

A3972 (2R)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
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TECHNICAL REVIEW:	No	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes Health Financial Institutions
	SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No
VETO MESSAGE:	No
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FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

CL/MM

P.L. 2024, CHAPTER 62, *approved September 6, 2024*
Senate, No. 2875 (*Third Reprint*)

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

3

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

6

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

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

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

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

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

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 13, 2024.

²Senate floor amendments adopted May 20, 2024.

³Senate SBA committee amendments adopted June 24, 2024.

1 other individuals in a format acceptable to the commissioner, that the
2 carrier is in compliance with the provisions of this subsection.

3 (2) Each calendar year, a carrier shall return, in the form of
4 aggregate benefits for all of the policy or contract forms offered by the
5 carrier pursuant to subsection a. of section 3 of P.L.1992, c.161
6 (C.17:B:27A-4), at least 80% of the aggregate premiums collected for
7 all of the policy or contract forms during that calendar year. Carriers
8 shall annually report, no later than August 1 of each year, the loss ratio
9 calculated pursuant to this section for all of the policy or contract
10 forms for the previous calendar year. The loss ratio for the previous
11 year shall be calculated based on a three-year rolling average. In each
12 case in which the loss ratio fails to comply with the 80% loss ratio
13 requirement, the carrier shall issue a dividend or credit against future
14 premiums for all policy or contract holders, as applicable, in an
15 amount sufficient to assure that the aggregate benefits paid in the
16 previous calendar year plus the amount of the dividends and credits,
17 calculated based on a three-year rolling average, equal 80% of the
18 aggregate premiums collected for the policy or contract forms in the
19 previous calendar year calculated based on a three-year rolling
20 average. All dividends and credits shall be distributed by December
21 31 of the year following the calendar year in which the loss ratio
22 requirements were not satisfied. The annual report required by this
23 subsection shall include a carrier's calculation of the dividends and
24 credits applicable to all policy or contract forms, as well as an
25 explanation of the carrier's plan to issue dividends or credits. The
26 instructions and format for calculating and reporting loss ratios and
27 issuing dividends or credits shall be specified by the commissioner by
28 regulation. Those regulations shall include provisions:

29 (a) for the distribution of a dividend or credit in the event of
30 cancellation or termination by a policyholder; ²and²

31 (b) requiring a carrier's minimum loss ratio to be calculated by
32 aggregating the data for a three-year period which includes the data for
33 the previous calendar year whose minimum loss ratio is being
34 calculated, including three months of runout through the first quarter
35 of the subsequent year; and the data for the two years immediately
36 preceding the year for which the minimum loss ratio is being
37 calculated²;

38 (c) requiring that the numerator of a carrier's minimum loss ratio
39 for a minimum loss ratio reporting year to be the carrier's claims paid
40 plus the carrier's expenditures for activities that improve health care
41 quality¹. To be included as an activity that improves health care
42 quality, the activity shall lead to measurable improvements in patient
43 outcomes or patient safety, prevent hospital readmissions, promote
44 wellness, or enhance health information technology in a way that
45 improves quality, transparency, or outcomes¹;

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

1 (e) that any new or increased State and federal taxes or
2 assessments initiated after the enactment of P.L. , c. (C.)
3 (pending before the Legislature as this bill) shall be excluded from
4 premiums for purposes of minimum loss ratio calculation.]³ [and shall
5 meet the requirements of federal guidance or regulations, including
6 those set forth at 45 C.F.R. s.158.220]^{3, 2}

7 f. (Deleted by amendment, P.L.2008, c.38).
8 (cf: P.L.2008, c.38, s.16)

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

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

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

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

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

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

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

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

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

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

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

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

3 d. Notwithstanding any other provision of law to the contrary,
4 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
5 carrier which provides a health benefits plan to one or more small
6 employers through a policy issued to an association or trust of
7 employers.

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

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

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

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

46 (2) Each calendar year, a carrier shall return, in the form of
47 aggregate benefits for all of the standard policy forms offered by the
48 carrier pursuant to subsection a. of section 3 of P.L.1992, c.162

1 (C.17B:27A-19), at least 80% of the aggregate premiums collected for
2 all of the standard policy forms, other than alliance policy forms, and
3 at least 80% of the aggregate premiums collected for all of the non-
4 standard policy forms during that calendar year. A carrier shall return
5 at least 80% of the premiums collected for all of the alliances during
6 that calendar year, which loss ratio may be calculated in the aggregate
7 for all of the alliances or separately for each alliance. Carriers shall
8 annually report, no later than August 1st of each year, the loss ratio
9 calculated pursuant to this section for all of the standard, other than
10 alliance policy forms, non-standard policy forms and alliance policy
11 forms for the previous calendar year, provided that a carrier may
12 annually report the loss ratio calculated pursuant to this section for all
13 of the alliances in the aggregate or separately for each alliance. The
14 loss ratio for the previous year shall be calculated based on a three-
15 year rolling average. In each case where the loss ratio fails to
16 substantially comply with the 80% loss ratio requirement, the carrier
17 shall issue a dividend or credit against future premiums for all
18 policyholders with the standard, other than alliance policy forms,
19 nonstandard policy forms or alliance policy forms, as applicable, in an
20 amount sufficient to assure that the aggregate benefits paid in the
21 previous calendar year plus the amount of the dividends and credits
22 shall equal 80% of the aggregate premiums collected for the respective
23 policy forms in the previous calendar year. All dividends and credits
24 must be distributed by December 31 of the year following the calendar
25 year in which the loss ratio requirements were not satisfied. The
26 annual report required by this paragraph shall include a carrier's
27 calculation of the dividends and credits applicable to standard, other
28 than alliance policy forms, non-standard policy forms and alliance
29 policy forms, as well as an explanation of the carrier's plan to issue
30 dividends or credits. The instructions and format for calculating and
31 reporting loss ratios and issuing dividends or credits shall be specified
32 by the commissioner by regulation. Such regulations shall include
33 provisions:

