

**ASSEMBLY, No. 2765**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

Revises certain requirements for individual and small employer health benefits plans and for small employer members of multiple employer welfare arrangements.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning rating factors for certain health benefits plans  
2 and amending various parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.1992, c.161 (C.17B:27A-2) is amended to  
8 read as follows:

9 1. As used in sections 1 through 15, inclusive, of this act:

10 "Board" means the board of directors of the program.

11 "Carrier" means any entity subject to the insurance laws and  
12 regulations of this State, or subject to the jurisdiction of the  
13 commissioner, that contracts or offers to contract to provide,  
14 deliver, arrange for, pay for, or reimburse any of the costs of health  
15 care services, including a sickness and accident insurance company,  
16 a health maintenance organization, a nonprofit hospital or health  
17 service corporation, or any other entity providing a plan of health  
18 insurance, health benefits or health services. For purposes of this  
19 act, carriers that are affiliated companies shall be treated as one  
20 carrier.

21 "Church plan" has the same meaning given that term under Title  
22 I, section 3 of Pub.L.93-406, the "Employee Retirement Income  
23 Security Act of 1974" (29 U.S.C. s.1002 (33)).

24 "Commissioner" means the Commissioner of Banking and  
25 Insurance.

26 "Community rating" means a rating system in which the  
27 premium for all persons covered by a contract is the same, based on  
28 the experience of all persons covered by that contract, without  
29 regard to age, sex, health status, occupation and geographical  
30 location.

31 "Creditable coverage" means, with respect to an individual,  
32 coverage of the individual under any of the following: a group  
33 health plan; a group or individual health benefits plan; Part A or  
34 Part B of Title XVIII of the federal Social Security Act (42 U.S.C.  
35 s.1395 et seq.); Title XIX of the federal Social Security Act  
36 (42 U.S.C. s.1396 et seq.), other than coverage consisting solely of  
37 benefits under section 1928 of Title XIX of the federal Social  
38 Security Act (42 U.S.C.s.1396s); Chapter 55 of Title 10, United  
39 States Code (10 U.S.C. s.1071 et seq.); a medical care program of  
40 the Indian Health Service or of a tribal organization; a state health  
41 benefits risk pool; a health plan offered under chapter 89 of Title 5,  
42 United States Code (5 U.S.C. s.8901 et seq.); a public health plan as  
43 defined by federal regulation; and a health benefits plan under  
44 section 5(e) of the "Peace Corps Act" (22 U.S.C. s.2504(e)); or

**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 coverage under any other type of plan as set forth by the  
2 commissioner by regulation.

3 Creditable coverage shall not include coverage consisting solely  
4 of the following: coverage only for accident or disability income  
5 insurance, or any combination thereof; coverage issued as a  
6 supplement to liability insurance; liability insurance, including  
7 general liability insurance and automobile liability insurance;  
8 workers' compensation or similar insurance; automobile medical  
9 payment insurance; credit only insurance; coverage for on-site  
10 medical clinics; coverage, as specified in federal regulation, under  
11 which benefits for medical care are secondary or incidental to the  
12 insurance benefits; and other coverage expressly excluded from the  
13 definition of health benefits plan.

14 "Department" means the Department of Banking and Insurance.

15 "Dependent" means the spouse, domestic partner as defined in  
16 section 3 of P.L.2003, c.246 (C.26:8A-3), civil union partner as  
17 defined in section 2 of P.L.2006, c.103 (C.37:1-29), or child of an  
18 eligible person, subject to applicable terms of the individual health  
19 benefits plan.

20 "Eligible person" means a person who is a resident who is not  
21 eligible to be covered under a group health benefits plan, group  
22 health plan, governmental plan, church plan, or Part A or Part B of  
23 Title XVIII of the Social Security Act (42 U.S.C.s.1395 et seq.).

