

ANALYSIS OF THE NEW JERSEY BUDGET

DEPARTMENT OF BANKING AND INSURANCE

Prepared by the

New Jersey Legislature

 \star Office of LEGISLATIVE SERVICES \star

May 2022

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF BANKING AND INSURANCE

Budget Pages C-3, C-9, C-16, D-23 to D-29

The data presented in this Office of Legislative Services Budget Analysis reflect 12-month fiscal years beginning on July 1 and ending on June 30 of the subsequent year.

Fiscal Summary (\$000)

, (400)				
	Adjusted Expended Appropriation Recommended			Percentage Change
	FY 2021	FY 2022	FY 2023	2022-23
State Budgeted	\$53,515	\$89,513	\$90,263	0.8%
Federal Funds	262	0	0	
All Other Funds	<u>751</u>	<u>726</u>	<u>726</u>	0.0%
Grand Total	\$54,528	\$90,239	\$90,989	0.8%

Personnel Summary - Positions By Funding Source

	Actual FY 2021	Revised FY 2022	Funded FY 2023	Percentage Change 2022-23
State	0	0	0	
Federal	0	0	0	
All Other Funds	<u>421</u>	<u>407</u>	<u>554</u>	<u>36.1%</u>
Total Positions	421	407	554	36.1%

FY 2021 (as of December) and revised FY 2022 (as of January) personnel data reflect actual payroll counts. FY 2023 data reflect the number of positions funded.

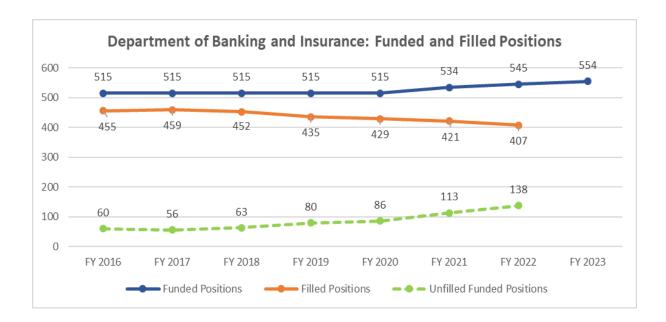
Link to Website: https://www.njleg.state.nj.us/budget-finance/governors-budget

Highlights

- The Department of Banking and Insurance's regulatory activities are entirely funded through revenue collected from fees and assessments imposed on the industries it regulates, and in certain years, federal funding.
- The Governor's FY 2023 Budget recommends \$91.0 million in State and dedicated funds be appropriated for the department in FY 2023, an increase of \$750,000 above the current year's adjusted appropriations.
- P.L.2020, c.145 permits the reorganization of a health service corporation (Horizon Blue Cross Blue Shield of New Jersey) into a mutual holding company, subject to Department of Banking and Insurance approval. If the reorganization is approved and takes effect before June 1, 2023, the company must pay a one-time \$600 million assessment to the State by June 1, 2023. The FY 2023 Governor's Budget does not include the one-time \$600 million payment from Horizon among the anticipated FY 2023 revenues.
- The department operates the State-based health insurance exchange (Get Covered New Jersey). The program is funded out of the New Jersey Health Insurance Exchange Trust Fund, an off-budget, special nonlapsing revolving fund. Expenditures for the operation of the exchange, related outreach and enrollment efforts, and market stabilization initiatives are projected to grow by \$16.1 million from \$44.8 million in FY 2022 to \$60.8 million in FY 2023, as the developing program matures. For instance, the program has 25 funded positions, of which 15 are funded vacancies the department expects to fill.
- The department operates a reinsurance and a subsidy program in support of health insurance policies purchased on the State-based health insurance exchange. Each program is funded out of an off-budget, special nonlapsing revolving fund (the New Jersey Health Insurance Premium Security Fund for the reinsurance program and the Health Insurance Affordability Fund for the subsidy program). For the two programs combined, expenditures are forecast to grow by \$60.7 million, from \$547.6 million in FY 2022 to \$608.3 million in FY 2023, based on projected enrollment growth. The Office of Management and Budget attributes the enrollment growth in part to an FY 2022 income eligibility expansion for State subsidies from 400 percent to 600 percent of the federal poverty levels, and the expected migration of individuals to marketplace insurance who will lose their Medicaid and Children's Health Insurance Program (CHIP) coverage upon the expiration of the federal public health emergency (see next bullet point).
- The Governor proposes providing new supplemental appropriation authority to the department to subsidize nonpublic health insurance coverage purchased through the State-based health insurance exchange, Get Covered New Jersey. The supplemental appropriations would be intended to reduce the number of Medicaid and Children's Health Insurance Program (CHIP) enrollees who will become uninsured upon losing their Medicaid and CHIP eligibility following the termination of the current federal public health emergency. During the emergency, federal law prohibited the State from disenrolling any program participant because of a loss of eligibility. The loss of Medicaid and CHIP eligibility is expected to increase demand for subsidized marketplace coverage. In February 2022, almost 2.1 million New Jerseyans were enrolled in the two programs that together are branded as NJ FamilyCare, up from 1.7 million in February 2020.

