



**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 6/20/2019

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No

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Yes

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No

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No

RWH/CL

P.L. 2019, CHAPTER 143, *approved June 30, 2019*  
Senate, No. 3042 (*Fourth Reprint*)

1 AN ACT concerning the State Health Benefits Program and the  
2 School Employees' Health Benefits Program, amending  
3 P.L.1961, c.49 and P.L.2007, c.103, and supplementing  
4 P.L.1961, c.49 (C.52:14-17.25 et seq.).  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

- 9 1. (New section) The Legislature finds and declares that:  
10 a. The cost of health care in this country has been increasing at  
11 a pace that will make our current system of health care delivery  
12 unsustainable on its present trajectory.  
13 b. As health care costs continue to rise more quickly than the  
14 average annual income, those costs displace other priorities for  
15 individuals, such as saving for retirement or their children's  
16 education, and even discourage people from obtaining  
17 recommended health care. The litany of research in this area has  
18 demonstrated that all necessary action must be taken to reduce costs  
19 wherever possible.  
20 c. One way to reduce costs is to increase the <sup>1</sup>**control**  
21 oversight<sup>1</sup> that a self-insured employer, such as the State, exercises  
22 over health care programs <sup>1</sup>**and plans**<sup>1</sup>, as occurs when hiring a  
23 third-party <sup>1</sup>**administrator** medical claims reviewer<sup>1</sup> to  
24 <sup>1</sup>**manage** examine<sup>1</sup> claims processing.  
25 d. Hiring a third-party <sup>1</sup>**administrator** medical claims  
26 reviewer<sup>1</sup> to <sup>1</sup>**receive, archive, manage, adjudicate, and pay**  
27 provide <sup>2</sup>**real-time or near-real-time** regular, frequent, and  
28 ongoing<sup>2</sup> review and oversight of the claims process, which process  
29 includes, but is not limited to, the receipt, management,  
30 adjudication, and payment of<sup>1</sup> claims <sup>1,1</sup> serves the best interests of  
31 the State <sup>1</sup>, participating employers<sup>1</sup>, and the thousands of  
32 employees and their dependents covered under the State Health  
33 Benefits Program and the School Employees' Health Benefits  
34 Program. A third-party <sup>1</sup>**administrator** medical claims reviewer<sup>1</sup>  
35 would act <sup>1</sup>**as a fiduciary to** in the best interests of the State,

**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:

<sup>1</sup>Senate SBA committee amendments adopted January 17, 2019.

<sup>2</sup>Senate floor amendments adopted February 21, 2019.

<sup>3</sup>Assembly ASL committee amendments adopted May 16, 2019.

<sup>4</sup>Assembly AAP committee amendments adopted June 13, 2019.

1 participating employers, and<sup>1</sup> program participants, work toward  
2 identifying and eliminating systemic errors, recover overpayments,  
3 and **1**[pay] ensure that<sup>1</sup> only the required and appropriate amounts  
4 due and owing on claims 'are paid'<sup>1</sup> as a result of proper  
5 adjudication.

6 e. For the purpose of facilitating greater efficiency and  
7 transparency in the **1**[provision] adjudication<sup>1</sup> of health benefits  
8 'claims'<sup>1</sup> to State employees, their eligible family members, and  
9 **1**[others receiving health benefits under the programs] participating  
10 local government and education employees and their eligible family  
11 members<sup>1</sup>, the State of New Jersey deems it fitting and crucial to  
12 procure a third-party **1**[administrator] medical claims reviewer<sup>1</sup>  
13 expeditiously, with a goal for implementation in the plan year  
14 beginning in January of 2020.

15

16 2. (New section) a. Notwithstanding the provisions of any  
17 other law to the contrary, a contract for the services of a third-party  
18 **1**[administrator] medical claims reviewer<sup>1</sup> for the State Health  
19 Benefits Program and the School Employees' Health Benefits  
20 Program shall be procured in an expedited process and in the  
21 manner provided by this section.

22 b. The Division of Purchase and Property in the Department of  
23 the Treasury shall procure, without the need for formal  
24 advertisement, but through the solicitation of proposals from  
25 professional services vendors, a third-party **1**[administrator]  
26 medical claims reviewer<sup>1</sup>, which shall be responsible for the 'strict  
27 oversight of the'<sup>1</sup> adjudication and processing of direct payments for  
28 health care services rendered to participants in the State Health  
29 Benefits Program and School Employees' Health Benefits Program  
30 **1**[and for the processing of payments for the prescription drug  
31 benefits of those participants in accordance with the adjudicative  
32 tools procured or provided by the State]<sup>1</sup>. The third-party  
33 **1**[administrator] medical claims reviewer<sup>1</sup> shall perform all duties  
34 in accordance with all applicable State and federal laws and with  
35 the rules and regulations issued by the State Treasurer and the State  
36 Health Benefits Commission and the School Employees' Health  
37 Benefits Commission, and shall act **1**[as a fiduciary]<sup>1</sup> in the best  
38 **1**[interest] interests<sup>1</sup> of 'the State, participating employers, and'<sup>1</sup>  
39 covered persons under the programs. The third-party  
40 **1**[administrator] medical claims reviewer<sup>1</sup> shall not be the carrier,  
41 or a subsidiary, related party, or affiliate thereof, with which the  
42 State has contracted pursuant to section 4 of P.L.1961, c.49  
43 (C.52:14-17.28) or section 35 of P.L.2007, c.103 (C.52:14-17.46.5)  
44 for the provision of hospital, surgical, obstetrical, and other covered  
45 health care services and benefits or for the provider networks for  
46 those services. The third-party **1**[administrator] medical claims

1 reviewer<sup>1</sup> shall not exercise any authority over the provision of  
2 health care benefits for Medicare-eligible retirees. <sup>1</sup>The contract  
3 awarded for the services of the third-party medical claims reviewer  
4 may include provisions permitting the compensation of the third-  
5 party medical claims reviewer based upon a percentage of the costs  
6 recovered by the State as a result of the information provided by the  
7 third-party medical claims reviewer in the performance of its  
8 duties.<sup>1</sup>

9 c. Notwithstanding the provisions of any other law to the  
10 contrary, for the purpose of expediting the procurement of a third-  
11 party <sup>1</sup>**[administrator]** medical claims reviewer<sup>1</sup>, the following  
12 provisions shall apply as modifications to law or regulation that  
13 may interfere with the expedited procurement:

14 (1) the timeframes for challenging the specifications shall be  
15 modified as determined by the division;

16 (2) in lieu of advertising in accordance with sections 2, 3, and 4  
17 of P.L.1954, c.48 (C.52:34-7, C.52:34-8, and C.52:34-9), the  
18 division shall advertise the request for proposals for the above  
19 service and any addenda thereto on the division's website;

20 (3) the period of time that the State Comptroller has to review  
21 the request for proposals for the procurement of a third-party  
22 <sup>1</sup>**[administrator]** medical claims reviewer<sup>1</sup> for compliance with  
23 applicable public contracting laws, rules, and regulations, pursuant  
24 to section 10 of P.L.2007, c.52 (C.52:15C-10), shall be 10 business  
25 days or less if practicable, as determined by the State Comptroller;

26 (4) the timeframes for submission under section 4 of  
27 P.L.2012, c.25 (C.52:32-58) and section 1 of P.L.1977, c.33  
28 (C.52:25-24.2) shall be extended to prior to the issuance of a Notice  
29 of Intent to Award;

30 (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)  
31 shall not apply to technical and support services, under this section,  
32 provided by a vendor using a "24/7 follow-the-sun model" as long  
33 as the contractor is able to provide such services in the United  
34 States during the business day; and

35 (6) the term "bids" in subparagraph (f) of subsection a. of  
36 section 7 of P.L.1954, c.48 (C.52:34-12) shall not include pricing  
37 which will be revealed to all responsive bidders during the  
38 negotiation process.