24 "Federally defined eligible individual" means an eligible person:  
25 (1) for whom, as of the date on which the individual seeks coverage  
26 under P.L.1992, c.161 (C.17B:27A-2 et al.), the aggregate of the  
27 periods of creditable coverage is 18 or more months; (2) whose  
28 most recent prior creditable coverage was under a group health  
29 plan, governmental plan, church plan, or health insurance coverage  
30 offered in connection with any such plan; (3) who is not eligible for  
31 coverage under a group health plan, Part A or Part B of Title XVIII  
32 of the Social Security Act (42 U.S.C.s.1395 et seq.), or a State plan  
33 under Title XIX of the Social Security Act (42 U.S.C.s.1396 et seq.)  
34 or any successor program, and who does not have another health  
35 benefits plan, or hospital or medical service plan; (4) with respect to  
36 whom the most recent coverage within the period of aggregate  
37 creditable coverage was not terminated based on a factor relating to  
38 nonpayment of premiums or fraud; (5) who, if offered the option of  
39 continuation coverage under the COBRA continuation provision or  
40 a similar State program, elected that coverage; and (6) who has  
41 elected continuation coverage described in (5) above and has  
42 exhausted that continuation coverage.

43 "Financially impaired" means a carrier which, after the effective  
44 date of this act, is not insolvent, but is deemed by the commissioner  
45 to be potentially unable to fulfill its contractual obligations, or a  
46 carrier which is placed under an order of rehabilitation or  
47 conservation by a court of competent jurisdiction.

1 "Governmental plan" has the meaning given that term under Title  
2 I, section 3 of Pub.L.93-406, the "Employee Retirement Income  
3 Security Act of 1974" (29 U.S.C.s.1002(32)) and any governmental  
4 plan established or maintained for its employees by the Government  
5 of the United States or by any agency or instrumentality of that  
6 government.

7 "Group health benefits plan" means a health benefits plan for  
8 groups of two or more persons.

9 "Group health plan" means an employee welfare benefit plan, as  
10 defined in Title I, section 3 of Pub.L.93-406, the "Employee  
11 Retirement Income Security Act of 1974" (29 U.S.C. s.1002 (1)), to  
12 the extent that the plan provides medical care, and including items  
13 and services paid for as medical care to employees or their  
14 dependents directly or through insurance, reimbursement, or  
15 otherwise.

16 "Health benefits plan" means a hospital and medical expense  
17 insurance policy; health service corporation contract; hospital  
18 service corporation contract; medical service corporation contract;  
19 health maintenance organization subscriber contract; or other plan  
20 for medical care delivered or issued for delivery in this State. For  
21 purposes of this act, health benefits plan shall not include one or  
22 more, or any combination of, the following: coverage only for  
23 accident, or disability income insurance, or any combination  
24 thereof; coverage issued as a supplement to liability insurance;  
25 liability insurance, including general liability insurance and  
26 automobile liability insurance; stop loss or excess risk insurance;  
27 workers' compensation or similar insurance; automobile medical  
28 payment insurance; credit-only insurance; coverage for on-site  
29 medical clinics; and other similar insurance coverage, as specified  
30 in federal regulations, under which benefits for medical care are  
31 secondary or incidental to other insurance benefits. Health benefits  
32 plan shall not include the following benefits if they are provided  
33 under a separate policy, certificate or contract of insurance or are  
34 otherwise not an integral part of the plan: limited scope dental or  
35 vision benefits; benefits for long-term care, nursing home care,  
36 home health care, community-based care, or any combination  
37 thereof; and such other similar, limited benefits as are specified in  
38 federal regulations. Health benefits plan shall not include hospital  
39 confinement indemnity coverage if the benefits are provided under  
40 a separate policy, certificate or contract of insurance, there is no  
41 coordination between the provision of the benefits and any  
42 exclusion of benefits under any group health benefits plan  
43 maintained by the same plan sponsor, and those benefits are paid  
44 with respect to an event without regard to whether benefits are  
45 provided with respect to such an event under any group health plan  
46 maintained by the same plan sponsor. Health benefits plan shall not  
47 include the following if it is offered as a separate policy, certificate  
48 or contract of insurance: Medicare supplemental health insurance

1 as defined under section 1882(g)(1) of the federal Social Security  
2 Act (42 U.S.C.s.1395ss(g)(1)); and coverage supplemental to the  
3 coverage provided under chapter 55 of Title 10, United States Code  
4 (10 U.S.C. s.1071 et seq.); and similar supplemental coverage  
5 provided to coverage under a group health plan.