Highlights (Cont'd)

• The Governor's FY 2023 Budget funds 554 positions in the department in FY 2023, which is nine more than the FY 2022 count of funded positions. The nine additional positions would be placed in the Bureau of Fraud Deterrence within the Division of Insurance. The table on the following page shows the department's numbers of funded, filled, and unfilled funded positions since FY 2016.



Background Papers:

•	Health Insurance-Related Special Fundsp	١. ٦

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Forman da d	Adj.	D	Percentage	Chango
	Expended FY 2021	Approp. FY 2022	Recom. FY 2023	2021-23	2022-23
General Fund					
Direct State Services	\$53,515	\$89,513	\$90,263	68.7%	0.8%
Grants-In-Aid	0	0	0		
State Aid	0	0	0		
Capital Construction	0	0	0		
Debt Service	0	0	0		
Sub-Total	\$53,515	\$89,513	\$90,263	68.7%	0.8%
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0		
Grants-In-Aid	0	0	0		
State Aid	0	0	0		
Sub-Total	\$0	\$0	\$0		
Casino Revenue Fund	\$0_	\$0_	\$0_		
Casino Control Fund	\$0	\$0	\$0		
State Total	\$53,515	\$89,513	\$90,263	68.7%	0.8%
Federal Funds	\$262	\$0	\$0	(100.0%)	
Other Funds	\$751_	\$726	\$726	(3.3%)	0.0%
Grand Total	\$54,528	\$90,239	\$90,989	66.9%	0.8%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual	Revised	Funded	Percentage	e Change
	FY 2021	FY 2022	FY 2023	2021-23	2022-23
State	0	0	0		
Federal	0	0	0		
All Other	421	407	554	31.6%	36.1%
Total Positions	421	407	554	31.6%	36.1%

FY 2021 (as of December) and revised FY 2022 (as of January) personnel data reflect actual payroll counts. FY 2023 data reflect the number of positions funded.

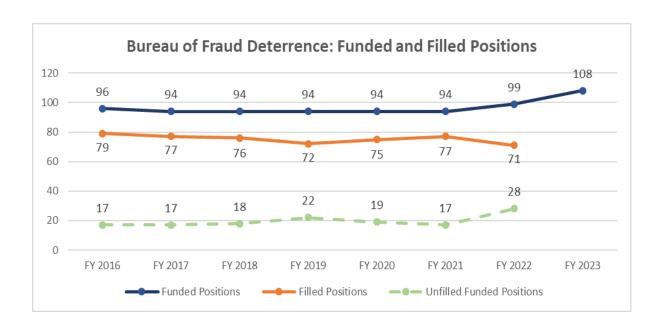
AFFIRMATIVE ACTION DATA

Total Minority Percentage 35.8% 42.1% N/A ----

Significant Changes/New Programs (\$000)

General Fund, Direct State Services Bureau of Fraud Deterrence			Budge	t Page: D-27	
FY 2020 Expended	FY 2021 Expended	FY 2022 Adj. Approp.	FY 2023 Recom.	Cha FY 2022 -	•
\$18,466	\$19,270	\$23,396	\$24,146	\$750	3.2%

The Governor recommends a \$750,000, or 8.9 percent, increase in the Salaries and Wages appropriation of the Bureau of Fraud Deterrence in the Division of Insurance from \$8.4 million in FY 2022 to \$9.2 million in FY 2023. Nine additional positions would be funded, which would raise the bureau's count of funded positions to 108. The table below shows the bureau's numbers of funded, filled, and unfilled funded positions since FY 2016.