34 (a) for the distribution of a dividend or credit in the event of
35 cancellation or termination by a policyholder; ²and²

36 (b) requiring a carrier's minimum loss ratio to be calculated by
37 aggregating the data for a three-year period which includes the data for
38 the previous calendar year whose minimum loss ratio is being
39 calculated, including three months of runout through the first quarter
40 of the subsequent year and the data for the two years immediately
41 preceding the year for which the minimum loss ratio is being
42 calculated²;

43 (c) requiring that the numerator of a carrier's minimum loss ratio
44 for a minimum loss ratio reporting year to be the carrier's claims paid
45 plus the carrier's expenditures for activities that improve health care
46 quality ¹. To be included as an activity that improves health care
47 quality, the activity shall lead to measurable improvements in patient
48 outcomes or patient safety, prevent hospital readmissions, promote

1 wellness, or enhance health information technology in a way that
 2 improves quality, transparency, or outcomes¹;

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

6 (e) that any new or increased State and federal taxes or
 7 assessments initiated after the enactment of P.L. _____, c. _____ (C. _____)
 8 (pending before the Legislature as this bill) shall be excluded from
 9 premium for purposes of minimum loss ratio calculation]³ [and shall
 10 meet the requirements of federal guidance or regulations, including
 11 those set forth at 45 C.F.R. s.158.220²]³.

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

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

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

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

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

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

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

33

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

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

CHAPTER 62

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:

C.17B:27A-9 Determination of rates.

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 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 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 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.17B: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 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; and

(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.

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

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

C.17B:27A-25 Premium rates; other plan requirements.

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, P.L.1992, c.162 (C.17B:27A-17 et seq.) 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 P.L.1992, c.162 (C.17B:27A-17 et seq.), 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 P.L.1992, c.162 (C.17B:27A-17 et seq.) 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, calculated based on a three-year rolling average, 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. The loss ratio for the previous year shall be calculated based on a three-year rolling average. 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:

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

(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.

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 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.

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.

Approved September 6, 2024.

SENATE, No. 2875

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

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.



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

3

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

6

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

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

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

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

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

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

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

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 the loss ratio calculated pursuant to this section for all of the policy
2 or contract forms for the previous calendar year. The loss ratio for
3 the previous year shall be calculated based on a three-year rolling
4 average. In each case in which the loss ratio fails to comply with the
5 80% loss ratio requirement, the carrier shall issue a dividend or credit
6 against future premiums for all policy or contract holders, as
7 applicable, in an amount sufficient to assure that the aggregate
8 benefits paid in the previous calendar year plus the amount of the
9 dividends and credits, calculated based on a three-year rolling
10 average, equal 80% of the aggregate premiums collected for the
11 policy or contract forms in the previous calendar year calculated
12 based on a three-year rolling average. All dividends and credits shall
13 be distributed by December 31 of the year following the calendar year
14 in which the loss ratio requirements were not satisfied. The annual
15 report required by this subsection shall include a carrier's calculation
16 of the dividends and credits applicable to all policy or contract forms,
17 as well as an explanation of the carrier's plan to issue dividends or
18 credits. The instructions and format for calculating and reporting loss
19 ratios and issuing dividends or credits shall be specified by the
20 commissioner by regulation. Those regulations shall include
21 provisions:

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

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

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

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

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

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

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

45

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

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

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

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

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

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

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

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

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

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

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

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

40 d. Notwithstanding any other provision of law to the contrary,
41 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
42 carrier which provides a health benefits plan to one or more small
43 employers through a policy issued to an association or trust of
44 employers.

45 A carrier which provides a health benefits plan to one or more
46 small employers through a policy issued to an association or trust of
47 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17
48 et seq.), shall be required to offer small employer health benefits

1 plans to non-association or trust employers in the same manner as
2 any other small employer carrier is required pursuant to P.L.1992,
3 c.162 (C.17B:27A-17 et seq.).

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

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

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

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

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

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

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

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

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

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

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

47 (3) The loss ratio of a health benefits plan issued pursuant to
48 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be

1 calculated in accordance with the provisions of section 7 of P.L.1995,
2 c.340 (C.17B:27A-19.3), for the purposes of meeting the
3 requirements of this subsection.

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

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

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

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

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

17

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

22

23

24 STATEMENT

25

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

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

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

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

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8

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

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

[First Reprint]

SENATE, No. 2875

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

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 reported by the Senate Commerce Committee on May 13, 2024, with amendments.



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

3

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

6

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

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

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 13, 2024.

1 calculated pursuant to this section for all of the policy or contract
2 forms for the previous calendar year. The loss ratio for the previous
3 year shall be calculated based on a three-year rolling average. In each
4 case in which the loss ratio fails to comply with the 80% loss ratio
5 requirement, the carrier shall issue a dividend or credit against future
6 premiums for all policy or contract holders, as applicable, in an
7 amount sufficient to assure that the aggregate benefits paid in the
8 previous calendar year plus the amount of the dividends and credits,
9 calculated based on a three-year rolling average, equal 80% of the
10 aggregate premiums collected for the policy or contract forms in the
11 previous calendar year calculated based on a three-year rolling
12 average. All dividends and credits shall be distributed by December
13 31 of the year following the calendar year in which the loss ratio
14 requirements were not satisfied. The annual report required by this
15 subsection shall include a carrier's calculation of the dividends and
16 credits applicable to all policy or contract forms, as well as an
17 explanation of the carrier's plan to issue dividends or credits. The
18 instructions and format for calculating and reporting loss ratios and
19 issuing dividends or credits shall be specified by the commissioner by
20 regulation. Those regulations shall include provisions:

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

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

30 (c) requiring that the numerator of a carrier's minimum loss ratio
31 for a minimum loss ratio reporting year to be the carrier's claims paid
32 plus the carrier's expenditures for activities that improve health care
33 quality¹. To be included as an activity that improves health care
34 quality, the activity shall lead to measurable improvements in patient
35 outcomes or patient safety, prevent hospital readmissions, promote
36 wellness, or enhance health information technology in a way that
37 improves quality, transparency, or outcomes¹;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 d. Notwithstanding any other provision of law to the contrary,
43 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
44 carrier which provides a health benefits plan to one or more small
45 employers through a policy issued to an association or trust of
46 employers.

