ASSEMBLY, No. 3972

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:
Assemblyman ROY FREIMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Makes certain changes to calculation of minimum loss ratio requirements for health benefits plans in individual and small employer markets.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning minimum loss ratios for certain health benefits plans and amending P.L.1992, c.161 and P.L.1992, c.162.

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

1. Section 8 of P.L.1992, c.161 (C.17B:27A-9) is amended to read as follows:

8. a. (Deleted by amendment, P.L.2008, c.38).

b. The board shall make application on behalf of all carriers for any other subsidies, discounts, or funds that may be provided for under State or federal law or regulation. A carrier may include subsidies or funds granted to the board to reduce its premium rates for individual health benefits plans subject to **[**this act**]** P.L.1992, c.161 (C.17B:27A-2 et al.).

c. A carrier shall not issue individual health benefits plans on a new contract or policy form pursuant to **[**this act**]** P.L.1992, c.161 (C.17B:27A-2 et al.) until an informational filing of a full schedule of rates which applies to the contract or policy form has been filed with the commissioner. The commissioner shall provide a copy of the informational filing to the Attorney General and the board.

d. A carrier desiring to increase or decrease premiums for any contract or policy form may implement that increase or decrease upon making an informational filing with the commissioner of that increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing that increase or decrease. The commissioner may disapprove any informational filing on a finding that it is incomplete and not in substantial compliance with P.L.1992, c.161 (C.17B:27A-2 et al.), or that the rates are inadequate or unfairly discriminatory.

e. (1) Rates shall be formulated on contracts or policies required pursuant to section 3 of **[**this act**]** P.L.1992, c.161 (C.17B:27A-4) so that the anticipated minimum loss ratio for a contract or policy form shall not be less than 80% of the premium calculated based on a three-year rolling average. The carrier shall submit with its rate filing supporting data, as determined by the commissioner, and a certification by a member of the American Academy of Actuaries, or other individuals in a format acceptable to the commissioner, that the carrier is in compliance with the provisions of this subsection.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for all of the policy or contract forms offered by the carrier pursuant to subsection a. of section 3 of P.L.1992, c.161 (C.17:B:27A-4), at least 80% of the aggregate premiums collected for all of the policy or contract forms during that calendar year. Carriers shall annually report, no later than August 1 of each year, the loss ratio calculated pursuant to this section for all of the policy

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.

or contract forms for the previous calendar year. The loss ratio for the previous year shall be calculated based on a three-year rolling average. In each case in which the loss ratio fails to comply with the 80% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policy or contract holders, as applicable, in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits, calculated based on a three-year rolling average, equal 80% of the aggregate premiums collected for the policy or contract forms in the previous calendar year calculated based on a three-year rolling average. All dividends and credits shall be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this subsection shall include a carrier's calculation of the dividends and credits applicable to all policy or contract forms, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Those regulations shall include provisions:

(a) for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder;

(b) requiring a carrier's minimum loss ratio to be calculated by aggregating the data for a three-year period which includes the data for the previous calendar year whose minimum loss ratio is being calculated, including three months of runout through the first quarter of the subsequent year; and the data for the two years immediately preceding the year for which the minimum loss ratio is being calculated;

(c) requiring that the numerator of a carrier's minimum loss ratio for a minimum loss ratio reporting year to be the carrier's claims paid plus the carrier's expenditures for activities that improve health care quality;

(d) requiring adjustments to be either included in or deducted from incurred claims receipts related to the transitional reinsurance program and net payments or receipts related to the risk adjustment; and

(e) that any new or increased State and federal taxes or assessments initiated after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) shall be excluded from premiums for purposes of minimum loss ratio calculation.

f. (Deleted by amendment, P.L.2008, c.38).

(cf: P.L.2008, c.38, s.16)

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

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

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

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

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

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

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

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

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

(b) age classifications which, at a minimum, shall be in five-year increments.

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

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

d. Notwithstanding any other provision of law to the contrary, ⟦this act⟧ <u>P.L.1992, c.162 (C.17B:27A-17 et seq.)</u> shall apply to a carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers.