Significant Language Changes

Supplemental Appropriation Authority – Marketplace Health Insurance Premium Subsidies

Addition

2022 Handbook: p. N/A 2023 Budget: p. D-28

Notwithstanding the provisions of any law or regulation to the contrary, in order to prevent unnecessary loss of health insurance coverage by individuals and families upon the termination of federal pandemic benefits and to effectuate the timely and efficient transition of individuals and families from temporary Medicaid/CHIP coverage, as provided under the Families First Coronavirus Response Act (FFCRA), to longer-term coverage under the State-based exchange, in addition to the amount hereinabove appropriated for the Health Insurance Affordability Fund, there are appropriated such additional amounts as determined by the Commissioner of the Department of Banking and Insurance, subject to approval of the Director of the Division of Budget and Accounting, for deposit into the Health Insurance Affordability Fund for the purpose of providing subsidies for enrollment of health insurance coverage through the State-based exchange to those individuals and families whose temporary Medicaid coverage was terminated.

Explanation

This new language would grant the department unlimited supplemental appropriation authority to subsidize nonpublic health insurance coverage purchased through the State-based health insurance exchange, Get Covered New Jersey. Any supplemental appropriation would be made to the Health Insurance Affordability Fund, a special nonlapsing revolving fund, for which the Governor recommends an unchanged \$25.0 million General Fund appropriation.

The supplemental appropriation authority is proposed to curtail the number of Medicaid and Children's Health Insurance Program (CHIP) enrollees who would become uninsured when they will lose Medicaid and CHIP eligibility following the termination of the current federal public health emergency. The loss of Medicaid and CHIP eligibility is expected to increase demand for subsidized marketplace coverage. The exact timing and scale of the anticipated increase remain unknown and the uptick may not fully occur until FY 2024. In February 2022, almost 2.1 million New Jerseyans were enrolled in the two programs that together are branded as NJ FamilyCare, up from 1.7 million in February 2020.

The expected rising demand for marketplace health insurance policies is attributable to the federal Families First Coronavirus Response Act of 2020. The law allowed states to claim enhanced federal Medicaid and CHIP cost reimbursement rates for the duration of the COVID-19 public health emergency. In order for states to receive the enhanced funds, however, they have been prohibited from disenrolling beneficiaries from the public health insurance programs until the end of the emergency period. Once the emergency ends, states will have up to 12 months to disenroll Medicaid and CHIP participants who no longer meet the programs' regular eligibility requirements.

EXPLANATION: FY 2022 language not recommended for FY 2023 denoted by strikethrough.

Recommended FY 2023 language that did not appear in FY 2022 denoted by underlining.

Background Paper: Health Insurance-Related Special Funds

C-15; D-28; and Pages 84, 85 and 94 of the Budget Pages "Supplementary Information" section in the FY 2023 Governor's Budget, available online

In recent years, the Legislature has established several special nonlapsing revolving funds relating to private health insurance in the State, in part in response to federal policy changes altering the insurance framework established under the federal Patient Protection and Affordable Care Act of 2010. While the funds vary in purpose and scope, the overarching goal is to lower the cost of private health insurance for New Jersey residents. For that reason, the funds are interlinked and balances are being transferred among them. This backgrounder outlines the purposes and describes the financial activity of each of the three funds.

Health Insurance Exchange Trust Fund

P.L.2019, c.141 established the State-based health insurance exchange, Get Covered New Jersey, and the Health Insurance Exchange Trust Fund to finance the operations of the exchange and support health insurance outreach and enrollment efforts. The purpose of the exchange is to provide a centralized location where individuals and small businesses can shop for an affordable health insurance plan. The State-based health insurance exchange platform became operational on November 1, 2020 for plan year 2021.

