefits shall be provided to the same extent as for any other  
10 medical condition under the health benefits plan.

11 As used in this section, “non-invasive prenatal test” means a  
12 blood test performed beginning at ten weeks of pregnancy that is  
13 used to screen for Down syndrome and other chromosomal  
14 abnormalities.

15 This section shall apply to those health benefits plans in which  
16 the carrier has reserved the right to change the premium.

17

18 8. A small employer health benefits plan that provides hospital  
19 and medical expense benefits and is delivered, issued, executed, or  
20 renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et  
21 seq.), on or after the effective date of this act, shall provide benefits  
22 under the contract for expenses incurred in conducting a non-  
23 invasive prenatal test for a pregnant person. The methods of testing  
24 for which benefits shall be provided shall include the most reliable,  
25 medically recognized screening test available. The method and  
26 frequency of testing to be utilized shall be in accordance with the  
27 most recent published guidelines of the American College of  
28 Obstetricians and Gynecologists.

29 The benefits shall be provided to the same extent as for any other  
30 condition under the health benefits plan.

31 As used in this section, “non-invasive prenatal test” means a  
32 blood test performed beginning at ten weeks of pregnancy that is  
33 used to screen for Down syndrome and other chromosomal  
34 abnormalities.

35 This section shall apply to those health benefits plans in which  
36 the carrier has reserved the right to change the premium.

37

38 9. Notwithstanding any other provision of law to the contrary,  
39 the State Health Benefits Commission shall ensure that every  
40 contract purchased by the commission on or after the effective date  
41 of this act that provides hospital or medical expense benefits shall  
42 provide benefits under the contract for expenses incurred in  
43 conducting a non-invasive prenatal test for a pregnant person. The  
44 methods of testing for which benefits shall be provided shall  
45 include the most reliable, medically recognized screening test  
46 available. The method and frequency of testing to be utilized shall  
47 be in accordance with the most recent published guidelines of the  
48 American College of Obstetricians and Gynecologists.

1       The benefits shall be provided to the same extent as for any other  
2 medical condition under the contract.

3       As used in this section, “non-invasive prenatal test” means a  
4 blood test performed beginning at ten weeks of pregnancy that is  
5 used to screen for Down syndrome and other chromosomal  
6 abnormalities.

7  
8       10. The School Employees’ Health Benefits Commission shall  
9 ensure that every contract purchased by the commission on or after  
10 the effective date of this act that provides hospital or medical  
11 expense benefits shall provide benefits under the contract for  
12 expenses incurred for in conducting a non-invasive prenatal test for  
13 a pregnant person. The methods of testing for which benefits shall  
14 be provided shall include the most reliable, medically recognized  
15 screening test available. The method and frequency of testing to be  
16 utilized shall be in accordance with the most recent published  
17 guidelines of the American College of Obstetricians and  
18 Gynecologists.

19       The benefits shall be provided to the same extent as for any other  
20 medical condition under the contract.

21       As used in this section, “non-invasive prenatal test” means a  
22 blood test performed beginning at ten weeks of pregnancy that is  
23 used to screen for Down syndrome and other chromosomal  
24 abnormalities.

25  
26       11. a. Notwithstanding any State law or regulation to the  
27 contrary, the Department of Human Services shall, contingent on  
28 maintaining or receiving necessary federal approvals, ensure that  
29 expenses incurred for services in conducting a non-invasive  
30 prenatal test for a pregnant person shall be provided with no cost-  
31 sharing to eligible persons under the Medicaid program, established  
32 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The methods of  
33 testing for which benefits shall be provided shall include the most  
34 reliable, medically recognized screening test available. The method  
35 and frequency of testing to be utilized shall be in accordance with  
36 the most recent published guidelines of the American College of  
37 Obstetricians and Gynecologists.

38       The benefits shall be provided to the same extent as for any other  
39 medical condition under the contract.

40       As used in this section, “non-invasive prenatal test” means a  
41 blood test performed beginning at ten weeks of pregnancy that is  
42 used to screen for Down syndrome and other chromosomal  
43 abnormalities.

44       b. The Commissioner of Human Services shall apply for such  
45 State plan amendments or waivers as may be necessary to  
46 implement the provisions of this section and to secure federal  
47 financial participation for State expenditures under the federal  
48 Medicaid program

1       12. a. As used in this section, “non-invasive prenatal test”  
2 means a blood test performed beginning at ten weeks of pregnancy  
3 that is used to screen for Down syndrome and other chromosomal  
4 abnormalities.

5       b. The Commissioner of Health shall require every hospital in  
6 the State, every birthing center licensed in the State pursuant to  
7 P.L.1971, c.136 (C.26:2H-1 et seq.), every federally qualified  
8 health center, and every physician or health care practitioner in the  
9 State providing care to a pregnant person, to administer to every  
10 pregnant person a non-invasive prenatal test. The testing shall be  
11 based on industry best practices and guidance, as determined by the  
12 American College of Obstetricians and Gynecologists or another  
13 nationally-recognized body as may be designated by the  
14 commissioner.