6 "Health status-related factor" means any of the following factors:  
7 health status; medical condition, including both physical and mental  
8 illness; claims experience; receipt of health care; medical history;  
9 genetic information; evidence of insurability, including conditions  
10 arising out of acts of domestic violence; and disability.

11 "Individual health benefits plan" means: a. a health benefits plan  
12 for eligible persons and their dependents; and b. a certificate issued  
13 to an eligible person which evidences coverage under a policy or  
14 contract issued to a trust or association, regardless of the situs of  
15 delivery of the policy or contract, if the eligible person pays the  
16 premium and is not being covered under the policy or contract  
17 pursuant to continuation of benefits provisions applicable under  
18 federal or State law.

19 Individual health benefits plan shall not include a certificate  
20 issued under a policy or contract issued to a trust, or to the trustees  
21 of a fund, which trust or fund is an employee welfare benefit plan,  
22 to the extent the "Employee Retirement Income Security Act of  
23 1974" (29 U.S.C. s.1001 et seq.) preempts the application of  
24 P.L.1992, c.161 (C.17B:27A-2 et al.) to that plan.

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

27 "Medical care" means amounts paid: (1) for the diagnosis, care,  
28 mitigation, treatment, or prevention of disease, or for the purpose of  
29 affecting any structure or function of the body; and (2)  
30 transportation primarily for and essential to medical care referred to  
31 in (1) above.

32 "Member" means a carrier that issues or has in force health  
33 benefits plans in New Jersey. Member shall not include a carrier  
34 whose combined average Medicare, Medicaid, and NJ FamilyCare  
35 enrollment represents more than 75% of its average total enrollment  
36 for all health benefits plans or whose combined Medicare,  
37 Medicaid, and NJ FamilyCare net earned premium for the two-year  
38 calculation period represents more than 75% of its total net earned  
39 premium for the two-year calculation period.

40 "Modified community rating" means a rating system in which the  
41 premium for all persons covered under a policy or contract for a  
42 specific health benefits plan and a specific date of issue of that plan  
43 is the same without regard to sex, health status, occupation,  
44 geographical location or any other factor or characteristic of  
45 covered persons, other than age.

46 The rating system shall provide that the premium rate charged by  
47 the carrier for the highest rated individual or class of individuals  
48 shall not be greater than **【350%】** 300% of the premium rate charged

1 for the lowest rated individual or class of individuals purchasing the  
2 same individual health benefits plan. The rate differential among  
3 the premium rates charged to individuals covered under the same  
4 individual health benefits plans shall be based on the actual or  
5 expected experience of persons covered under that plan; provided,  
6 however, that the rate differential may also be based upon age. The  
7 factors upon which the rate differential is applied shall be consistent  
8 with regulations promulgated by the commissioner, which shall  
9 include age classifications established [ , at a minimum, in five-  
10 year] in one-year increments. There may be a reasonable  
11 differential among the premium rates charged for different family  
12 structure rating tiers within an individual health benefits plan or for  
13 different health benefits plans offered by the carrier.