To fund the exchange, each carrier is charged a monthly assessment equal to 3.5 percent, or up to 4.0 percent at the department's discretion, on the carrier's total monthly premiums charged for individual health benefits plans sold in the individual market. Revenues collected from the assessment, as well as any other moneys received to support the exchange, are to be deposited in the special nonlapsing revolving Health Insurance Exchange Trust Fund. Balances in the trust fund are to pay for the operation of the exchange; as well as outreach, enrollment, and other efforts that support the exchange, including any initiative that increases the stabilization of the market or that may result in a net benefit to policyholders.

As shown in the table on the next page, there are no expenses charged directly to the trust fund. Instead, amounts are transferred to the Department of the Treasury to fund activities that enabling statutes authorize to be funded out of the trust fund. Such transfers to fund eligible expenses are projected to increase from \$44.8 million in FY 2022 to \$60.8 million in FY 2023, as the developing program matures. For instance, the program has 25 funded positions, of which 15 are funded vacancies the department expects to fill in FY 2023.

At the same time as expenditures are forecast to grow, the year-end trust fund balance is projected to rise from \$43.7 million in FY 2022 to \$52.9 million in FY 2023.

More than 324,000 New Jerseyans signed up for health coverage through Get Covered New Jersey in the most recent open enrollment period, according to a press release by the Department of Banking and Insurance from February 23, 2022. The department noted that this number represented 20 percent growth over last year, which was the first year of operation for the Statebased health insurance exchange. The recently completed open enrollment period ran from November 1, 2021 to January 31, 2022.

Background Paper: Health Insurance-Related Funds (Cont'd)

Health Insurance Exchange Trust Fund				
	FY 2021	FY 2022	FY 2023	
	Actual	Estimated	Estimated	
Opening Balance	\$2,513,043	\$10,414,469	\$43,697,352	
Expenditures	\$0	\$0	\$0	
Transfers to other funds	\$40,255,501	\$44,750,069	\$60,837,132	
Total Resources:	\$48,156,927	\$78,032,952	\$70,060,637	
Services and assessments	\$48,154,056	\$78,000,000	\$70,000,000	
Investment Earnings	\$2,871	\$32,952	\$60,637	
Closing Balance	\$10,414,469	\$43,697,352	\$52,920,857	

New Jersey Health Insurance Premium Security Fund

The New Jersey Health Insurance Premium Security Fund was established by P.L.2018, c.24 to support the establishment and operation of a health insurance reinsurance plan to stabilize or reduce premiums in the individual health insurance market. The plan allows health insurance carriers that experience a sudden increase of high-cost claimants and high-cost claims to be reimbursed from the reinsurance fund. The New Jersey Reinsurance Program aims to reduce premiums by about 15 percent.

Several sources finance the New Jersey Reinsurance Program: federal funds the State receives for the support of the reinsurance program, collections from the State shared responsibility tax, and transfers out of the Health Insurance Affordability Fund. In addition, P.L.2018, c.24 requires the State to appropriate annually the residual amount that is necessary to fully fund the reinsurance plan.

As shown in the table on the following page, reinsurance program expenditures from the fund are expected to rise substantially from \$295.0 million in FY 2021 to \$413.6 million in FY 2022, before growth is projected to moderate to \$440.3 million in FY 2023. The Office of Management and Budget attributes the increase in reinsurance program expenditures to significant enrollment growth in the State-based health insurance exchange, Get Covered New Jersey, which exerts upward pressure on reimbursement claims under the reinsurance program.