15       c. A hospital in the State, a birthing center, or a federally  
16 qualified health center providing care to, and a physician or health  
17 care practitioner who is the primary caregiver for a pregnant person,  
18 shall, in accordance with guidelines developed by the  
19 commissioner:

20       (1) provide the person with information on Downs syndrome  
21 and other chromosomal abnormalities and the risk factors associated  
22 with such abnormalities through the educational program developed  
23 pursuant subsection e. of this section;

24       (2) inform the person of the benefits of undergoing non-invasive  
25 prenatal testing, and that the person is required to be tested unless  
26 the person issues a written refusal to be tested, which refusal shall  
27 be provided on a form and in a manner prescribed by the  
28 commissioner consistent with the provisions of subsection d. of this  
29 section; and

30       (3) perform a non-invasive prenatal test unless the person  
31 provides written refusal as provided in paragraph (2) of this  
32 subsection. The person shall, on the same form and in a manner  
33 prescribed by the commissioner consistent with subsection d. of this  
34 section, acknowledge receipt of the information provided by the  
35 hospital, birthing center, federally qualified health center,  
36 physician, or health care practitioner, as applicable, regarding the  
37 benefits of undergoing non-invasive prenatal testing.

38       d. The commissioner shall develop a standardized form to be  
39 used for the purposes of providing the acknowledgement required  
40 pursuant to paragraph (3) of subsection c. of this section, which  
41 may also be used to provide written refusal to undergo non-invasive  
42 prenatal testing pursuant to paragraph (2) of subsection c. of this  
43 section, if applicable.

44       e. The commissioner shall develop, in consultation with the New  
45 Jersey Perinatal Associates and any other community-based  
46 organization as may be designated by the commissioner, a non-  
47 invasive prenatal testing educational program for pregnant persons.  
48 The educational program shall include information on Downs

1 syndrome and other chromosomal abnormalities and the risk factors  
2 associated with such abnormalities.

3 f. Upon receipt of the results of the non-invasive prenatal test  
4 conducted pursuant to subsection b. of this section, the hospital,  
5 licensed birthing center, federally qualified health center, or  
6 physician or health care practitioner, as applicable, shall discuss the  
7 results with the person and, if the person receives a positive test  
8 result, make a referral to a genetic counselor for further  
9 consultation.

10  
11 13. The Commissioner of Health, pursuant to the  
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
13 seq.), shall adopt rules and regulations to effectuate the purposes of  
14 section 12 of P.L., c. (C. ) (pending before the Legislature  
15 as this bill).

16  
17 14. This act shall take effect on the first day of the fourth month  
18 next following the date of enactment. Sections 1 through 11 of this  
19 act shall apply to all contracts and policies that are delivered,  
20 issued, executed, or renewed or approved for issuance or renewal in  
21 this State on or after the effective date.

#### 22 23 24 STATEMENT

25  
26 This bill directs the Commissioner of Health to require every  
27 hospital in the State, every birthing center licensed in the State  
28 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), every federally  
29 qualified health center, and every physician or health care  
30 practitioner in the State providing care to a pregnant person, to  
31 administer to every pregnant person a non-invasive prenatal test..  
32 As defined in the bill, "non-invasive prenatal test" means a blood  
33 test performed beginning at ten weeks of pregnancy that is used to  
34 screen for Down syndrome and other chromosomal abnormalities.

35 Under the bill's provisions, the testing is to be based on industry  
36 best practices and guidance, as determined by the American College  
37 of Obstetricians and Gynecologists or another nationally-recognized  
38 body designated by the commissioner.

39 A hospital, licensed birthing center, or federally qualified health  
40 center providing care to, or a physician or other health care  
41 practitioner who is the primary caregiver for, a pregnant person or a  
42 person, would, in accordance with guidelines developed by the  
43 commissioner: (1) provide the person with information on Downs  
44 syndrome and other chromosomal abnormalities and the risk factors  
45 associated with such abnormalities based on an educational program  
46 developed by the commissioner; (2) inform the person of the  
47 benefits of undergoing non-invasive prenatal testing, and that the  
48 person is required to be tested, unless the person provides a written



1 refusal to be tested; (3) and perform a non-invasive prenatal test  
2 unless the person provides written refusal to be tested. The person  
3 would be required to acknowledge receipt of the information  
4 provided by the hospital, birthing center, federally qualified health  
5 center, physician, or health care practitioner, as applicable,  
6 regarding the benefits of undergoing non-invasive prenatal testing.

7 The bill requires the commissioner to develop a standardized  
8 form to be used to acknowledge receipt of the information, which  
9 form may also be used to provide written refusal to undergo non-  
10 invasive prenatal testing. The commissioner will also be required  
11 to develop, in consultation with the New Jersey Perinatal Associates  
12 and any other community-based organization as may be designated  
13 by the commissioner, a non-invasive prenatal testing educational  
14 program for pregnant persons. The educational program would  
15 include information on Downs syndrome and other chromosomal  
16 abnormalities and the risk factors associated with such  
17 abnormalities.

18 Upon receipt of the results of a non-invasive prenatal test  
19 conducted pursuant to the provisions of the bill, the hospital,  
20 licensed birthing center, federally qualified health center, or  
21 physician or health care practitioner, as applicable, is to discuss the  
22 results with the person and, if the person receives a positive test  
23 result, make a referral to a genetic counselor for further  
24 consultation.

25 The bill also requires health insurers to cover the costs for  
26 conducting non-invasive prenatal tests for a pregnant person.

27 Specifically, certain health insurers (health, hospital, and medical  
28 service corporations, commercial individual and group health  
29 insurers, health maintenance organizations, the State Health  
30 Benefits Program, the School Employees' Health Benefits Program,  
31 and the State Medicaid Program) are to provide health benefits  
32 coverage for expenses incurred expenses incurred in conducting a  
33 non-invasive prenatal test for a pregnant person.