39 d. The division may, to the extent necessary, waive or modify  
40 any requirement under any other law or regulation that may  
41 interfere with the expeditious procurement of this service.

42 e. Upon the expiration of the initial contract for a third-party  
43 <sup>1</sup>**[administrator]** medical claims reviewer<sup>1</sup> procured pursuant to  
44 subsection b. of this section, the procurement of such service  
45 thereafter shall be <sup>1</sup>required and<sup>1</sup> in accordance with  
46 P.L.1954, c.48 (C.52:34-6 et seq.) and any other applicable law  
47 governing the awarding of public contracts by a State agency.

1       3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to  
2 read as follows:

3       6. **[(A)] a.** For each active covered State employee and for the  
4 eligible dependents the employee may have enrolled at the  
5 employee's option, the State, from funds appropriated therefor, shall  
6 pay 'its share of' the premium or periodic charges for the benefits  
7 provided under the contract **['in amounts equal to the premium or**  
8 **periodic charges for the benefits provided under such a contract**  
9 **covering the employee and the employee's enrolled dependents']**  
10 **purchased by the commission pursuant to subsection a. of section 4**  
11 **of P.L.1961, c.49 (C.52:14-17.28)'**.

12       **[(B)]** An employee may, on an optional basis, enroll the  
13 employee's dependents for coverage under the contract subject to  
14 such regulations and conditions as the commission and the carrier  
15 may prescribe.

16       b. There is hereby created a health benefits fund. Said fund  
17 shall be used to pay the premiums or periodic charges for which the  
18 State is responsible under this act.

19       c. The fund shall contain a dedicated subaccount reserved for  
20 payment of claims and other health services fees for covered health  
21 services and prescription drug benefits provided to covered State  
22 employees and their enrolled eligible dependents. No person shall  
23 use or authorize the use of the assets in the subaccount, or the  
24 investment earnings thereon, for any purpose other than for the  
25 provision of benefits in accordance with the terms of the State  
26 Health Benefits Program and for defraying the reasonable costs of  
27 administering the subaccount.

28       A third-party **['administrator']** medical claims reviewer',  
29 procured pursuant to section 2 of P.L. , c. (C. ) (pending  
30 before the Legislature as this bill), **['shall serve as a fiduciary of**  
31 **the subaccount in accordance with fiduciary standards equivalent to**  
32 **those under the "Employee Retirement Income Security Act of**  
33 **1974" (29 U.S.C. s.1001 et seq.) and']** shall , in the performance of  
34 '[administrative]' services for the program, act in the best  
35 '[interest] interests' of 'the State, participating employers, and'  
36 covered State employees and their enrolled eligible dependents.  
37 Nothing in this subsection shall be construed as subjecting the  
38 program, its plans, '[or]' the State ', or any participating  
39 employer' to the provisions of the "Employee Retirement Income  
40 Security Act of 1974" (29 U.S.C. s.1001 et seq.).

41       The third-party **['administrator']** medical claims reviewer' shall  
42 '[be responsible for overseeing and coordinating the payment of  
43 claims and other health services fees for which the State is  
44 responsible on a self-funded basis. The third-party administrator  
45 shall provide adjudication of claims for health care services  
46 provided under the program, process direct payments of adjudicated

1 claims for covered health care services and other health care  
2 services fees from the subaccount to health care providers and  
3 facilities in accordance with the terms of the program, process  
4 payments for prescription drug benefits in accordance with the  
5 adjudicative technology procured or provided by the State, and  
6 provide related services for the program as required herein. The  
7 submission of such claims and payments shall be governed by and  
8 occur within the timeframe allotted by the rules and regulations  
9 issued by the State Treasurer pursuant to this subsection. The third-  
10 party administrator shall take all necessary action to reduce the  
11 administrative costs of the program. The third-party administrator  
12 shall promptly inform the commission and the State Treasurer if  
13 moneys are not, or cannot reasonably be, expected to be collected or  
14 disbursed in the appropriate amounts or if any fund reserve  
15 established by the commission has fallen below the required level.

16 The third-party administrator shall **】** collect,<sup>1</sup> store and maintain  
17 a secure archive of medical and prescription drug claims data and  
18 other health services payment information and provide such data  
19 and other reports in compliance with applicable State and federal  
20 laws, including the “Health Insurance Portability and  
21 Accountability Act of 1996,” Pub.L.104-191, to document the cost  
22 and nature of claims incurred, demographic information on the  
23 covered population, emerging utilization and demographic trends,  
24 and such other information as may be available to assist in the  
25 governance of the program and in timely response to any requests  
26 from the Governor, the State Treasurer, the Division of Pensions  
27 and Benefits, the State Health Benefits Commission, the State  
28 Health Benefits Plan Design Committee, the President of the  
29 Senate, and the Speaker of the General Assembly. <sup>1</sup>Such claims  
30 data shall include, but not be limited to, for each claim, the claim  
31 number, provider information, amount charged, amount paid, and  
32 the Current Procedural Terminology (CPT) code.<sup>1</sup> The State Health  
33 Benefits Commission <sup>1</sup>【or】 ,<sup>1</sup> the State Health Benefits Plan Design  
34 Committee <sup>1</sup>, the State Treasurer, or the Division of Pensions and  
35 Benefits<sup>1</sup> may direct the third-party <sup>1</sup>【administrator】 medical  
36 claims reviewer<sup>1</sup> to provide appropriate medical and prescription  
37 drug claims and other health services payment data to a health care  
38 services provider or other authorized entity, in compliance with  
39 applicable State and federal laws, including the “Health Insurance  
40 Portability and Accountability Act of 1996,” Pub.L.104-191, for the  
41 specific purpose of improving the quality and value of health care  
42 services delivered to <sup>1</sup>【plan】 program<sup>1</sup> participants.

43 The State Treasurer shall deposit into the subaccount the moneys  
44 necessary to accomplish the purposes of this subsection <sup>1</sup>【as are  
45 appropriated by State law therefor, paid by employers participating  
46 in the program, and contributed by employees and retirees of the  
47 State and employees and retirees of employers other than the State

1 participating in the program]<sup>1 2</sup>, including moneys paid by  
2 employers participating in the program, and contributed by  
3 employees and retirees of the State and employees and retirees of  
4 employers other than the State participating in the program<sup>2</sup> .  
5 Deposits and contributions to the subaccount shall be <sup>1</sup>irrevocable  
6 and]<sup>1</sup> applied to the distribution of payments for the costs of health  
7 care services and prescription drug benefits and to fund the  
8 reasonable costs of administering the subaccount. Assets in the  
9 subaccount shall be expended or withdrawn, and deposits and  
10 withdrawals shall be reconciled, in accordance with regulations and  
11 procedures adopted pursuant to this subsection.

12 Moneys in the subaccount shall be invested in permitted  
13 investments or shall be held in interest-bearing accounts in such  
14 depositories as the State Treasurer may select, and may be invested  
15 and reinvested in permitted investments or invested and reinvested  
16 in the same manner as other accounts in the custody of the State  
17 Treasurer as provided by law. All interest or other income or  
18 earnings derived from the investment or reinvestment of moneys in  
19 the subaccount shall be credited thereto and shall be determined on  
20 an aggregate basis for all participating employers.

21 The State Treasurer shall adopt, pursuant to the “Administrative  
22 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
23 and regulations as may be necessary to implement the provisions of  
24 this <sup>1</sup>[subsection] act, P.L. , c. (C. ) (pending before the  
25 Legislature as this bill)<sup>1</sup> .