14 "Net earned premium" means the premiums earned in this State  
15 on health benefits plans, less return premiums thereon and  
16 dividends paid or credited to policy or contract holders on the  
17 health benefits plan business. Net earned premium shall include the  
18 aggregate premiums earned on the carrier's insured group and  
19 individual business and health maintenance organization business,  
20 including premiums from any Medicare, Medicaid, or NJ  
21 FamilyCare contracts with the State or federal government, but  
22 shall not include premiums earned from contracts funded pursuant  
23 to the "Federal Employee Health Benefits Act of 1959," 5 U.S.C.  
24 ss.8901-8914, any excess risk or stop loss insurance coverage  
25 issued by a carrier in connection with any self insured health  
26 benefits plan, or Medicare supplement policies or contracts.

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

29 "Non-group person life year" means coverage of a person for 12  
30 months by an individual health benefits plan or conversion policy or  
31 contract subject to P.L.1992, c.161 (C.17B:27A-2 et al.), Medicare  
32 cost or risk contract or Medicaid contract.

33 "Open enrollment" means the offering of an individual health  
34 benefits plan to any eligible person on a guaranteed issue basis,  
35 pursuant to procedures established by the board.

36 "Plan of operation" means the plan of operation of the program  
37 adopted by the board pursuant to this act.

38 "Plan sponsor" shall have the meaning given that term under  
39 Title I, section 3 of Pub.L.93-406, the "Employee Retirement  
40 Income Security Act of 1974" (29 U.S.C. s.1002 (16)(B)).

41 "Preexisting condition" means a condition that, during a  
42 specified period of not more than six months immediately preceding  
43 the effective date of coverage, had manifested itself in such a  
44 manner as would cause an ordinarily prudent person to seek medical  
45 advice, diagnosis, care or treatment, or for which medical advice,  
46 diagnosis, care or treatment was recommended or received as to that  
47 condition or as to a pregnancy existing on the effective date of  
48 coverage.

1 "Program" means the New Jersey Individual Health Coverage  
2 Program established pursuant to this act.

3 "Resident" means a person whose primary residence is in New  
4 Jersey and who is present in New Jersey for at least six months of  
5 the calendar year, or, in the case of a person who has moved to New  
6 Jersey less than six months before applying for individual health  
7 coverage, who intends to be present in New Jersey for at least six  
8 months of the calendar year.

9 "Two-year calculation period" means a two calendar year period,  
10 the first of which shall begin January 1, 1997 and end December 31,  
11 1998.

12 (cf: P.L.2009, c.293, s.1)

13

14 2. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
15 read as follows:

16 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

17 (2) (Deleted by amendment, P.L.1997, c.146).

18 (3) (a) For all policies or contracts providing health benefits  
19 plans for small employers issued pursuant to section 3 of P.L.1992,  
20 c.162 (C.17B:27A-19), and including policies or contracts offered  
21 by a carrier to a small employer who is a member of a Small  
22 Employer Purchasing Alliance pursuant to the provisions of  
23 P.L.2001, c.225 (C.17B:27A-25.1 et al.) the premium rate charged  
24 by a carrier to the highest rated small group purchasing a small  
25 employer health benefits plan issued pursuant to section 3 of  
26 P.L.1992, c.162 (C.17B:27A-19) shall not be greater than **200%**  
27 300% of the premium rate charged for the lowest rated small group  
28 purchasing that same health benefits plan; provided, however, that  
29 the only factors upon which the rate differential may be based are  
30 age**], gender]** and geography. Such factors shall be applied in a  
31 manner consistent with regulations adopted by the commissioner.

32 **For the purposes of this paragraph (3), policies or contracts offered**  
33 **by a carrier to a small employer who is a member of a Small**  
34 **Employer Purchasing Alliance shall be rated separately from the**  
35 **carrier's other small employer health benefits policies or contracts. ]**

36 (b) A health benefits plan issued pursuant to subsection j. of  
37 section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in  
38 accordance with the provisions of section 7 of P.L.1995, c.340  
39 (C.17B:27A-19.3), for the purposes of meeting the requirements of  
40 this paragraph.

41 (4) (Deleted by amendment, P.L.1994, c.11).