Background Paper: Health Insurance-Related Funds (Cont'd)

New Jersey Health Insurance Premium Security Fund				
	FY 2021	FY 2022	FY 2023	
	Actual	Estimated	Estimated	
Opening Balance	\$0	\$0	\$0	
u.				
Expenditures	\$294,971,433	\$413,631,158	\$440,300,000	
Total Resources:	\$294,971,433	\$413,631,158	\$440,300,000	
Federal and other grants	\$190,015,898	\$282,051,806	\$223,177,195	
Services and assessments	\$44,646,172	\$44,600,000	\$44,600,000	
Investment Earnings	\$25	\$3,206	\$4,047	
Total Transfers In:	\$60,309,338	\$86,976,146	\$172,518,758	
Health Insurance Affordability Fund	\$60,309,338	\$86,976,146	\$172,518,758	
Closing Balance	\$0	\$0	\$0	

Health Insurance Affordability Fund

The Health Insurance Affordability Fund was established by P.L.2020, c.61 to increase affordability in the individual health insurance market and provide greater access to health insurance for the uninsured, with a primary focus on households with an income below 400 percent of the federal poverty levels. The Health Insurance Affordability Fund is funded by collections from a tax of 2.5 percent on the net written premiums of certain health and dental insurance carriers. Moneys in the fund are to be used for subsidies, reinsurance, tax policies, outreach and enrollment efforts, buy-in programs, or any other initiative that increases affordability for individual policyholders or reduces racial disparities in coverage for the uninsured.

The Health Insurance Affordability Fund pays for premium subsidies for health coverage purchased through the State-based health insurance exchange, Get Covered New Jersey. Subsidies are usually available to households with annual incomes up to 400 percent of the federal poverty levels. In tax years 2021 and 2022, however, income eligibility was raised to up to 600 percent of the federal poverty levels in accordance with a federal waiver the State secured and the American Rescue Plan Act of 2021.

As a result of the two-year income eligibility expansion, subsidy payments are forecast to increase substantially from \$51.3 million in FY 2021 to \$134.0 million in FY 2022. A further increase to \$168.0 million is projected for FY 2023. The Office of Management and Budget attributes the projected FY 2023 expenditure increase to an expected migration to Get Covered New Jersey of some individuals who will lose their Medicaid and Children's Health Insurance Program (CHIP) coverage upon the expiration of the federal public health emergency. During the emergency, the State has been prohibited from disenrolling Medicaid and CHIP participants who otherwise would no longer be deemed eligible for coverage.

Background Paper: Health Insurance-Related Funds (Cont'd)

In addition to paying for premium subsidies, the Health Insurance Affordability Fund supports the New Reinsurance Program through balance transfers to the New Jersey Health Insurance Premium Security Fund. The transfers ensure that the New Jersey Health Insurance Premium Security Fund is not in deficit.

In FY 2023, and as shown in the table below, the transfer is projected at \$172.5 million. This amount includes the full \$96.0 million projected FY 2022 year-end fund balance in the Health Insurance Affordability Fund. No fund balance is projected to be available in the fund at the end of FY 2023, which may affect FY 2024 (or 2023 program year) reinsurance payments out of the New Jersey Health Insurance Premium Security Fund, and, by extension, the cost of health insurance in the individual health insurance market.

Health Insurance Affordability Fund				
	FY 2021	FY 2022	FY 2023	
	Actual	Estimated	Estimated	
Opening Balance	\$0	\$87,186,625	\$95,987,918	
Expenditures	\$51,253,063	\$134,000,000	\$168,000,000	
Transfers to other funds	\$60,309,338	\$86,976,146	\$172,518,758	
Total Resources	\$198,749,026	\$229,777,439	\$244,530,840	
Services and Assessments	\$198,723,474	\$204,700,000	\$210,000,000	
Investment Earnings	\$25,552	\$77,439	\$81,300	
Total Transfers In	\$0	\$25,000,000	\$34,449,540	
Closing Balance	\$87,186,625	\$95,987,918	\$0	

Background Paper: Premium Assistance Programs

Premium assistance programs help fund the purchase of health insurance for certain low- and moderate-income individuals and families, and certain small businesses. Generally, premium assistance comes in two forms: a tax credit or a subsidy. A premium tax credit refunds eligible individuals, families, or small businesses for the costs of certain health insurance plans. A subsidy applies funds to the cost of a health insurance plan to lower the cost to the covered person.

This backgrounder outlines the premium tax credit options on both the State and federal levels concerning premium assistance for individuals, families, and small businesses.