26 (cf: P.L.1996, c.8, s.3)

27

28 4. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to read  
29 as follows:

30 4. a. The commission shall negotiate with and arrange for the  
31 purchase, on such terms as it deems to be in the best interests of the  
32 State and its employees, from carriers licensed to operate in the State  
33 or in other jurisdictions, as appropriate, contracts providing hospital,  
34 surgical, obstetrical, and other covered health care services and  
35 benefits covering employees of the State and their dependents, and  
36 shall execute all documents pertaining thereto for and on behalf and in  
37 the name of the State.

38 b. Except for contracts entered into after June 30, 2007, the  
39 commission shall not enter into a contract under this act unless the  
40 benefits provided thereunder equal or exceed the minimum standards  
41 specified in section 5 of P.L.1961, c.49 (C.52:14-17.29) for the  
42 particular coverage which such contract provides, and unless coverage  
43 is available to all eligible employees and their dependents on the basis  
44 specified by section 7 of P.L.1961, c.49 (C.52:14-17.31), except that a  
45 State employee enrolled in the program on or after July 1, 2003 and all  
46 law enforcement officers employed by the State for whom there is a  
47 majority representative for collective negotiations purposes may not be



1 eligible for coverage under the traditional plan as defined in section 2  
2 of P.L.1961, c.49 (C.52:14-17.26) pursuant to a binding collective  
3 negotiations agreement or pursuant to the application by the  
4 commission, in its sole discretion, of the terms of any collective  
5 negotiations agreement binding on the State to State employees for  
6 whom there is no majority representative for collective negotiations  
7 purposes.

8 c. The commission shall not enter into a contract under P.L.1961,  
9 c.49 (C.52:14-17.25 et seq.) after June 30, 2007, unless the contract  
10 includes the successor plan, one or more health maintenance  
11 organization plans and a State managed care plan that shall be  
12 substantially equivalent to the NJ PLUS plan in effect on June 30,  
13 2007, with adjustments to that plan pursuant to a binding collective  
14 negotiations agreement or pursuant to action by the commission, in its  
15 sole discretion, to apply such adjustments to State employees for  
16 whom there is no majority representative for collective negotiations  
17 purposes, and unless coverage is available to all eligible employees  
18 and their dependents on the basis specified by section 7 of P.L.1961,  
19 c.49 (C.52:14-17.31), except as provided in subsection d. of this  
20 section.

21 d. Eligibility for coverage under the successor plan may be  
22 limited pursuant to a binding collective negotiations agreement or  
23 pursuant to the application by the commission, in its sole discretion, of  
24 the terms of any collective negotiations agreement binding on the State  
25 to State employees for whom there is no majority representative for  
26 collective negotiations purposes. Coverage under the successor plan  
27 and under the State managed care plan required to be included in a  
28 contract entered into pursuant to subsection c. of this section shall be  
29 made available in retirement to all State employees who accrued 25  
30 years of nonconcurrent service credit in one or more State or locally-  
31 administered retirement systems before July 1, 2007. Coverage under  
32 the State managed care plan required to be included in a contract  
33 entered into pursuant to subsection c. of this section shall be made  
34 available in retirement to all State employees who accrue 25 years of  
35 nonconcurrent service credit in one or more State or locally-  
36 administered retirement systems on or after July 1, 2007.

37 e. Actions taken by the commission before the effective date of  
38 P.L.2007, c. 103 in anticipation of entering into any contract pursuant  
39 to subsection c. of this section are hereby deemed to have been within  
40 the authority of the commission pursuant to P.L.1961, c.49 (C.52:14-  
41 17.25 et seq.).

42 f. Any carrier with which the commission contracts for the  
43 provision of hospital, surgical, obstetrical, and other covered health  
44 care services and benefits pursuant to this section shall <sup>1</sup>[grant]  
45 provide<sup>1</sup> to the third-party <sup>1</sup>[administrator] medical claims reviewer<sup>1</sup> ,  
46 procured pursuant to section 2 of P.L. , c. (C. ) (pending before  
47 the Legislature as this bill), <sup>1</sup>[access to any] information in<sup>1</sup> <sup>2</sup>that  
48 carrier's<sup>2</sup> provider network <sup>1</sup>[contract] contracts<sup>1</sup> , <sup>2</sup>[and provider

1 health care services] such as claims information<sup>2</sup> and contractual  
2 discounts provided thereunder, <sup>2</sup>that are<sup>2</sup> applicable to a health  
3 benefits plan offered under the State Health Benefits Program.

4 <sup>1</sup>Documents, materials and other information in the possession or  
5 control of the State, or the third-party medical claims reviewer, that are  
6 obtained or created by, or disclosed to, the State or any other person  
7 pursuant to this subsection shall be recognized by this State as being  
8 proprietary and containing trade secrets. All such documents,  
9 materials or other information shall be confidential by law and  
10 privileged, <sup>2</sup>and<sup>2</sup> shall not be subject to P.L.1963, c.71 (C.47:1A-  
11 1 et seq.) <sup>2</sup>], shall not be subject to subpoena, and shall not be subject  
12 to discovery or admissible in evidence in any private civil action]<sup>2</sup>;  
13 except that the State is authorized to use the documents, materials or  
14 other information in the furtherance of any regulatory or legal action  
15 brought as a part of the commission's or third-party medical claims  
16 reviewer's official duties. The State and the third-party medical  
17 claims reviewer shall not disclose, sell, or transfer the documents,  
18 materials or other information without the prior written consent of the  
19 carrier. This subsection shall not be construed as pertaining to medical  
20 claims data.

21 g. A contract entered into <sup>2</sup>with a carrier<sup>2</sup> pursuant to this section  
22 shall <sup>2</sup>[reserve to the State] include therein<sup>2</sup> the <sup>2</sup>State's existing<sup>2</sup>  
23 right to withhold payment for administrative services or to pursue any  
24 other remedy deemed appropriate by the State Treasurer if the carrier  
25 is found by the State upon information provided by the third-party  
26 medical claims reviewer to have committed errors resulting in a loss to  
27 the State in a quantity or value, or both, beyond a certain threshold, as  
28 shall be provided in the contract or by rules promulgated by the State  
29 Treasurer. The contract shall permit the State to recover any loss  
30 resulting from errors identified by the third-party medical claims  
31 reviewer.<sup>1</sup>

32 <sup>4</sup>h. Information provided to or obtained by the third-party medical  
33 claims reviewer shall be delivered, received, maintained, and reviewed  
34 in a manner and shall contain only material consistent with the "Health  
35 Insurance Portability and Accountability Act of 1996," Pub.L.104-191.  
36 To the extent necessary in accordance therewith, a carrier shall ensure  
37 that information provided to the medical claims reviewer is attendant  
38 to only persons who are participants in the State Health Benefits  
39 Program.<sup>4</sup>

40 (cf: P.L.2007, c.103, s.21)

41

42 5. Section 35 of P.L.2007, c. 103 (C.52:14-17.46.5) is amended to  
43 read as follows:

44 35. a. The commission shall negotiate with and arrange for the  
45 purchase, on such terms as it deems in the best interests of the State,  
46 participating employers and those persons covered hereunder from  
47 carriers licensed to operate in the State or in other jurisdictions, as

1 appropriate, contracts providing benefits required by the School  
2 Employees' Health Benefits Program Act, as specified in section 36 of  
3 P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the commission  
4 may determine to provide, so long as such modification of benefits is  
5 in the best interests of the State, participating employers and those  
6 persons covered hereunder, and is consistent with the provisions of  
7 section 40 of that act (C.52:14-17.46.10). The commission shall have  
8 authority to execute all documents pertaining thereto for and on behalf  
9 of the State. The commission shall not enter into a contract under the  
10 School Employees' Health Benefits Program Act, unless the benefits  
11 provided thereunder are equal to or exceed the standards specified in  
12 section 36 of that act, or as such standards are modified pursuant to  
13 section 40 of that act.