42 (5) Any policy or contract issued after January 1, 1994 to a  
43 small employer who was not previously covered by a health  
44 benefits plan issued by the issuing small employer carrier, shall be  
45 subject to the same premium rate restrictions as provided in  
46 paragraph (3) of this subsection, which rate restrictions shall be  
47 effective on the date the policy or contract is issued.

1 (6) The board shall establish, pursuant to section 17 of  
2 P.L.1993, c.162 (C.17B:27A-51):

3 (a) up to six geographic territories, none of which is smaller  
4 than a county; and

5 (b) age classifications which[, at a minimum,] shall be in [five-  
6 year] one-year increments.

7 b. (Deleted by amendment, P.L.1993, c.162).

8 c. (Deleted by amendment, P.L.1995, c.298).

9 d. Notwithstanding any other provision of law to the contrary,  
10 this act shall apply to a carrier which provides a health benefits plan  
11 to one or more small employers through a policy issued to an  
12 association or trust of employers.

13 A carrier which provides a health benefits plan to one or more  
14 small employers through a policy issued to an association or trust of  
15 employers after the effective date of P.L.1992, c.162 (C.17B:27A-  
16 17 et seq.), shall be required to offer small employer health benefits  
17 plans to non-association or trust employers in the same manner as  
18 any other small employer carrier is required pursuant to P.L.1992,  
19 c.162 (C.17B:27A-17 et seq.).

20 e. Nothing contained herein shall prohibit the use of premium  
21 rate structures to establish different premium rates for individuals  
22 and family units.

23 f. No insurance contract or policy subject to this act, including  
24 a contract or policy entered into with a small employer who is a  
25 member of a Small Employer Purchasing Alliance pursuant to the  
26 provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be  
27 entered into unless and until the carrier has made an informational  
28 filing with the commissioner of a schedule of premiums, not to  
29 exceed 12 months in duration, to be paid pursuant to such contract  
30 or policy, of the carrier's rating plan and classification system in  
31 connection with such contract or policy, and of the actuarial  
32 assumptions and methods used by the carrier in establishing  
33 premium rates for such contract or policy.

34 g. (1) Beginning January 1, 1995, a carrier desiring to increase  
35 or decrease premiums for any policy form or benefit rider offered  
36 pursuant to subsection i. of section 3 of P.L.1992, c.162  
37 (C.17B:27A-19) subject to this act may implement such increase or  
38 decrease upon making an informational filing with the  
39 commissioner of such increase or decrease, along with the actuarial  
40 assumptions and methods used by the carrier in establishing such  
41 increase or decrease, provided that the anticipated minimum loss  
42 ratio for all policy forms shall not be less than 80% of the premium  
43 therefor as provided in paragraph (2) of this subsection. The  
44 commissioner may disapprove any informational filing on a finding  
45 that it is incomplete and not in substantial compliance with  
46 P.L.1992, c.162 (C.17B:27A-17 et seq.), or that the rates are  
47 inadequate or unfairly discriminatory. Until December 31, 1996,  
48 the informational filing shall also include the carrier's rating plan



1 and classification system in connection with such increase or  
2 decrease.