47 A carrier which provides a health benefits plan to one or more
48 small employers through a policy issued to an association or trust of

1 employers after the effective date of P.L.1992, c.162
2 (C.17B:27A-17 et seq.), shall be required to offer small employer
3 health benefits plans to non-association or trust employers in the same
4 manner as any other small employer carrier is required pursuant to
5 P.L.1992, c.162 (C.17B:27A-17 et seq.).

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

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

20 g. (1) Beginning January 1, 1995, a carrier desiring to increase or
21 decrease premiums for any policy form or benefit rider offered
22 pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-
23 19) subject to **[this act]** P.L.1992, c.162 (C.17B:27A-17 et seq.) may
24 implement such increase or decrease upon making an informational
25 filing with the commissioner of such increase or decrease, along with
26 the actuarial assumptions and methods used by the carrier in
27 establishing such increase or decrease, provided that the anticipated
28 minimum loss ratio for all policy forms shall not be less than 80% of
29 the premium, calculated based on a three-year rolling average, therefor
30 as provided in paragraph (2) of this subsection. The commissioner may
31 disapprove any informational filing on a finding that it is incomplete
32 and not in substantial compliance with P.L.1992, c.162 (C.17B:27A-
33 17 et seq.), or that the rates are inadequate or unfairly discriminatory.
34 Until December 31, 1996, the informational filing shall also include
35 the carrier's rating plan and classification system in connection with
36 such increase or decrease.

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

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

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

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

34 (c) requiring that the numerator of a carrier's minimum loss ratio
35 for a minimum loss ratio reporting year to be the carrier's claims paid
36 plus the carrier's expenditures for activities that improve health care
37 quality¹. To be included as an activity that improves health care
38 quality, the activity shall lead to measurable improvements in patient
39 outcomes or patient safety, prevent hospital readmissions, promote
40 wellness, or enhance health information technology in a way that
41 improves quality, transparency, or outcomes¹;

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

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

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

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

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

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

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

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

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

22

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

[Second Reprint]

SENATE, No. 2875

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

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 amended by the Senate on May 20, 2024.



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

3

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

6

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

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

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

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

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

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

41 (2) Each calendar year, a carrier shall return, in the form of
42 aggregate benefits for all of the policy or contract forms offered by
43 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.161
44 (C.17:B:27A-4), at least 80% of the aggregate premiums collected

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 13, 2024.

²Senate floor amendments adopted May 20, 2024.

1 for all of the policy or contract forms during that calendar year.
2 Carriers shall annually report, no later than August 1 of each year,
3 the loss ratio calculated pursuant to this section for all of the policy
4 or contract forms for the previous calendar year. The loss ratio for
5 the previous year shall be calculated based on a three-year rolling
6 average. In each case in which the loss ratio fails to comply with
7 the 80% loss ratio requirement, the carrier shall issue a dividend or
8 credit against future premiums for all policy or contract holders, as
9 applicable, in an amount sufficient to assure that the aggregate
10 benefits paid in the previous calendar year plus the amount of the
11 dividends and credits, calculated based on a three-year rolling
12 average, equal 80% of the aggregate premiums collected for the
13 policy or contract forms in the previous calendar year calculated
14 based on a three-year rolling average. All dividends and credits
15 shall be distributed by December 31 of the year following the
16 calendar year in which the loss ratio requirements were not
17 satisfied. The annual report required by this subsection shall include
18 a carrier's calculation of the dividends and credits applicable to all
19 policy or contract forms, as well as an explanation of the carrier's
20 plan to issue dividends or credits. The instructions and format for
21 calculating and reporting loss ratios and issuing dividends or credits
22 shall be specified by the commissioner by regulation. Those
23 regulations shall include provisions:

24 (a) for the distribution of a dividend or credit in the event of
25 cancellation or termination by a policyholder; ²and²

26 (b) requiring a carrier's minimum loss ratio to be calculated by
27 aggregating the data for a three-year period which includes the data
28 for the previous calendar year whose minimum loss ratio is being
29 calculated, including three months of runout through the first
30 quarter of the subsequent year; and the data for the two years
31 immediately preceding the year for which the minimum loss ratio is
32 being calculated²;

33 (c) requiring that the numerator of a carrier's minimum loss
34 ratio for a minimum loss ratio reporting year to be the carrier's
35 claims paid plus the carrier's expenditures for activities that
36 improve health care quality¹. To be included as an activity that
37 improves health care quality, the activity shall lead to measurable
38 improvements in patient outcomes or patient safety, prevent
39 hospital readmissions, promote wellness, or enhance health
40 information technology in a way that improves quality,
41 transparency, or outcomes¹;

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

46 (e) that any new or increased State and federal taxes or
47 assessments initiated after the enactment of P.L. , c. (C.)
48 (pending before the Legislature as this bill) shall be excluded from

1 premiums for purposes of minimum loss ratio calculation.] and
2 shall meet the requirements of federal guidance or regulations,
3 including those set forth at 45 C.F.R. s.158.220.²

4 f. (Deleted by amendment, P.L.2008, c.38).
5 (cf: P.L.2008, c.38, s.16)

6
7 2. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to
8 read as follows:

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

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

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

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

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

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

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

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

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

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

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

1 d. Notwithstanding any other provision of law to the contrary,
2 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
3 carrier which provides a health benefits plan to one or more small
4 employers through a policy issued to an association or trust of
5 employers.