14 b. The rates charged for any contract purchased under the  
15 authority of the School Employees' Health Benefits Program Act shall  
16 reasonably and equitably reflect the cost of the benefits provided based  
17 on principles which in the judgment of the commission are actuarially  
18 sound. The rates charged shall be determined based upon accepted  
19 group rating principles with due regard to the experience, both past  
20 and contemplated, under the contract. The commission shall have the  
21 right to particularize subgroups for experience purposes and rates. No  
22 increase in rates shall be retroactive.

23 c. The commission shall be authorized to accept an assignment of  
24 contract rights from or enter into an agreement, contract, memorandum  
25 of understanding or other terms with the State Health Benefits  
26 Commission to ensure that coverage for eligible employees, retirees  
27 and dependents under the School Employees' Health Benefits Program  
28 whose benefits had been provided through the State Health Benefits  
29 Program is continued without interruption. The transition provided for  
30 in this subsection shall occur within one year of the effective date of  
31 the School Employees' Health Benefits Program Act, sections 31  
32 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-  
33 17.46.11).

34 d. Benefits under the contract or contracts purchased as  
35 authorized by the School Employees' Health Benefits Program Act  
36 may be subject to such limitations, exclusions, or waiting periods as  
37 the commission finds to be necessary or desirable to avoid inequity,  
38 unnecessary utilization, duplication of services or benefits otherwise  
39 available, including coverage afforded under the laws of the United  
40 States, such as the federal Medicare program, or for other reasons.

41 e. The initial term of any contract purchased by the commission  
42 under the authority of the School Employees' Health Benefits Program  
43 Act shall be for such period to which the commission and the carrier  
44 may agree, but permission may be made for automatic renewal in the  
45 absence of notice of termination by the commission. Subsequent terms  
46 for which any contract may be renewed as herein provided shall each  
47 be limited to a period not to exceed one year.

1        f. Any carrier with which the commission contracts for the  
2 provision of hospital, surgical, obstetrical, and other covered health  
3 care services and benefits pursuant to this section shall <sup>2</sup>[grant]  
4 provide<sup>2</sup> to the third-party <sup>1</sup>[administrator] medical claims reviewer<sup>1</sup> ,  
5 procured pursuant to section 2 of P.L. , c. (C. ) (pending before  
6 the Legislature as this bill), <sup>2</sup>[access to any] information in that  
7 carrier's<sup>2</sup> provider network <sup>2</sup>[contract] contracts<sup>2</sup> , <sup>2</sup>[and provider  
8 health care services] such as claims information<sup>2</sup> and contractual  
9 discounts provided thereunder, <sup>2</sup>that are<sup>2</sup> applicable to a health  
10 benefits plan offered under the School Employees' Health Benefits  
11 Program.

12        <sup>1</sup>Documents, materials and other information in the possession or  
13 control of the State, or the third-party medical claims reviewer, that are  
14 obtained or created by, or disclosed to, the State or any other person  
15 pursuant to this subsection shall be recognized by this State as being  
16 proprietary and containing trade secrets. All such documents,  
17 materials or other information shall be confidential by law and  
18 privileged, <sup>2</sup>and<sup>2</sup> shall not be subject to P.L.1963, c.71 (C.47:1A-  
19 1 et seq.) <sup>2</sup>[, shall not be subject to subpoena, and shall not be subject  
20 to discovery or admissible in evidence in any private civil action]<sup>2</sup>;  
21 except that the State is authorized to use the documents, materials or  
22 other information in the furtherance of any regulatory or legal action  
23 brought as a part of the commission's or third-party medical claims  
24 reviewer's official duties. The State and the third-party medical  
25 claims reviewer shall not disclose, sell, or transfer the documents,  
26 materials or other information without the prior written consent of the  
27 carrier. This subsection shall not be construed as pertaining to medical  
28 claims data.

29        g. A contract entered into <sup>2</sup>with a carrier<sup>2</sup> pursuant to this section  
30 shall <sup>2</sup>[reserve to the State] include therein<sup>2</sup> the <sup>2</sup>State's existing<sup>2</sup>  
31 right to withhold payment for administrative services or to pursue any  
32 other remedy deemed appropriate by the State Treasurer if the carrier  
33 is found by the State upon information provided by the third-party  
34 medical claims reviewer to have committed errors resulting in a loss to  
35 the State in a quantity or value, or both, beyond a certain threshold, as  
36 shall be provided in the contract or by rules promulgated by the State  
37 Treasurer. The contract shall permit the State to recover any loss  
38 resulting from errors identified by the third-party medical claims  
39 reviewer.<sup>1</sup>

40        <sup>4</sup>h. Information provided to or obtained by the third-party medical  
41 claims reviewer shall be delivered, received, maintained, and reviewed  
42 in a manner and shall contain only material consistent with the "Health  
43 Insurance Portability and Accountability Act of 1996," Pub.L.104-191.  
44 To the extent necessary in accordance therewith, a carrier shall ensure  
45 that information provided to the medical claims reviewer is attendant

1 to only persons who are participants in the State Health Benefits  
2 Program.<sup>4</sup>

3 (cf: P.L.2007, c.103, s.35)

4

5 6. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended  
6 to read as follows:

7 39. a. For each active covered employee and for the eligible  
8 dependents the employee may have enrolled at the employee's  
9 option, from funds appropriated therefor, the employer shall pay to  
10 the commission the premium or periodic charges for the benefits  
11 provided under the contract in amounts equal to the premium or  
12 periodic charges for the benefits provided under such a contract  
13 covering the employee and the employee's enrolled dependents.

14 b. The obligations of any employer to pay the premium or  
15 periodic charges for health benefits coverage provided under the  
16 School Employees' Health Benefits Program Act, sections 31  
17 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-  
18 17.46.11), may be determined by means of a binding collective  
19 negotiations agreement, including any agreement in force at the  
20 time the employer commences participation in the School  
21 Employees' Health Benefits Program. With respect to employees for  
22 whom there is no majority representative for collective negotiations  
23 purposes, the employer may, in its sole discretion, modify the  
24 respective payment obligations set forth in law for the employer and  
25 such employees in a manner consistent with the terms of any  
26 collective negotiations agreement binding on the employer.

27 Commencing on the effective date of P.L.2010, c.2 and upon the  
28 expiration of any applicable binding collective negotiations  
29 agreement in force on that effective date, employees shall pay 1.5  
30 percent of base salary, through the withholding of the contribution,  
31 for health benefits coverage provided under P.L.2007, c.103  
32 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that  
33 may be required additionally pursuant to this subsection by means  
34 of a binding collective negotiations agreement or the modification  
35 of payment obligations.

36 c. There is hereby established a School Employee Health  
37 Benefits Program fund consisting of all contributions to premiums  
38 and periodic charges remitted to the State treasury by participating  
39 employers for employee coverage. All such contributions shall be  
40 deposited in the fund and the fund shall be used to pay the portion  
41 of the premium and periodic charges attributable to employee and  
42 dependent coverage.

43 d. The fund shall contain a dedicated subaccount reserved for  
44 payment of claims and other health services fees for covered health  
45 services and prescription drug benefits provided to covered  
46 employees and their enrolled eligible dependents. No person shall  
47 use or authorize the use of the assets in the subaccount, or the  
48 investment earnings thereon, for any purpose other than for the

1 provision of benefits in accordance with the terms of the School  
2 Employees' Health Benefits Program and for defraying the  
3 reasonable costs of administering the subaccount.