3 (2) Each calendar year, a carrier shall return, in the form of  
4 aggregate benefits for all of the standard policy forms offered by  
5 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
6 (C.17B:27A-19), at least 80% of the aggregate premiums collected  
7 for all of the standard policy forms, **【other than】** including alliance  
8 policy forms, and at least 80% of the aggregate premiums collected  
9 for all of the non-standard policy forms during that calendar year.  
10 **【A carrier shall return at least 80% of the premiums collected for all**  
11 **of the alliances during that calendar year, which loss ratio may be**  
12 **calculated in the aggregate for all of the alliances or separately for**  
13 **each alliance.】** Carriers shall annually report, no later than August  
14 1st of each year, the loss ratio calculated pursuant to this section for  
15 all of the standard**【, other than alliance】** policy forms**【,】** and non-  
16 standard policy forms **【and alliance policy forms】** for the previous  
17 calendar year**【, provided that a carrier may annually report the loss**  
18 **ratio calculated pursuant to this section for all of the alliances in the**  
19 **aggregate or separately for each alliance】**. In each case where the  
20 loss ratio fails to substantially comply with the 80% loss ratio  
21 requirement, the carrier shall issue a dividend or credit against  
22 future premiums for all policyholders with the standard**【, other than**  
23 **alliance policy forms,】** and nonstandard policy forms **【or alliance**  
24 **policy forms】**, as applicable, in an amount sufficient to assure that  
25 the aggregate benefits paid in the previous calendar year plus the  
26 amount of the dividends and credits shall equal 80% of the  
27 aggregate premiums collected for the respective policy forms in the  
28 previous calendar year. All dividends and credits must be  
29 distributed by December 31 of the year following the calendar year  
30 in which the loss ratio requirements were not satisfied. The annual  
31 report required by this paragraph shall include a carrier's calculation  
32 of the dividends and credits applicable to standard**【, other than**  
33 **alliance policy forms,】** and non-standard policy forms **【and alliance**  
34 **policy forms】**, as well as an explanation of the carrier's plan to issue  
35 dividends or credits. The instructions and format for calculating  
36 and reporting loss ratios and issuing dividends or credits shall be  
37 specified by the commissioner by regulation. Such regulations shall  
38 include provisions for the distribution of a dividend or credit in the  
39 event of cancellation or termination by a policyholder. For  
40 purposes of this paragraph, "alliance policy forms" means policies  
41 purchased by small employers who are members of Small Employer  
42 Purchasing Alliances.

43 (3) The loss ratio of a health benefits plan issued pursuant to  
44 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall  
45 be calculated in accordance with the provisions of section 7 of  
46 P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the  
47 requirements of this subsection.

1 h. (Deleted by amendment, P.L.1993, c.162).

2 i. The provisions of this act shall apply to health benefits plans  
3 which are delivered, issued for delivery, renewed or continued on or  
4 after January 1, 1994.

5 j. (Deleted by amendment, P.L.1995, c.340).

6 k. A carrier who negotiates a reduced premium rate with a  
7 Small Employer Purchasing Alliance for members of that alliance  
8 shall provide a reduction in the premium rate filed in accordance  
9 with paragraph (3) of subsection a. of this section, expressed as a  
10 percentage, which reduction shall be based on volume or other  
11 efficiencies or economies of scale and shall not be based on health  
12 status-related factors.

13 (cf: P.L.2008, c.38, s.24)

14

15 3. Section 8 of P.L.2001, c.352 (C.17B:27C-8) is amended to  
16 read as follows:

17 8. a. Except as provided by this act, the insurance laws of this  
18 State do not apply to the operation of self-funded multiple employer  
19 welfare arrangements. A self-funded multiple employer welfare  
20 arrangement is not an insurance company or insurer under the laws  
21 of this State.

22 b. Any self-funded multiple employer welfare arrangement  
23 shall offer all products that it is actively marketing to any employer,  
24 and accept any employer and any employee of that employer who  
25 applies for any of those products; provided, however that a self-  
26 funded multiple employer welfare arrangement may limit  
27 participation to members of the association.

28 c. Assessments payable by small employer members, except  
29 for dental plans, shall **be established in accordance with the rating**  
30 **requirements of section 9 of P.L.1992, c.162 (C.17B:27A-25) and**  
31 **regulations promulgated thereunder] not be greater than 300**  
32 **percent of the assessment charged to the lowest rated small**  
33 **employer member of the self-funded multiple employer welfare**  
34 **arrangement.**