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

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

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

28 g. (1) Beginning January 1, 1995, a carrier desiring to increase or
29 decrease premiums for any policy form or benefit rider offered
30 pursuant to subsection i. of section 3 of P.L.1992, c.162
31 (C.17B:27A-19) subject to **【this act】** P.L.1992, c.162 (C.17B:27A-
32 17 et seq.) may implement such increase or decrease upon making
33 an informational filing with the commissioner of such increase or
34 decrease, along with the actuarial assumptions and methods used by
35 the carrier in establishing such increase or decrease, provided that
36 the anticipated minimum loss ratio for all policy forms shall not be
37 less than 80% of the premium, calculated based on a three-year
38 rolling average, therefor as provided in paragraph (2) of this
39 subsection. The commissioner may disapprove any informational
40 filing on a finding that it is incomplete and not in substantial
41 compliance with P.L.1992, c.162 (C.17B:27A-17 et seq.), or that
42 the rates are inadequate or unfairly discriminatory. Until December
43 31, 1996, the informational filing shall also include the carrier's
44 rating plan and classification system in connection with such
45 increase or decrease.

46 (2) Each calendar year, a carrier shall return, in the form of
47 aggregate benefits for all of the standard policy forms offered by
48 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162

1 (C.17B:27A-19), at least 80% of the aggregate premiums collected
2 for all of the standard policy forms, other than alliance policy
3 forms, and at least 80% of the aggregate premiums collected for all
4 of the non-standard policy forms during that calendar year. A
5 carrier shall return at least 80% of the premiums collected for all of
6 the alliances during that calendar year, which loss ratio may be
7 calculated in the aggregate for all of the alliances or separately for
8 each alliance. Carriers shall annually report, no later than August
9 1st of each year, the loss ratio calculated pursuant to this section for
10 all of the standard, other than alliance policy forms, non-standard
11 policy forms and alliance policy forms for the previous calendar
12 year, provided that a carrier may annually report the loss ratio
13 calculated pursuant to this section for all of the alliances in the
14 aggregate or separately for each alliance. The loss ratio for the
15 previous year shall be calculated based on a three-year rolling
16 average. In each case where the loss ratio fails to substantially
17 comply with the 80% loss ratio requirement, the carrier shall issue a
18 dividend or credit against future premiums for all policyholders
19 with the standard, other than alliance policy forms, nonstandard
20 policy forms or alliance policy forms, as applicable, in an amount
21 sufficient to assure that the aggregate benefits paid in the previous
22 calendar year plus the amount of the dividends and credits shall
23 equal 80% of the aggregate premiums collected for the respective
24 policy forms in the previous calendar year. All dividends and
25 credits must be distributed by December 31 of the year following
26 the calendar year in which the loss ratio requirements were not
27 satisfied. The annual report required by this paragraph shall include
28 a carrier's calculation of the dividends and credits applicable to
29 standard, other than alliance policy forms, non-standard policy
30 forms and alliance policy forms, as well as an explanation of the
31 carrier's plan to issue dividends or credits. The instructions and
32 format for calculating and reporting loss ratios and issuing
33 dividends or credits shall be specified by the commissioner by
34 regulation. Such regulations shall include provisions:

35 (a) for the distribution of a dividend or credit in the event of
36 cancellation or termination by a policyholder; ²and²

37 (b) requiring a carrier's minimum loss ratio to be calculated by
38 aggregating the data for a three-year period which includes the data
39 for the previous calendar year whose minimum loss ratio is being
40 calculated, including three months of runout through the first
41 quarter of the subsequent year and the data for the two years
42 immediately preceding the year for which the minimum loss ratio is
43 being calculated²;

44 (c) requiring that the numerator of a carrier's minimum loss
45 ratio for a minimum loss ratio reporting year to be the carrier's
46 claims paid plus the carrier's expenditures for activities that
47 improve health care quality¹. To be included as an activity that
48 improves health care quality, the activity shall lead to measurable

1 improvements in patient outcomes or patient safety, prevent
2 hospital readmissions, promote wellness, or enhance health
3 information technology in a way that improves quality,
4 transparency, or outcomes¹;

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

9 (e) that any new or increased State and federal taxes or
10 assessments initiated after the enactment of P.L. , c. (C.)
11 (pending before the Legislature as this bill) shall be excluded from
12 premium for purposes of minimum loss ratio calculation] and shall
13 meet the requirements of federal guidance or regulations, including
14 those set forth at 45 C.F.R. s.158.220².

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

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

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

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

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

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

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

37

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

[Third Reprint]

SENATE, No. 2875

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Co-Sponsored by:

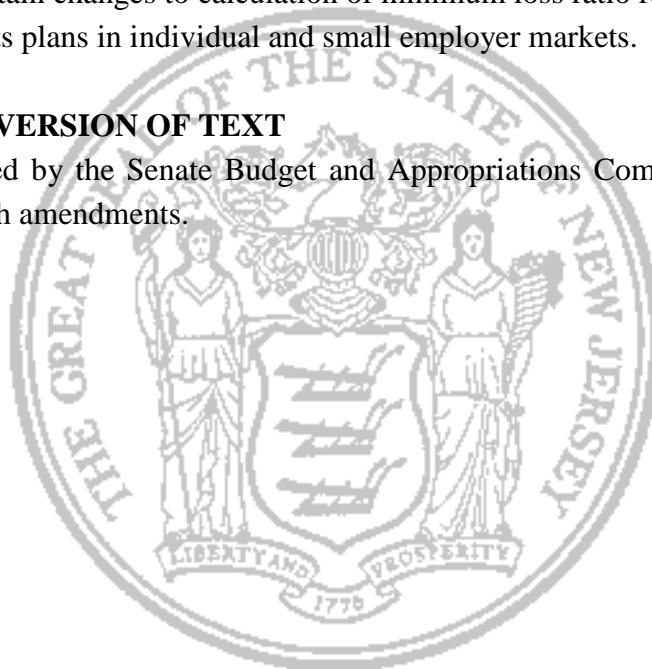
Assemblyman Clifton, Assemblywomen Sumter and Bagolie

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 reported by the Senate Budget and Appropriations Committee on June 24, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

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

3

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

6

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

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

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

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

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

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

40 (2) Each calendar year, a carrier shall return, in the form of
41 aggregate benefits for all of the policy or contract forms offered by the
42 carrier pursuant to subsection a. of section 3 of P.L.1992, c.161
43 (C.17B:27A-4), at least 80% of the aggregate premiums collected for

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 13, 2024.