4 A third-party **['administrator]** medical claims reviewer<sup>1</sup> ,  
5 procured pursuant to section 2 of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill), **['shall serve as a fiduciary of**  
7 the subaccount in accordance with fiduciary standards equivalent to  
8 those under the "Employee Retirement Income Security Act of  
9 1974" (29 U.S.C. s.1001 et seq.) and<sup>1</sup> shall, in the performance of  
10 **['administrative]** services for the program, act in the best  
11 **['interest]** interests<sup>1</sup> of <sup>1</sup>the State, participating employers, and<sup>1</sup>  
12 covered employees and their enrolled eligible dependents. Nothing  
13 in this subsection shall be construed as subjecting the program, its  
14 plans, **['or]** the State <sup>1</sup>, or any participating employer<sup>1</sup> to the  
15 provisions of the "Employee Retirement Income Security Act of  
16 1974" (29 U.S.C. s.1001 et seq.).

17 The third-party **['administrator]** medical claims reviewer<sup>1</sup> shall  
18 **['be responsible for overseeing and coordinating the payment of**  
19 claims and other health services fees for which the State is  
20 responsible on a self-funded basis. The third-party administrator  
21 shall provide adjudication of claims for health care services  
22 provided under the program, process direct payments of adjudicated  
23 claims for covered health care services and other health care  
24 services fees from the subaccount to health care providers and  
25 facilities in accordance with the terms of the program, process  
26 payments for prescription drug benefits in accordance with the  
27 adjudicative technology procured or provided by the State, and  
28 provide related services for the program as required herein. The  
29 submission of such claims and payments shall be governed by and  
30 occur within the timeframe allotted by the rules and regulations  
31 issued by the State Treasurer pursuant to this subsection. The third-  
32 party administrator shall take all necessary action to reduce the  
33 administrative costs of the program. The third-party administrator  
34 shall promptly inform the commission and the State Treasurer if  
35 moneys are not, or cannot reasonably be, expected to be collected or  
36 disbursed in the appropriate amounts or if any fund reserve  
37 established by the commission has fallen below the required level.

38 The third-party administrator shall **['collect,**<sup>1</sup> store and maintain  
39 a secure archive of medical and prescription drug claims data and  
40 other health services payment information and provide such data  
41 and other reports in compliance with applicable State and federal  
42 laws, including the "Health Insurance Portability and  
43 Accountability Act of 1996," Pub.L.104-191, to document the cost  
44 and nature of claims incurred, demographic information on the  
45 covered population, emerging utilization and demographic trends,  
46 and such other information as may be available to assist in the  
47 governance of the program and in timely response to any requests

1 from the Governor, the State Treasurer, the Division of Pensions  
2 and Benefits, the School Employees' Health Benefits Commission,  
3 the School Employees' Health Benefits Plan Design Committee, the  
4 President of the Senate, and the Speaker of the General Assembly.  
5 <sup>1</sup>Such claims data shall include, but not be limited to, for each  
6 claim, the claim number, provider <sup>2</sup>**[name and contact]**<sup>2</sup>  
7 information, amount charged, amount paid, and the Current  
8 Procedural Terminology (CPT) code.<sup>1</sup> The School Employees'  
9 Health Benefits Commission <sup>1</sup>**[or]**,<sup>1</sup> the School Employees' Health  
10 Benefits Plan Design Committee <sup>1</sup>, the State Treasurer, or the  
11 Division of Pensions and Benefits<sup>1</sup> may direct the third-party  
12 <sup>1</sup>**[administrator]** medical claims reviewer<sup>1</sup> to provide appropriate  
13 medical and prescription drug claims and other health services  
14 payment data to a health care services provider or other authorized  
15 entity, in compliance with applicable State and federal laws,  
16 including the "Health Insurance Portability and Accountability Act  
17 of 1996," Pub.L.104-191, for the specific purpose of improving the  
18 quality and value of health care services delivered to <sup>1</sup>**[plan]**  
19 program<sup>1</sup> participants.

20 The State Treasurer shall deposit into the subaccount the moneys  
21 necessary to accomplish the purposes of this subsection <sup>1</sup>**[as are**  
22 appropriated by State law therefor, paid by employers participating  
23 in the program, and contributed by covered employees and  
24 retirees]<sup>1 2</sup>, including moneys paid by employers participating in  
25 the program, and contributed by <sup>3</sup>covered<sup>3</sup> employees and retirees  
26 <sup>3</sup>**[of the State and employees and retirees of employers other than**  
27 the State participating in the program<sup>2</sup>]<sup>3</sup> . Deposits and  
28 contributions to the subaccount shall be <sup>1</sup>**[irrevocable and]**<sup>1</sup> applied  
29 to the distribution of payments for the costs of health care services  
30 and prescription drug benefits and to fund the reasonable costs of  
31 administering the subaccount. Assets in the subaccount shall be  
32 expended or withdrawn, and deposits and withdrawals shall be  
33 reconciled, in accordance with regulations and procedures adopted  
34 pursuant to this subsection.

35 Moneys in the subaccount shall be invested in permitted  
36 investments or shall be held in interest-bearing accounts in such  
37 depositories as the State Treasurer may select, and may be invested  
38 and reinvested in permitted investments or invested and reinvested  
39 in the same manner as other accounts in the custody of the State  
40 Treasurer as provided by law. All interest or other income or  
41 earnings derived from the investment or reinvestment of moneys in  
42 the subaccount shall be credited thereto and shall be determined on  
43 an aggregate basis for all participating employers.

44 The State Treasurer shall adopt, pursuant to the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
46 and regulations as may be necessary to implement the provisions of

1 this <sup>1</sup>[subsection] act, P.L. , c. (C. ) (pending before the  
2 Legislature as this bill)<sup>1</sup> .

3 e. Notwithstanding any law to the contrary and except as  
4 provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78,  
5 the payment in full of premium or periodic charges for eligible  
6 retirees and their dependents pursuant to section 3 of P.L.1987,  
7 c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-  
8 17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be  
9 continued without alteration or interruption and there shall be no  
10 premium sharing or periodic charges for certain school employees  
11 in retirement once they have met the criteria for vesting for pension  
12 benefits, which criteria for purposes of this subsection only shall  
13 mean the criteria for vesting in the Teachers' Pension and Annuity  
14 Fund. For purposes of this subsection, "premium sharing or periodic  
15 charges" shall mean payments by eligible retirees based upon a  
16 proportion of the premiums for health care benefits.  
17 (cf: P.L.2011, c.78, s.54)

18  
19 7. <sup>1</sup>[Sections 1 and 2 of this] This<sup>1</sup> act shall take effect  
20 immediately, <sup>1</sup>[and] except that<sup>1</sup> sections <sup>1</sup>[3 through 6] 4 and 5<sup>1</sup>  
21 shall take effect after the expiration of all contracts in effect on the  
22 date of enactment of this act purchased pursuant to subsections a. of  
23 section 4 of P.L.1961, c.49 (C.52:14-17.28) and of section 35 of  
24 P.L.2007, c.103 (C.52:14-17.46.5), <sup>1</sup>respectively,<sup>1</sup> but the  
25 Department of the Treasury and the commissions may take such  
26 anticipatory administrative action prior thereto as may be necessary  
27 to effectuate the purposes of this act.

28

29

30

31

32 \_\_\_\_\_  
33 Creates subaccounts for SHBP and SEHBP health care services  
34 and prescription drug claims; requires procurement by State of  
third-party medical claims reviewer.



# SENATE, No. 3042

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party administrator.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/11/2018)**

1 AN ACT concerning the State Health Benefits Program and the  
2 School Employees' Health Benefits Program, amending  
3 P.L.1961, c.49 and P.L.2007, c.103, and supplementing  
4 P.L.1961, c.49 (C.52:14-17.25 et seq.).

5

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

8

9 1. (New section) The Legislature finds and declares that:

10 a. The cost of health care in this country has been increasing at  
11 a pace that will make our current system of health care delivery  
12 unsustainable on its present trajectory.