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

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

f. No insurance contract or policy subject to ⟦this act⟧ <u>P.L.1992, c.162 (C.17B:27A-17 et seq.)</u>, including a contract or policy entered into with a small employer who is a member of a Small Employer Purchasing Alliance pursuant to the provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be entered into unless and until the carrier has made an informational filing with the commissioner of a schedule of premiums, not to exceed 12 months in duration, to be paid pursuant to such contract or policy, of the carrier's rating plan and classification system in connection with such contract or policy, and of the actuarial assumptions and methods used by the carrier in establishing premium rates for such contract or policy.

g. (1) Beginning January 1, 1995, a carrier desiring to increase or decrease premiums for any policy form or benefit rider offered pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-19) subject to ⟦this act⟧ <u>P.L.1992, c.162 (C.17B:27A-17 et seq.)</u> may implement such increase or decrease upon making an informational filing with the commissioner of such increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing such increase or decrease, provided that the anticipated minimum loss ratio for all policy forms shall not be less than 80% of the premium<u>, calculated based on a three-year rolling average,</u> therefor as provided in paragraph (2) of this subsection. The commissioner may disapprove any informational filing on a finding that it is incomplete and not in substantial compliance with P.L.1992, c.162 (C.17B:27A-17 et seq.), or that the rates are inadequate or unfairly discriminatory. Until December 31, 1996, the informational filing shall also include the carrier's rating plan and classification system in connection with such increase or decrease.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for all of the standard policy forms offered by the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162 (C.17B:27A-19), at least 80% of the aggregate premiums collected for all of the standard policy forms, other than alliance policy forms, and at least 80% of the aggregate premiums collected for all of the non-standard policy forms during that calendar year. A carrier shall return at least 80% of the premiums collected for all of the alliances during that calendar year, which loss ratio may be calculated in the aggregate for all of the alliances or separately for each alliance. Carriers shall annually report, no later than August 1st of each year, the loss ratio calculated pursuant to this section for all of the standard, other than alliance policy forms, non-standard

policy forms and alliance policy forms for the previous calendar year, provided that a carrier may annually report the loss ratio calculated pursuant to this section for all of the alliances in the aggregate or separately for each alliance. <u>The loss ratio for the previous year shall be calculated based on a three-year rolling average.</u> In each case where the loss ratio fails to substantially comply with the 80% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policyholders with the standard, other than alliance policy forms, nonstandard policy forms or alliance policy forms, as applicable, in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits shall equal 80% of the aggregate premiums collected for the respective policy forms in the previous calendar year. All dividends and credits must be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this paragraph shall include a carrier's calculation of the dividends and credits applicable to standard, other than alliance policy forms, non-standard policy forms and alliance policy forms, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Such regulations shall include provisions<u>:</u>

<u>(a)</u> for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder<u>;</u>

<u>(b) requiring a carrier’s minimum loss ratio to be calculated by aggregating the data for a three-year period which includes the data for the previous calendar year whose minimum loss ratio is being calculated, including three months of runout through the first quarter of the subsequent year and the data for the two years immediately preceding the year for which the minimum loss ratio is being calculated;</u>

<u>(c) requiring that the numerator of a carrier’s minimum loss ratio for a minimum loss ratio reporting year to be the carrier’s claims paid plus the carrier’s expenditures for activities that improve health care quality;</u>

<u>(d) requiring adjustments to be either included in or deducted from incurred claims receipts related to the transitional reinsurance program and net payments or receipts related to the risk adjustment; and</u>

<u>(e) that any new or increased State and federal taxes or assessments initiated after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) shall be excluded from premium for purposes of minimum loss ratio calculation</u>.

For purposes of this paragraph, "alliance policy forms" means policies purchased by small employers who are members of Small Employer Purchasing Alliances.

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

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

i. The provisions of [this act] P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to health benefits plans which are delivered, issued for delivery, renewed or continued on or after January 1, 1994.

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

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

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

3. This act shall take effect immediately and shall apply to plans delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act.

STATEMENT

This bill makes certain changes to the minimum loss ratio requirements for the individual and small employer health insurance markets. Generally, a minimum loss ratio requires health insurers to spend a certain portion of each premium dollar on the payment of claims and on quality improvement. The remaining portion of each premium dollar may be spent on administrative expenses.

Under the bill, the 80 percent minimum loss ratio for the previous year is required to be calculated based on a three-year rolling average. In addition, the bill requires the Department of Banking and Insurance to issue regulations for both the individual and small employer markets:

(1) requiring a health insurance carrier's minimum loss ratio to be calculated by aggregating the data for a three-year period which includes the data for the previous calendar year whose minimum loss ratio is being calculated, including three months of runout through the first quarter of the subsequent year and the data for the two years immediately preceding the year for which the minimum loss ratio is being calculated;

(2) requiring that the numerator of a carrier's minimum loss ratio for a minimum loss ratio reporting year to be the carrier's

claims paid plus the carrier's expenditures for activities that improve health care quality;

(3) requiring adjustments to be either included in or deducted from incurred claims receipts related to the transitional reinsurance program and net payments or receipts related to the risk adjustment; and

(4) that any new or increased State and federal taxes or assessments be excluded from premiums for purposes of the minimum loss ratio calculation.