²Senate floor amendments adopted May 20, 2024.

³Senate SBA committee amendments adopted June 24, 2024.

1 all of the policy or contract forms during that calendar year. Carriers
2 shall annually report, no later than August 1 of each year, the loss ratio
3 calculated pursuant to this section for all of the policy or contract
4 forms for the previous calendar year. The loss ratio for the previous
5 year shall be calculated based on a three-year rolling average. In each
6 case in which the loss ratio fails to comply with the 80% loss ratio
7 requirement, the carrier shall issue a dividend or credit against future
8 premiums for all policy or contract holders, as applicable, in an
9 amount sufficient to assure that the aggregate benefits paid in the
10 previous calendar year plus the amount of the dividends and credits,
11 calculated based on a three-year rolling average, equal 80% of the
12 aggregate premiums collected for the policy or contract forms in the
13 previous calendar year calculated based on a three-year rolling
14 average. All dividends and credits shall be distributed by December
15 31 of the year following the calendar year in which the loss ratio
16 requirements were not satisfied. The annual report required by this
17 subsection shall include a carrier's calculation of the dividends and
18 credits applicable to all policy or contract forms, as well as an
19 explanation of the carrier's plan to issue dividends or credits. The
20 instructions and format for calculating and reporting loss ratios and
21 issuing dividends or credits shall be specified by the commissioner by
22 regulation. Those regulations shall include provisions:

23 (a) for the distribution of a dividend or credit in the event of
24 cancellation or termination by a policyholder; ²and²

25 (b) requiring a carrier's minimum loss ratio to be calculated by
26 aggregating the data for a three-year period which includes the data for
27 the previous calendar year whose minimum loss ratio is being
28 calculated, including three months of runout through the first quarter
29 of the subsequent year; and the data for the two years immediately
30 preceding the year for which the minimum loss ratio is being
31 calculated²;

32 (c) requiring that the numerator of a carrier's minimum loss ratio
33 for a minimum loss ratio reporting year to be the carrier's claims paid
34 plus the carrier's expenditures for activities that improve health care
35 quality ¹. To be included as an activity that improves health care
36 quality, the activity shall lead to measurable improvements in patient
37 outcomes or patient safety, prevent hospital readmissions, promote
38 wellness, or enhance health information technology in a way that
39 improves quality, transparency, or outcomes¹;

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

43 (e) that any new or increased State and federal taxes or
44 assessments initiated after the enactment of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall be excluded from
46 premiums for purposes of minimum loss ratio calculation. ³ and shall

1 meet the requirements of federal guidance or regulations, including
2 those set forth at 45 C.F.R. s.158.220】^{3 2}

3 f. (Deleted by amendment, P.L.2008, c.38).
4 (cf: P.L.2008, c.38, s.16)

5
6 2. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

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

47 d. Notwithstanding any other provision of law to the contrary,
48 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a

1 carrier which provides a health benefits plan to one or more small
2 employers through a policy issued to an association or trust of
3 employers.

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

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

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

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

42 (2) Each calendar year, a carrier shall return, in the form of
43 aggregate benefits for all of the standard policy forms offered by the
44 carrier pursuant to subsection a. of section 3 of P.L.1992, c.162
45 (C.17B:27A-19), at least 80% of the aggregate premiums collected for
46 all of the standard policy forms, other than alliance policy forms, and
47 at least 80% of the aggregate premiums collected for all of the non-
48 standard policy forms during that calendar year. A carrier shall return

1 at least 80% of the premiums collected for all of the alliances during
2 that calendar year, which loss ratio may be calculated in the aggregate
3 for all of the alliances or separately for each alliance. Carriers shall
4 annually report, no later than August 1st of each year, the loss ratio
5 calculated pursuant to this section for all of the standard, other than
6 alliance policy forms, non-standard policy forms and alliance policy
7 forms for the previous calendar year, provided that a carrier may
8 annually report the loss ratio calculated pursuant to this section for all
9 of the alliances in the aggregate or separately for each alliance. The
10 loss ratio for the previous year shall be calculated based on a three-
11 year rolling average. In each case where the loss ratio fails to
12 substantially comply with the 80% loss ratio requirement, the carrier
13 shall issue a dividend or credit against future premiums for all
14 policyholders with the standard, other than alliance policy forms,
15 nonstandard policy forms or alliance policy forms, as applicable, in an
16 amount sufficient to assure that the aggregate benefits paid in the
17 previous calendar year plus the amount of the dividends and credits
18 shall equal 80% of the aggregate premiums collected for the respective
19 policy forms in the previous calendar year. All dividends and credits
20 must be distributed by December 31 of the year following the calendar
21 year in which the loss ratio requirements were not satisfied. The
22 annual report required by this paragraph shall include a carrier's
23 calculation of the dividends and credits applicable to standard, other
24 than alliance policy forms, non-standard policy forms and alliance
25 policy forms, as well as an explanation of the carrier's plan to issue
26 dividends or credits. The instructions and format for calculating and
27 reporting loss ratios and issuing dividends or credits shall be specified
28 by the commissioner by regulation. Such regulations shall include
29 provisions:

30 (a) for the distribution of a dividend or credit in the event of
31 cancellation or termination by a policyholder; ²and²