13 b. As health care costs continue to rise more quickly than the  
14 average annual income, those costs displace other priorities for  
15 individuals, such as saving for retirement or their children's  
16 education, and even discourage people from obtaining  
17 recommended health care. The litany of research in this area has  
18 demonstrated that all necessary action must be taken to reduce costs  
19 wherever possible.

20 c. One way to reduce costs is to increase the control that a self-  
21 insured employer, such as the State, exercises over health care  
22 programs and plans, as occurs when hiring a third-party  
23 administrator to manage claims processing.

24 d. Hiring a third-party administrator to receive, archive,  
25 manage, adjudicate, and pay claims serves the best interests of the  
26 State and the thousands of employees and their dependents covered  
27 under the State Health Benefits Program and the School Employees'  
28 Health Benefits Program. A third-party administrator would act as a  
29 fiduciary to program participants, work toward identifying and  
30 eliminating systemic errors, recover overpayments, and pay only the  
31 required and appropriate amounts due and owing on claims as a  
32 result of proper adjudication.

33 e. For the purpose of facilitating greater efficiency and  
34 transparency in the provision of health benefits to State employees,  
35 their eligible family members, and others receiving health benefits  
36 under the programs, the State of New Jersey deems it fitting and  
37 crucial to procure a third-party administrator expeditiously, with a  
38 goal for implementation in the plan year beginning in January of  
39 2020.

40

41 2. (New section) a. Notwithstanding the provisions of any other  
42 law to the contrary, a contract for the services of a third-party  
43 administrator for the State Health Benefits Program and the School  
44 Employees' Health Benefits Program shall be procured in an

**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 expedited process and in the manner provided by this section.

2 b. The Division of Purchase and Property in the Department of  
3 the Treasury shall procure, without the need for formal  
4 advertisement, but through the solicitation of proposals from  
5 professional services vendors, a third-party administrator, which  
6 shall be responsible for the adjudication and processing of direct  
7 payments for health care services rendered to participants in the  
8 State Health Benefits Program and School Employees' Health  
9 Benefits Program and for the processing of payments for the  
10 prescription drug benefits of those participants in accordance with  
11 the adjudicative tools procured or provided by the State. The third-  
12 party administrator shall perform all duties in accordance with all  
13 applicable State and federal laws and with the rules and regulations  
14 issued by the State Treasurer and the State Health Benefits  
15 Commission and the School Employees' Health Benefits  
16 Commission, and shall act as a fiduciary in the best interest of  
17 covered persons under the programs. The third-party administrator  
18 shall not be the carrier, or a subsidiary, related party, or affiliate  
19 thereof, with which the State has contracted pursuant to section 4 of  
20 P.L.1961, c.49 (C.52:14-17.28) or section 35 of P.L.2007, c.103  
21 (C.52:14-17.46.5) for the provision of hospital, surgical, obstetrical,  
22 and other covered health care services and benefits or for the  
23 provider networks for those services. The third-party administrator  
24 shall not exercise any authority over the provision of health care  
25 benefits for Medicare-eligible retirees.

26 c. Notwithstanding the provisions of any other law to the  
27 contrary, for the purpose of expediting the procurement of a third-  
28 party administrator, the following provisions shall apply as  
29 modifications to law or regulation that may interfere with the  
30 expedited procurement:

31 (1) the timeframes for challenging the specifications shall be  
32 modified as determined by the division;

33 (2) in lieu of advertising in accordance with sections 2, 3, and 4  
34 of P.L.1954, c.48 (C.52:34-7, C.52:34-8, and C.52:34-9), the  
35 division shall advertise the request for proposals for the above  
36 service and any addenda thereto on the division's website;

37 (3) the period of time that the State Comptroller has to review  
38 the request for proposals for the procurement of a third-party  
39 administrator for compliance with applicable public contracting  
40 laws, rules, and regulations, pursuant to section 10 of P.L.2007,  
41 c.52 (C.52:15C-10), shall be 10 business days or less if practicable,  
42 as determined by the State Comptroller;

43 (4) the timeframes for submission under section 4 of P.L.2012,  
44 c.25 (C.52:32-58) and section 1 of P.L.1977, c.33 (C.52:25-24.2)  
45 shall be extended to prior to the issuance of a Notice of Intent to  
46 Award;

47 (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)  
48 shall not apply to technical and support services, under this section,

1 provided by a vendor using a “24/7 follow-the-sun model” as long  
2 as the contractor is able to provide such services in the United  
3 States during the business day; and

4 (6) the term “bids” in subparagraph (f) of subsection a. of section  
5 7 of P.L.1954, c.48 (C.52:34-12) shall not include pricing which  
6 will be revealed to all responsive bidders during the negotiation  
7 process.

8 d. The division may, to the extent necessary, waive or modify  
9 any requirement under any other law or regulation that may  
10 interfere with the expeditious procurement of this service.

11 e. Upon the expiration of the initial contract for a third-party  
12 administrator procured pursuant to subsection b. of this section, the  
13 procurement of such service thereafter shall be in accordance with  
14 P.L.1954, c.48 (C.52:34-6 et seq.) and any other applicable law  
15 governing the awarding of public contracts by a State agency.

16

17 3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to  
18 read as follows:

19 6. **[(A)]** a. For each active covered State employee and for the  
20 eligible dependents the employee may have enrolled at the  
21 employee's option, the State, from funds appropriated therefor, shall  
22 pay the premium or periodic charges for the benefits provided under  
23 the contract in amounts equal to the premium or periodic charges  
24 for the benefits provided under such a contract covering the  
25 employee and the employee's enrolled dependents.

26 **[(B)]** An employee may, on an optional basis, enroll the  
27 employee's dependents for coverage under the contract subject to  
28 such regulations and conditions as the commission and the carrier  
29 may prescribe.

30 b. There is hereby created a health benefits fund. Said fund shall  
31 be used to pay the premiums or periodic charges for which the State  
32 is responsible under this act.

33 c. The fund shall contain a dedicated subaccount reserved for  
34 payment of claims and other health services fees for covered health  
35 services and prescription drug benefits provided to covered State  
36 employees and their enrolled eligible dependents. No person shall  
37 use or authorize the use of the assets in the subaccount, or the  
38 investment earnings thereon, for any purpose other than for the  
39 provision of benefits in accordance with the terms of the State  
40 Health Benefits Program and for defraying the reasonable costs of  
41 administering the subaccount.

42 A third-party administrator, procured pursuant to section 2 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 shall serve as a fiduciary of the subaccount in accordance with  
45 fiduciary standards equivalent to those under the “Employee  
46 Retirement Income Security Act of 1974” (29 U.S.C. s.1001 et seq.)  
47 and shall, in the performance of administrative services for the  
48 program, act in the best interest of covered State employees and

1 their enrolled eligible dependents. Nothing in this subsection shall  
2 be construed as subjecting the program, its plans, or the State to the  
3 provisions of the “Employee Retirement Income Security Act of  
4 1974” (29 U.S.C. s.1001 et seq.).

5 The third-party administrator shall be responsible for overseeing  
6 and coordinating the payment of claims and other health services  
7 fees for which the State is responsible on a self-funded basis. The  
8 third-party administrator shall provide adjudication of claims for  
9 health care services provided under the program, process direct  
10 payments of adjudicated claims for covered health care services and  
11 other health care services fees from the subaccount to health care  
12 providers and facilities in accordance with the terms of the  
13 program, process payments for prescription drug benefits in  
14 accordance with the adjudicative technology procured or provided  
15 by the State, and provide related services for the program as  
16 required herein. The submission of such claims and payments shall  
17 be governed by and occur within the timeframe allotted by the rules  
18 and regulations issued by the State Treasurer pursuant to this  
19 subsection. The third-party administrator shall take all necessary  
20 action to reduce the administrative costs of the program. The third-  
21 party administrator shall promptly inform the commission and the  
22 State Treasurer if moneys are not, or cannot reasonably be,  
23 expected to be collected or disbursed in the appropriate amounts or  
24 if any fund reserve established by the commission has fallen below  
25 the required level.

