SENATE, No. 2032

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 3, 2022

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Requires health insurance carriers to offer clear cost share plans for individual health benefits plans.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning healthcare costs and individual health benefits plans, supplementing P.L.1992, c.161 and amending P.L.2019, c.141.

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

1. a. (New Section) In consultation with the board, the commissioner shall develop a clear cost share plan for individual health benefits plans that provide for standardized benefits and cost-sharing for covered health services. The design of the clear cost share plan shall take into consideration the following:

(1) the ability of a health plan to conform to actuarial value ranges;

(2) focusing consumer choice to make the process of selecting a health plan more transparent and quality-based;

(3) limiting out-of-pocket costs that serve as a financial barrier to accessing high-value care; and

(4) fostering quality improvement through the promotion of benefits with a high value and a focus on the consumer.

The commissioner shall develop at least one clear cost share plan for each tier of health insurance plan designated as bronze, silver, and gold, in accordance with the federal Patient Protection and Affordable Care Act, 42 U.S.C. s.18001 et. seq. A carrier shall make available any clear cost share plan that is developed pursuant to this section from each metal tier in order to participate in the individual market.

b. The commissioner, in consultation with the board, shall evaluate annually whether to revise, discontinue, or add any clear cost share plan for use by a carrier, which includes, but is not limited to, considering whether a deductible or copayment level should be changed to reflect medical inflation and actuarial values.

c. A 60-day public comment period shall be provided as part of the evaluation process in subsection b. of this act, and sufficient public notice shall be provided as to the commencement of the comment period.

d. In addition to the clear cost share plans developed pursuant to this section, a carrier may offer up to three health benefits plans at each metal level that modify one or more parameters in a clear cost share plan if the carrier submits, and the commissioner approves, an actuarial certification, that the alternative share plan offers significant consumer benefits and does not result in an adverse selection by the consumer. The commissioner shall ensure that the exchange's website prioritizes unmodified clear cost share plans and that a comparison be available to display the similarities

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 <u>thus</u> is new matter.

and differences in coverage between modified and unmodified clear cost share plans.

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

f. As used in this section, "clear cost share plan" means a plan design that includes a set of annual copayments, coinsurance, and deductibles for all or a designated subset of health benefits.

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

2. a. Notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The commissioner may require that all plans in the individual and small employer markets be made available for comparison on the State-based exchange, but nothing in this section shall allow the commissioner to require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange. The department shall coordinate the operations of the exchange with the operations of the State Medicaid program established P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) to determine eligibility for those programs as soon as practicable.

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

c. The Commissioner of Banking and Insurance shall **[**have the authority to**]**, in compliance with the requirements of P.L., c. (C.) (pending before the Legislature as this bill), require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

d. the Commissioner of Banking and Insurance shall establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange. The advisory committee shall include at least nine members, as follows:

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

(2) The Commissioner of Human Services, or a designee, who shall serve ex-officio;

(3) The Commissioner of Health, or a designee, who shall serve ex-officio; and

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

(cf: P.L.2019, c.141, s.2)

3. This act shall take effect immediately and shall be applicable to individual health benefits plans issued on or after January 1, 2023.

STATEMENT

This bill requires health insurance carriers to offer a clear cost share plan for individual health benefits plans.

A clear cost share plan is a plan design that includes a set of annual copayments, coinsurance, and deductibles for all or a designated subset of benefits within a health benefits plan. Under this bill, the commissioner of the Department of Banking and Insurance, in consultation with the board of directors of the Individual Health Coverage Program, will be required to develop a clear cost share plan for individual health benefits plans that provide for standardized benefits and cost-sharing for covered health services. When creating the share plan, the commissioner is to take into consideration the following:

(1) the ability of a health plan to conform to actuarial value ranges;

(2) focusing consumer choice to make the process of selecting a health plan more transparent and quality-based;

(3) limiting out-of-pocket costs that serve as a financial barrier to accessing high-value care; and

(4) fostering quality improvement through the promotion of benefits with a high value and a focus on the consumer.

The commissioner will also be required to develop at least one clear cost share plan for each tier of a health insurance plan designated as bronze, silver, and gold in accordance with the federal Patient Protection and Affordable Care Act. A carrier is to make available any clear cost share plan developed pursuant to the bill from each metal tier in order to participate in the individual market.

Once created, the commissioner will evaluate annually whether to revise, discontinue, or add any clear cost share plan for use by a carrier, which includes, but is not limited to, considering whether a deductible or copayment level should be changed to reflect medical inflation and actuarial values. A 60-day public comment period will be permitted as part of the evaluation process.

Additionally, a carrier will be able to offer up to three health benefits plans that modify one or more parameters in a clear cost share plan created by the commissioner if the carrier submits, and the commissioner approves, an actuarial certification stating that the alternative share plan offers significant consumer benefits and will not result in an adverse selection for the consumer. The commissioner will also ensure that the exchange's website prioritizes unmodified clear cost share plans and that a comparison be available to display the similarities and differences in coverage between modified and unmodified clear cost share plans. Finally, the commissioner will require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.