32 (b) requiring a carrier's minimum loss ratio to be calculated by
33 aggregating the data for a three-year period which includes the data for
34 the previous calendar year whose minimum loss ratio is being
35 calculated, including three months of runout through the first quarter
36 of the subsequent year and the data for the two years immediately
37 preceding the year for which the minimum loss ratio is being
38 calculated²;

39 (c) requiring that the numerator of a carrier's minimum loss ratio
40 for a minimum loss ratio reporting year to be the carrier's claims paid
41 plus the carrier's expenditures for activities that improve health care
42 quality¹. To be included as an activity that improves health care
43 quality, the activity shall lead to measurable improvements in patient
44 outcomes or patient safety, prevent hospital readmissions, promote
45 wellness, or enhance health information technology in a way that
46 improves quality, transparency, or outcomes¹;

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

4 (e) that any new or increased State and federal taxes or
5 assessments initiated after the enactment of P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall be excluded from
7 premium for purposes of minimum loss ratio calculation] ³[and shall
8 meet the requirements of federal guidance or regulations, including
9 those set forth at 45 C.F.R. s.158.220²]³.

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

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

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

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

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

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

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

31

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

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2024

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2875.

As amended, 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 claims payment 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) requiring that any new or increased State and federal taxes or assessments be excluded from premiums for purposes of the minimum loss ratio calculation.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that, to be included as an activity that improves health care quality, the activity is to lead to measurable improvements in patient outcomes or patient safety, prevent hospital readmissions, promote wellness, or enhance health information technology in a way that improves quality, transparency, or outcomes.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2875 (2R).

As amended, the 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 claims payment 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 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.

As amended and reported by the committee, Senate Bill No. 2875 (2R) is identical to Assembly Bill No. 3972 (2R).

COMMITTEE AMENDMENTS:

The committee amended the bill to remove from the bill language requiring a carrier's minimum loss ratio to meet the requirements of federal guidance or regulations.

FISCAL IMPACT:

This bill has not been certified for a fiscal note.

STATEMENT TO
[First Reprint]
SENATE, No. 2875

with Senate Floor Amendments
(Proposed by Senator POU)

ADOPTED: MAY 20, 2024

These floor amendments remove certain provisions from the bill and stipulate that the Department of Banking and Insurance is to issue regulations for both the individual and small employer markets to meet the federal rules on the aggregation of data in calculating a health insurance carrier's minimum loss ratio.

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.



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

3

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

6

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

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

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

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

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

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

40 (2) Each calendar year, a carrier shall return, in the form of
41 aggregate benefits for all of the policy or contract forms offered by
42 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.161
43 (C.17:B:27A-4), at least 80% of the aggregate premiums collected
44 for all of the policy or contract forms during that calendar year.
45 Carriers shall annually report, no later than August 1 of each year,
46 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.

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

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

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

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

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

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

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

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

44

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

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

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

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

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

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

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

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

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

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

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

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

39 d. Notwithstanding any other provision of law to the contrary,
40 **[this act]** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
41 carrier which provides a health benefits plan to one or more small
42 employers through a policy issued to an association or trust of
43 employers.

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

1 same manner as any other small employer carrier is required
2 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

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

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

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

36 (2) Each calendar year, a carrier shall return, in the form of
37 aggregate benefits for all of the standard policy forms offered by
38 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162
39 (C.17B:27A-19), at least 80% of the aggregate premiums collected
40 for all of the standard policy forms, other than alliance policy
41 forms, and at least 80% of the aggregate premiums collected for all
42 of the non-standard policy forms during that calendar year. A
43 carrier shall return at least 80% of the premiums collected for all of
44 the alliances during that calendar year, which loss ratio may be
45 calculated in the aggregate for all of the alliances or separately for
46 each alliance. Carriers shall annually report, no later than August
47 1st of each year, the loss ratio calculated pursuant to this section for
48 all of the standard, other than alliance policy forms, non-standard

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

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

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

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

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

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

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

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

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

7 i. The provisions of **[this act]** P.L.1992, c.162 (C.17B:27A-17
8 et seq.) shall apply to health benefits plans which are delivered,
9 issued for delivery, renewed or continued on or after January 1,
10 1994.

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

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

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

20
21 3. This act shall take effect immediately and shall apply to
22 plans delivered, issued, executed or renewed in this State, or
23 approved for issuance or renewal in this State by the Commissioner
24 of Banking and Insurance, on or after the effective date of this act.

25 26 27 STATEMENT

28
29 This bill makes certain changes to the minimum loss ratio
30 requirements for the individual and small employer health insurance
31 markets. Generally, a minimum loss ratio requires health insurers
32 to spend a certain portion of each premium dollar on the payment of
33 claims and on quality improvement. The remaining portion of each
34 premium dollar may be spent on administrative expenses.

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

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

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

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

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

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

[First Reprint]

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)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Co-Sponsored by:

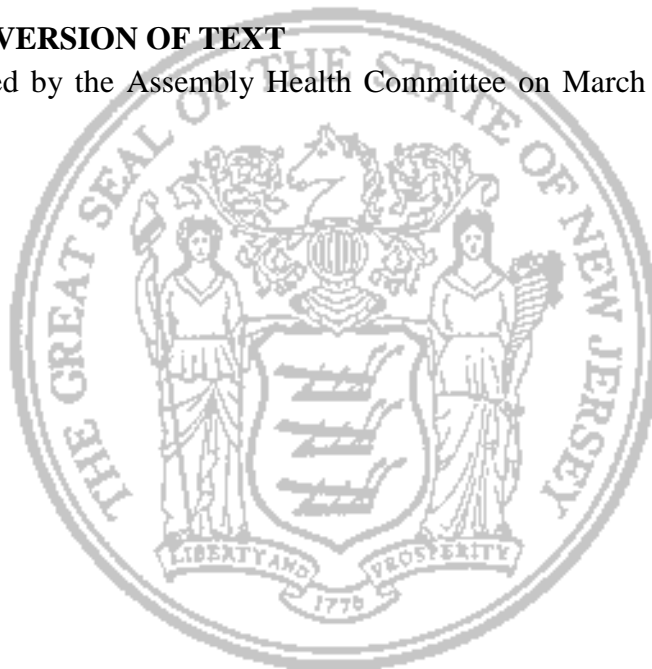
Assemblyman Clifton

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 reported by the Assembly Health Committee on March 14, 2024, with amendments.