26 The third-party administrator shall store and maintain a secure  
27 archive of medical and prescription drug claims data and other  
28 health services payment information and provide such data and  
29 other reports in compliance with applicable State and federal laws,  
30 including the “Health Insurance Portability and Accountability Act  
31 of 1996,” Pub.L.104-191, to document the cost and nature of claims  
32 incurred, demographic information on the covered population,  
33 emerging utilization and demographic trends, and such other  
34 information as may be available to assist in the governance of the  
35 program and in timely response to any requests from the Governor,  
36 the State Treasurer, the Division of Pensions and Benefits, the State  
37 Health Benefits Commission, the State Health Benefits Plan Design  
38 Committee, the President of the Senate, and the Speaker of the  
39 General Assembly. The State Health Benefits Commission or the  
40 State Health Benefits Plan Design Committee may direct the third-  
41 party administrator to provide appropriate medical and prescription  
42 drug claims and other health services payment data to a health care  
43 services provider or other authorized entity, in compliance with  
44 applicable State and federal laws, including the “Health Insurance  
45 Portability and Accountability Act of 1996,” Pub.L.104-191, for the  
46 specific purpose of improving the quality and value of health care  
47 services delivered to plan participants.

1     The State Treasurer shall deposit into the subaccount the moneys  
2 necessary to accomplish the purposes of this subsection as are  
3 appropriated by State law therefor, paid by employers participating  
4 in the program, and contributed by employees and retirees of the  
5 State and employees and retirees of employers other than the State  
6 participating in the program. Deposits and contributions to the  
7 subaccount shall be irrevocable and applied to the distribution of  
8 payments for the costs of health care services and prescription drug  
9 benefits and to fund the reasonable costs of administering the  
10 subaccount. Assets in the subaccount shall be expended or  
11 withdrawn, and deposits and withdrawals shall be reconciled, in  
12 accordance with regulations and procedures adopted pursuant to this  
13 subsection.

14     Moneys in the subaccount shall be invested in permitted  
15 investments or shall be held in interest-bearing accounts in such  
16 depositories as the State Treasurer may select, and may be invested  
17 and reinvested in permitted investments or invested and reinvested  
18 in the same manner as other accounts in the custody of the State  
19 Treasurer as provided by law. All interest or other income or  
20 earnings derived from the investment or reinvestment of moneys in  
21 the subaccount shall be credited thereto and shall be determined on  
22 an aggregate basis for all participating employers.

23     The State Treasurer shall adopt, pursuant to the “Administrative  
24 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
25 and regulations as may be necessary to implement the provisions of  
26 this subsection.

27 (cf: P.L.1996, c.8, s.3)

28

29     4. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to  
30 read as follows:

31     4. a. The commission shall negotiate with and arrange for the  
32 purchase, on such terms as it deems to be in the best interests of the  
33 State and its employees, from carriers licensed to operate in the  
34 State or in other jurisdictions, as appropriate, contracts providing  
35 hospital, surgical, obstetrical, and other covered health care services  
36 and benefits covering employees of the State and their dependents,  
37 and shall execute all documents pertaining thereto for and on behalf  
38 and in the name of the State.

39     b. Except for contracts entered into after June 30, 2007, the  
40 commission shall not enter into a contract under this act unless the  
41 benefits provided thereunder equal or exceed the minimum  
42 standards specified in section 5 of P.L.1961, c.49 (C.52:14-17.29)  
43 for the particular coverage which such contract provides, and unless  
44 coverage is available to all eligible employees and their dependents  
45 on the basis specified by section 7 of P.L.1961, c.49 (C.52:14-  
46 17.31), except that a State employee enrolled in the program on or  
47 after July 1, 2003 and all law enforcement officers employed by the  
48 State for whom there is a majority representative for collective

1 negotiations purposes may not be eligible for coverage under the  
2 traditional plan as defined in section 2 of P.L.1961, c.49 (C.52:14-  
3 17.26) pursuant to a binding collective negotiations agreement or  
4 pursuant to the application by the commission, in its sole discretion,  
5 of the terms of any collective negotiations agreement binding on the  
6 State to State employees for whom there is no majority  
7 representative for collective negotiations purposes.

8 c. The commission shall not enter into a contract under  
9 P.L.1961, c.49 (C.52:14-17.25 et seq.) after June 30, 2007, unless  
10 the contract includes the successor plan, one or more health  
11 maintenance organization plans and a State managed care plan that  
12 shall be substantially equivalent to the NJ PLUS plan in effect on  
13 June 30, 2007, with adjustments to that plan pursuant to a binding  
14 collective negotiations agreement or pursuant to action by the  
15 commission, in its sole discretion, to apply such adjustments to  
16 State employees for whom there is no majority representative for  
17 collective negotiations purposes, and unless coverage is available to  
18 all eligible employees and their dependents on the basis specified  
19 by section 7 of P.L.1961, c.49 (C.52:14-17.31), except as provided  
20 in subsection d. of this section.

21 d. Eligibility for coverage under the successor plan may be  
22 limited pursuant to a binding collective negotiations agreement or  
23 pursuant to the application by the commission, in its sole discretion,  
24 of the terms of any collective negotiations agreement binding on the  
25 State to State employees for whom there is no majority  
26 representative for collective negotiations purposes. Coverage under  
27 the successor plan and under the State managed care plan required  
28 to be included in a contract entered into pursuant to subsection c. of  
29 this section shall be made available in retirement to all State  
30 employees who accrued 25 years of nonconcurrent service credit in  
31 one or more State or locally-administered retirement systems before  
32 July 1, 2007. Coverage under the State managed care plan required  
33 to be included in a contract entered into pursuant to subsection c. of  
34 this section shall be made available in retirement to all State  
35 employees who accrue 25 years of nonconcurrent service credit in  
36 one or more State or locally-administered retirement systems on or  
37 after July 1, 2007.

38 e. Actions taken by the commission before the effective date of  
39 P.L.2007, c. 103 in anticipation of entering into any contract  
40 pursuant to subsection c. of this section are hereby deemed to have  
41 been within the authority of the commission pursuant to P.L.1961,  
42 c.49 (C.52:14-17.25 et seq.).

43 f. Any carrier with which the commission contracts for the  
44 provision of hospital, surgical, obstetrical, and other covered health  
45 care services and benefits pursuant to this section shall grant to the  
46 third-party administrator, procured pursuant to section 2 of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill), access to  
48 any provider network contract, and provider health care services

1 and contractual discounts provided thereunder, applicable to a  
2 health benefits plan offered under the State Health Benefits  
3 Program.

4 (cf: P.L.2007, c.103, s.21)

5

6 5. Section 35 of P.L.2007, c. 103 (C.52:14-17.46.5) is amended  
7 to read as follows:

8 35. a. The commission shall negotiate with and arrange for the  
9 purchase, on such terms as it deems in the best interests of the State,  
10 participating employers and those persons covered hereunder from  
11 carriers licensed to operate in the State or in other jurisdictions, as  
12 appropriate, contracts providing benefits required by the School  
13 Employees' Health Benefits Program Act, as specified in section 36  
14 of P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the  
15 commission may determine to provide, so long as such modification  
16 of benefits is in the best interests of the State, participating  
17 employers and those persons covered hereunder, and is consistent  
18 with the provisions of section 40 of that act (C.52:14-17.46.10). The  
19 commission shall have authority to execute all documents  
20 pertaining thereto for and on behalf of the State. The commission  
21 shall not enter into a contract under the School Employees' Health  
22 Benefits Program Act, unless the benefits provided thereunder are  
23 equal to or exceed the standards specified in section 36 of that act,  
24 or as such standards are modified pursuant to section 40 of that act.