35 d. **(1)** If the member is a small employer, the **[health]**  
36 **coverage of mandated hospital and medical benefits [to be]**  
37 **provided by the self-funded multiple employer welfare arrangement**  
38 **shall at all times be equal to or greater than the hospital and medical**  
39 **benefits required to be **[provided in] covered under** the lowest**  
40 **benefit level standard plan promulgated by the New Jersey Small**  
41 **Employer Health Benefits Program pursuant to P.L.1992, c.162**  
42 **(C.17B:27A-17 et seq.) , and shall include coverage of pediatric**  
43 **services, including oral and vision care, as required by the**  
44 **Affordable Care Act, and federal regulations set forth at 45 CFR**  
45 **156.100, et seq. The provisions of this subsection shall not require**  
46 **a self-funded multiple employer welfare arrangement to provide**  
47 **small employer members with any plan provisions applicable under**

1 the New Jersey Small Employer Health Benefits Program, other  
2 than coverage of mandated hospital and medical benefits.

3 (2) As used in this subsection:

4 "Affordable Care Act" means the federal Patient Protection and  
5 Affordable Care Act, Pub.L.111-148, as amended by the federal  
6 "Health Care and Education Reconciliation Act of 2010,"  
7 Pub.L.111-152, and any federal rules and regulations adopted  
8 pursuant thereto.

9 "Hospital and medical benefits" means benefits provided  
10 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) that:

11 (a) cover certain persons or certain illnesses, procedures, or  
12 prescription drugs;

13 (b) require coverage of benefits without or with limited cost-  
14 sharing;

15 (c) require reimbursement of care by certain providers, if the  
16 care is a covered expense; or

17 (d) require coverage of maternity benefits, including prenatal  
18 and postnatal care.

19 "Plan provisions" shall include, but shall not be limited to, any  
20 rules, requirements, and payment provisions, including any cost-  
21 sharing requirements, designed to implement those plans.

22 e. A large employer participating in a multiple employer  
23 welfare arrangement shall not be required to adhere to the plan or  
24 design elements, or any required coverage offerings applicable to  
25 small employers, including but not limited to deductibles, co-pays,  
26 and co-insurance amounts. After the effective date of P.L.2015,  
27 c.172, large employer members of a multiple employer welfare  
28 arrangement shall continue to offer all health benefits mandated by  
29 State law and in effect on October 1, 2014. Any new or additional  
30 health benefits mandated by State law required to be offered after  
31 October 1, 2014 shall not be required to be offered by large  
32 employers participating in a multiple employer welfare  
33 arrangement. Except as provided in P.L.2001, c.352 (C.17B:27C-1  
34 et seq.) as amended by P.L.2015, c.172, multiple employer welfare  
35 arrangements with large employers shall be otherwise subject to the  
36 requirements of State and federal law.

37 f. Notwithstanding any other provision to the contrary, if the  
38 member is a large employer, the rate manual used to calculate  
39 program rates may include appropriate classification factors such as  
40 claims experience and utilization, age, gender, tobacco use, and  
41 geography, and such specific underwriting adjustments as may be  
42 certified in accordance with subsection d. of section 6 of P.L.2001,  
43 c.352 (C.17B:27C-6).

44 g. The self-funded multiple employer welfare arrangement may  
45 provide to its members a health and wellness program consistent  
46 with the United States Department of Labor's requirements.

1 h. The self-funded multiple employer welfare arrangement may  
2 provide to its members an internet-based system for the  
3 administration, billing and claims processing of its benefits.  
4 (cf: P.L.2015, c.172, s.5.)  
5

6 4. This act shall take effect on the 90th day next following  
7 enactment.  
8  
9

10 STATEMENT  
11

12 This bill revises certain requirements for individual and small  
13 employer health benefits plans and for small employer members of  
14 multiple employer welfare arrangements.

15 This bill brings New Jersey statutes that govern the rating factors  
16 used by health insurance carriers to charge premiums for health  
17 benefits plans in the individual and small employer markets into  
18 compliance with certain provisions of the federal Affordable Care Act  
19 (ACA). Current New Jersey statutes allow premiums for health  
20 benefits plans offered in these markets to vary according to certain  
21 factors and within certain ranges in ways that are not in compliance  
22 with the requirements of the ACA.