(Sponsorship Updated As Of: 5/16/2024)

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

3

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

6

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

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

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

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

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

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

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

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted March 14, 2024.

1 calculated pursuant to this section for all of the policy or contract
2 forms for the previous calendar year. The loss ratio for the previous
3 year shall be calculated based on a three-year rolling average. In each
4 case in which the loss ratio fails to comply with the 80% loss ratio
5 requirement, the carrier shall issue a dividend or credit against future
6 premiums for all policy or contract holders, as applicable, in an
7 amount sufficient to assure that the aggregate benefits paid in the
8 previous calendar year plus the amount of the dividends and credits,
9 calculated based on a three-year rolling average, equal 80% of the
10 aggregate premiums collected for the policy or contract forms in the
11 previous calendar year calculated based on a three-year rolling
12 average. All dividends and credits shall be distributed by December
13 31 of the year following the calendar year in which the loss ratio
14 requirements were not satisfied. The annual report required by this
15 subsection shall include a carrier's calculation of the dividends and
16 credits applicable to all policy or contract forms, as well as an
17 explanation of the carrier's plan to issue dividends or credits. The
18 instructions and format for calculating and reporting loss ratios and
19 issuing dividends or credits shall be specified by the commissioner by
20 regulation. Those regulations shall include provisions:

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

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

30 (c) requiring that the numerator of a carrier's minimum loss ratio
31 for a minimum loss ratio reporting year to be the carrier's claims paid
32 plus the carrier's expenditures for activities that improve health care
33 quality¹. To be included as an activity that improves health care
34 quality, the activity shall lead to measurable improvements in patient
35 outcomes or patient safety, prevent hospital readmissions, promote
36 wellness, or enhance health information technology in a way that
37 improves quality, transparency, or outcomes¹;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 d. Notwithstanding any other provision of law to the contrary,
43 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
44 carrier which provides a health benefits plan to one or more small
45 employers through a policy issued to an association or trust of
46 employers.

47 A carrier which provides a health benefits plan to one or more
48 small employers through a policy issued to an association or trust of

1 employers after the effective date of P.L.1992, c.162
2 (C.17B:27A-17 et seq.), shall be required to offer small employer
3 health benefits plans to non-association or trust employers in the same
4 manner as any other small employer carrier is required pursuant to
5 P.L.1992, c.162 (C.17B:27A-17 et seq.).

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

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

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

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

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

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

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

34 (c) requiring that the numerator of a carrier's minimum loss ratio
35 for a minimum loss ratio reporting year to be the carrier's claims paid
36 plus the carrier's expenditures for activities that improve health care
37 quality¹. To be included as an activity that improves health care
38 quality, the activity shall lead to measurable improvements in patient
39 outcomes or patient safety, prevent hospital readmissions, promote
40 wellness, or enhance health information technology in a way that
41 improves quality, transparency, or outcomes¹;

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

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

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

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

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

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

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

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

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

22

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

[Second Reprint]

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)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Co-Sponsored by:

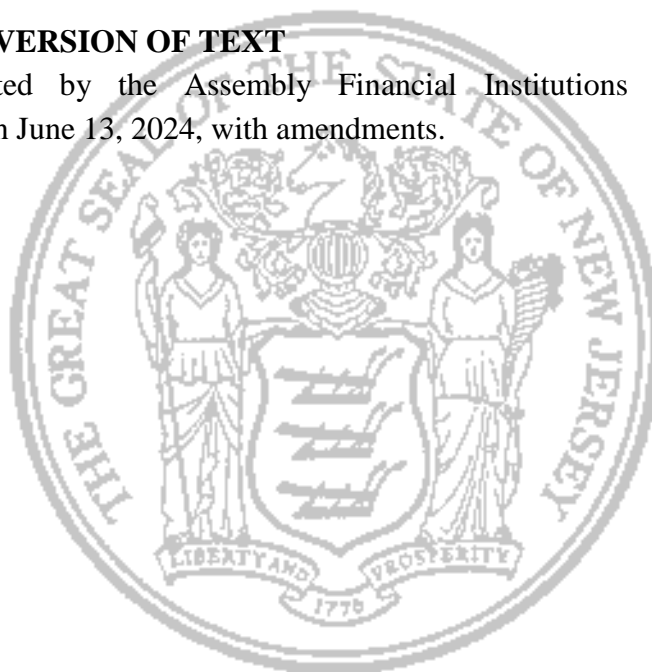
Assemblyman Clifton, Assemblywomen Sumter and Bagolie

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 reported by the Assembly Financial Institutions and Insurance Committee on June 13, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

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

3

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

6

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

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

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

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

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

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

40 (2) Each calendar year, a carrier shall return, in the form of
41 aggregate benefits for all of the policy or contract forms offered by the
42 carrier pursuant to subsection a. of section 3 of P.L.1992, c.161
43 (C.17:B:27A-4), at least 80% of the aggregate premiums collected for
44 all of the policy or contract forms during that calendar year. Carriers

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted March 14, 2024.

²Assembly AFI committee amendments adopted June 13, 2024.