STATE

The *New Jersey Health Plan Savings* is a health insurance subsidy for individuals and families that is funded through federal, State, and other funds. The State funds the subsidy program, in part, by using funds from the Health Insurance Affordability Fund, which was established by P.L.2020, c.61 to increase affordability in the individual market and provide greater access to health insurance for the uninsured. The subsidy is limited to plans purchased through the Statebased exchange, Get Covered New Jersey, which operates the Health Insurance Marketplace for the State. The subsidy is available to households with annual incomes up to 400 percent of the federal poverty levels and up to 600 percent of the federal poverty levels for tax years 2021 and 2022 through federal funds received through New Jersey's State Innovation Waiver and the American Rescue Plan Act of 2021. The subsidy is applied in addition to, rather than in place of, the federal Advanced Premium Tax Credit.

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There are two federal premium tax credit options available:

The *Advanced Premium Tax Credit* is a refundable credit that helps eligible low- and moderate-income individuals and families cover the premiums for their health insurance purchased through the Health Insurance Marketplace. Generally, this program is limited to individuals and families with a household income of 400 percent or less of the federal poverty levels.

The value of the Advanced Premium Tax Credit is based on a sliding scale such that those with a lower income will receive a larger credit to offset the cost of the insurance coverage. The share of income that an individual or family is required to pay toward the purchased health insurance is capped at up to 9.83 percent of household income. The Advanced Premium Tax Credit can be taken as an estimated credit, to be paid to the insurer in advance to lower the premium cost, or can be taken as a lump sum tax credit at filing.

For tax years 2021 and 2022, the American Rescue Plan Act of 2021 temporarily expands eligibility for the Advanced Premium Tax Credit by eliminating the so-called "subsidy cliff" wherein individuals and families with household incomes above 400 percent of the federal poverty levels were ineligible for assistance. Under the American Rescue Plan Act of 2021, the share of income that an individual or family is required to pay toward the purchased health insurance is capped at up to 8.5 percent of household income, and that cap applies to individuals and households with incomes above 400 percent of the federal poverty levels.

Background Paper: Premium Assistance Programs (Cont'd)

Premium Tax Credit Applicable Percentages under the American Rescue Plan (ARP) Act of 2021 and Prior Law			
Income Range (% of Federal Poverty Levels)	Range of Applicable Percentages for 2021 under Prior Law	Range of Applicable Percentages for 2021 and 2022 under ARP	
100% - 133%	2.07%	0%	
133% - 150%	3.10% - 4.14%	0%	
150% - 200%	4.14% - 6.52%	0.0% - 2.0%	
200% - 250%	6.53% - 8.33%	2.0% - 4.0%	
250% - 300%	8.33% - 9.83%	4.0% - 6.0%	
300% - 400%	9.83%	6.0% - 8.5%	
400% and higher	N/A	8.5%	

Note: The applicable percentage is the share of a participant's income the participant must pay towards a benchmark (second-lowest-cost silver) plan with the Advance Premium Tax Credit.

The *Small Business Health Care Tax Credit* is available for certain small businesses. This tax credit applies to businesses that have fewer than 25 full-time equivalent employees, meet certain average wage requirements, offer a qualified health plan to employees through a Small Business Health Options Program Marketplace, and pay at least 50 percent of the cost of employee-only health coverage for each employee. This credit is available for two consecutive taxable years only.

The value of the Small Business Health Care Tax Credit is based on a sliding scale such that employers with fewer employees will receive a greater benefit. The maximum tax credit is 50 percent of premiums paid, or 35 percent of premiums paid for tax-exempt employers. For businesses that do not owe tax during the year, the credit may be carried back or forward to other tax years. In addition, the tax credit is refundable, so a tax-exempt employer with no taxable income may be eligible to receive the credit as a refund under certain circumstances.

New Jersey Legislature ★ Office of LEGISLATIVE SERVICES ★

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The Legislative Budget and Finance Officer is the chief fiscal officer for the Legislature.

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Individuals wishing information and committee schedules on the FY 2023 budget are encouraged to contact:

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