23 Specifically, with respect to plans offered through the New Jersey  
24 Individual Health Coverage Program, the bill: (1) provides that the  
25 premium rate charged by a carrier for the highest rated individual or  
26 class of individuals shall not exceed 300%, instead of 350% as  
27 provided in current law, of the premium rate charged for the lowest  
28 rated individual or class of individuals purchasing the same individual  
29 health benefits plan; and (2) requires rate differentials based on age to  
30 use classifications established in one-year increments, instead of five-  
31 year increments as provided in current law.

32 With respect to plans offered through the New Jersey Small  
33 Employer Health Benefits Program, the bill: (1) removes gender as a  
34 permissible rating factor; (2) eliminates separate rating treatment for  
35 small employer purchasing alliances for determining permissible rate  
36 differentials between the highest rated and lowest rated plans, and for  
37 determining compliance with medical loss ratios; and (3) requires rate  
38 differentials based on age to use classifications established in one-year  
39 increments, instead of five-year increments as provided in current law.

40 By amending these statutes that govern the offering of individual  
41 and small employer plans in the State, the bill brings New Jersey law  
42 into conformance with certain provisions of the ACA.

43 With respect to plans offered through the Small Employer Health  
44 Benefits Program, the bill also provides that the premium rate charged  
45 by a carrier to the highest rated small group purchasing a small  
46 employer health benefits plan may not be greater than 300% of the  
47 premium rate charged for the lowest rated small group purchasing that  
48 same health benefits plan.

1       A multiple employer welfare arrangement, or MEWA, is a self-  
2 funded or partially self-funded multiple employer welfare arrangement  
3 that provides for health benefits plans and that has one or more of the  
4 employer members either domiciled in New Jersey or its principal  
5 headquarters or principal administrative office located in the State.

6       Under current law, the assessments payable by small employer  
7 members of MEWAs are required to be in accordance with the rating  
8 requirements of the New Jersey Small Employer Health Benefits  
9 Program. Pursuant to this requirement, assessments payable by small  
10 employer members may not be greater than 200% of the premium rate  
11 charged for the lowest rated small employer member. Under the bill,  
12 assessments payable by small employer members would be required to  
13 be no greater than 300% of the assessment charged to the lowest rated  
14 small employer member of the self-funded multiple employer welfare  
15 arrangement.

16       The bill also clarifies the requirements for small employer  
17 members of MEWAs concerning mandated health benefits. Under  
18 current law, small employer members are required to provide health  
19 benefits that are equal to or greater than benefits required to be  
20 provided by the New Jersey Small Employer Health Benefits Program.  
21 Under the bill, small employer members would be required to provide  
22 hospital and medical benefits that are equal to or greater than the  
23 hospital and medical benefits required to be provided by the New  
24 Jersey Small Employer Health Benefits Program. The bill clarifies  
25 that the hospital and medical benefits provided shall include coverage  
26 of pediatric services, including oral and vision care, as required by the  
27 Affordable Care Act, and maternity benefits, including prenatal and  
28 postnatal care. The bill further clarifies the hospital and medical  
29 benefits coverage requirement and makes it clear that a self-funded  
30 multiple employer welfare arrangement is not required to provide  
31 small employer members with any plan provisions applicable under  
32 the New Jersey Small Employer Health Benefits Program other than  
33 coverage of mandated hospital and medical benefits. As used in the  
34 bill, plan provisions include, but are not limited to, any rules,  
35 requirements, and payment provisions, including any cost-sharing  
36 requirements, designed to implement those plans.

37       Finally, the bill requires hospital and medical benefits provided by  
38 MEWAs include coverage of pediatric services, including oral and  
39 vision care, as required by the Affordable Care Act, and maternity  
40 benefits, including prenatal and postnatal care.