1 shall annually report, no later than August 1 of each year, the loss ratio
2 calculated pursuant to this section for all of the policy or contract
3 forms for the previous calendar year. The loss ratio for the previous
4 year shall be calculated based on a three-year rolling average. In each
5 case in which the loss ratio fails to comply with the 80% loss ratio
6 requirement, the carrier shall issue a dividend or credit against future
7 premiums for all policy or contract holders, as applicable, in an
8 amount sufficient to assure that the aggregate benefits paid in the
9 previous calendar year plus the amount of the dividends and credits,
10 calculated based on a three-year rolling average, equal 80% of the
11 aggregate premiums collected for the policy or contract forms in the
12 previous calendar year calculated based on a three-year rolling
13 average. All dividends and credits shall be distributed by December
14 31 of the year following the calendar year in which the loss ratio
15 requirements were not satisfied. The annual report required by this
16 subsection shall include a carrier's calculation of the dividends and
17 credits applicable to all policy or contract forms, as well as an
18 explanation of the carrier's plan to issue dividends or credits. The
19 instructions and format for calculating and reporting loss ratios and
20 issuing dividends or credits shall be specified by the commissioner by
21 regulation. Those regulations shall include provisions:

22 (a) for the distribution of a dividend or credit in the event of
23 cancellation or termination by a policyholder; ²and²

24 (b) requiring a carrier's minimum loss ratio to be calculated by
25 aggregating the data for a three-year period which includes the data for
26 the previous calendar year whose minimum loss ratio is being
27 calculated, including three months of runout through the first quarter
28 of the subsequent year and the data for the two years immediately
29 preceding the year for which the minimum loss ratio is being
30 calculated²];

31 (c) requiring that the numerator of a carrier's minimum loss ratio
32 for a minimum loss ratio reporting year to be the carrier's claims paid
33 plus the carrier's expenditures for activities that improve health care
34 quality ¹. To be included as an activity that improves health care
35 quality, the activity shall lead to measurable improvements in patient
36 outcomes or patient safety, prevent hospital readmissions, promote
37 wellness, or enhance health information technology in a way that
38 improves quality, transparency, or outcomes¹;

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

42 (e) that any new or increased State and federal taxes or
43 assessments initiated after the enactment of shall be excluded from
44 premiums for purposes of minimum loss ratio calculation]².

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 d. Notwithstanding any other provision of law to the contrary,
43 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a
44 carrier which provides a health benefits plan to one or more small
45 employers through a policy issued to an association or trust of
46 employers.

47 A carrier which provides a health benefits plan to one or more
48 small employers through a policy issued to an association or trust of

1 employers after the effective date of P.L.1992, c.162
2 (C.17B:27A-17 et seq.), shall be required to offer small employer
3 health benefits plans to non-association or trust employers in the same
4 manner as any other small employer carrier is required pursuant to
5 P.L.1992, c.162 (C.17B:27A-17 et seq.).

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

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

20 g. (1) Beginning January 1, 1995, a carrier desiring to increase or
21 decrease premiums for any policy form or benefit rider offered
22 pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-
23 19) subject to **[this act]** P.L.1992, c.162 (C.17B:27A-17 et seq.) may
24 implement such increase or decrease upon making an informational
25 filing with the commissioner of such increase or decrease, along with
26 the actuarial assumptions and methods used by the carrier in
27 establishing such increase or decrease, provided that the anticipated
28 minimum loss ratio for all policy forms shall not be less than 80% of
29 the premium, calculated based on a three-year rolling average, therefor
30 as provided in paragraph (2) of this subsection. The commissioner may
31 disapprove any informational filing on a finding that it is incomplete
32 and not in substantial compliance with P.L.1992, c.162 (C.17B:27A-
33 17 et seq.), or that the rates are inadequate or unfairly discriminatory.
34 Until December 31, 1996, the informational filing shall also include
35 the carrier's rating plan and classification system in connection with
36 such increase or decrease.

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

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

25 (a) for the distribution of a dividend or credit in the event of
26 cancellation or termination by a policyholder; ²and²

27 (b) requiring a carrier's minimum loss ratio to be calculated by
28 aggregating the data for a three-year period which includes the data for
29 the previous calendar year whose minimum loss ratio is being
30 calculated, including three months of runout through the first quarter
31 of the subsequent year and the data for the two years immediately
32 preceding the year for which the minimum loss ratio is being
33 calculated²;

34 (c) requiring that the numerator of a carrier's minimum loss ratio
35 for a minimum loss ratio reporting year to be the carrier's claims paid
36 plus the carrier's expenditures for activities that improve health care
37 quality¹. To be included as an activity that improves health care
38 quality, the activity shall lead to measurable improvements in patient
39 outcomes or patient safety, prevent hospital readmissions, promote
40 wellness, or enhance health information technology in a way that
41 improves quality, transparency, or outcomes¹;

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

45 (e) that any new or increased State and federal taxes or
46 assessments initiated after the enactment of P.L. , c. (C.)
47 (pending before the Legislature as this bill) shall be excluded from
48 premium for purposes of minimum loss ratio calculation².

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

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

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

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

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

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

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

22

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

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3972

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 14, 2024

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 3972.

As amended, 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 claims payment 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) requiring that any new or increased State and federal taxes or assessments be excluded from premiums for purposes of the minimum loss ratio calculation.

COMMITTEE AMENDMENTS:

The committee amendments provide that, to be included as an activity that improves health care quality, the activity is to lead to measurable improvements in patient outcomes or patient safety, prevent hospital readmissions, promote wellness, or enhance health information technology in a way that improves quality, transparency, or outcomes.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3972

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2024

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3972 (1R).

As amended, the 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 claims payment 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 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.

COMMITTEE AMENDMENTS:

The committee amended the bill to remove provisions stipulating certain requirements for the regulations to be issued for the individual and small employer markets.

Governor Murphy Takes Action on Legislation

09/6/2024

TRENTON – Today, Governor Murphy signed the following bill into law:

S-2875/A-3972 (Pou/Freiman, Drulis, Speight) - Makes certain changes to calculation of minimum loss ratio requirements for health benefits plans in individual and small employer markets.