25 b. The rates charged for any contract purchased under the  
26 authority of the School Employees' Health Benefits Program Act  
27 shall reasonably and equitably reflect the cost of the benefits  
28 provided based on principles which in the judgment of the  
29 commission are actuarially sound. The rates charged shall be  
30 determined based upon accepted group rating principles with due  
31 regard to the experience, both past and contemplated, under the  
32 contract. The commission shall have the right to particularize  
33 subgroups for experience purposes and rates. No increase in rates  
34 shall be retroactive.

35 c. The commission shall be authorized to accept an assignment  
36 of contract rights from or enter into an agreement, contract,  
37 memorandum of understanding or other terms with the State Health  
38 Benefits Commission to ensure that coverage for eligible  
39 employees, retirees and dependents under the School Employees'  
40 Health Benefits Program whose benefits had been provided through  
41 the State Health Benefits Program is continued without interruption.  
42 The transition provided for in this subsection shall occur within one  
43 year of the effective date of the School Employees' Health Benefits  
44 Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-  
45 17.46.1 through C.52:14-17.46.11).

46 d. Benefits under the contract or contracts purchased as  
47 authorized by the School Employees' Health Benefits Program Act  
48 may be subject to such limitations, exclusions, or waiting periods as



1 the commission finds to be necessary or desirable to avoid inequity,  
2 unnecessary utilization, duplication of services or benefits  
3 otherwise available, including coverage afforded under the laws of  
4 the United States, such as the federal Medicare program, or for  
5 other reasons.

6 e. The initial term of any contract purchased by the  
7 commission under the authority of the School Employees' Health  
8 Benefits Program Act shall be for such period to which the  
9 commission and the carrier may agree, but permission may be made  
10 for automatic renewal in the absence of notice of termination by the  
11 commission. Subsequent terms for which any contract may be  
12 renewed as herein provided shall each be limited to a period not to  
13 exceed one year.

14 f. Any carrier with which the commission contracts for the  
15 provision of hospital, surgical, obstetrical, and other covered health  
16 care services and benefits pursuant to this section shall grant to the  
17 third-party administrator, procured pursuant to section 2 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill), access to  
19 any provider network contract, and provider health care services  
20 and contractual discounts provided thereunder, applicable to a  
21 health benefits plan offered under the School Employees' Health  
22 Benefits Program.

23 (cf: P.L.2007, c.103, s.35)

24

25 6. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended  
26 to read as follows:

27 39. a. For each active covered employee and for the eligible  
28 dependents the employee may have enrolled at the employee's  
29 option, from funds appropriated therefor, the employer shall pay to  
30 the commission the premium or periodic charges for the benefits  
31 provided under the contract in amounts equal to the premium or  
32 periodic charges for the benefits provided under such a contract  
33 covering the employee and the employee's enrolled dependents.

34 b. The obligations of any employer to pay the premium or  
35 periodic charges for health benefits coverage provided under the  
36 School Employees' Health Benefits Program Act, sections 31  
37 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-  
38 17.46.11), may be determined by means of a binding collective  
39 negotiations agreement, including any agreement in force at the  
40 time the employer commences participation in the School  
41 Employees' Health Benefits Program. With respect to employees for  
42 whom there is no majority representative for collective negotiations  
43 purposes, the employer may, in its sole discretion, modify the  
44 respective payment obligations set forth in law for the employer and  
45 such employees in a manner consistent with the terms of any  
46 collective negotiations agreement binding on the employer.

47 Commencing on the effective date of P.L.2010, c.2 and upon the  
48 expiration of any applicable binding collective negotiations

1 agreement in force on that effective date, employees shall pay 1.5  
2 percent of base salary, through the withholding of the contribution,  
3 for health benefits coverage provided under P.L.2007, c.103  
4 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that  
5 may be required additionally pursuant to this subsection by means  
6 of a binding collective negotiations agreement or the modification  
7 of payment obligations.

8 c. There is hereby established a School Employee Health  
9 Benefits Program fund consisting of all contributions to premiums  
10 and periodic charges remitted to the State treasury by participating  
11 employers for employee coverage. All such contributions shall be  
12 deposited in the fund and the fund shall be used to pay the portion  
13 of the premium and periodic charges attributable to employee and  
14 dependent coverage.

15 d. The fund shall contain a dedicated subaccount reserved for  
16 payment of claims and other health services fees for covered health  
17 services and prescription drug benefits provided to covered  
18 employees and their enrolled eligible dependents. No person shall  
19 use or authorize the use of the assets in the subaccount, or the  
20 investment earnings thereon, for any purpose other than for the  
21 provision of benefits in accordance with the terms of the School  
22 Employees' Health Benefits Program and for defraying the  
23 reasonable costs of administering the subaccount.

24 A third-party administrator, procured pursuant to section 2 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill),  
26 shall serve as a fiduciary of the subaccount in accordance with  
27 fiduciary standards equivalent to those under the "Employee  
28 Retirement Income Security Act of 1974" (29 U.S.C. s.1001 et seq.)  
29 and shall, in the performance of administrative services for the  
30 program, act in the best interest of covered employees and their  
31 enrolled eligible dependents. Nothing in this subsection shall be  
32 construed as subjecting the program, its plans, or the State to the  
33 provisions of the "Employee Retirement Income Security Act of  
34 1974" (29 U.S.C. s.1001 et seq.).

35 The third-party administrator shall be responsible for overseeing  
36 and coordinating the payment of claims and other health services  
37 fees for which the State is responsible on a self-funded basis. The  
38 third-party administrator shall provide adjudication of claims for  
39 health care services provided under the program, process direct  
40 payments of adjudicated claims for covered health care services and  
41 other health care services fees from the subaccount to health care  
42 providers and facilities in accordance with the terms of the  
43 program, process payments for prescription drug benefits in  
44 accordance with the adjudicative technology procured or provided  
45 by the State, and provide related services for the program as  
46 required herein. The submission of such claims and payments shall  
47 be governed by and occur within the timeframe allotted by the rules  
48 and regulations issued by the State Treasurer pursuant to this

1 subsection. The third-party administrator shall take all necessary  
2 action to reduce the administrative costs of the program. The third-  
3 party administrator shall promptly inform the commission and the  
4 State Treasurer if moneys are not, or cannot reasonably be,  
5 expected to be collected or disbursed in the appropriate amounts or  
6 if any fund reserve established by the commission has fallen below  
7 the required level.

8 The third-party administrator shall store and maintain a secure  
9 archive of medical and prescription drug claims data and other  
10 health services payment information and provide such data and  
11 other reports in compliance with applicable State and federal laws,  
12 including the "Health Insurance Portability and Accountability Act  
13 of 1996," Pub.L.104-191, to document the cost and nature of claims  
14 incurred, demographic information on the covered population,  
15 emerging utilization and demographic trends, and such other  
16 information as may be available to assist in the governance of the  
17 program and in timely response to any requests from the Governor,  
18 the State Treasurer, the Division of Pensions and Benefits, the  
19 School Employees' Health Benefits Commission, the School  
20 Employees' Health Benefits Plan Design Committee, the President  
21 of the Senate, and the Speaker of the General Assembly. The  
22 School Employees' Health Benefits Commission or the School  
23 Employees' Health Benefits Plan Design Committee may direct the  
24 third-party administrator to provide appropriate medical and  
25 prescription drug claims and other health services payment data to a  
26 health care services provider or other authorized entity, in  
27 compliance with applicable State and federal laws, including the  
28 "Health Insurance Portability and Accountability Act of 1996,"  
29 Pub.L.104-191, for the specific purpose of improving the quality  
30 and value of health care services delivered to plan participants.

31 The State Treasurer shall deposit into the subaccount the moneys  
32 necessary to accomplish the purposes of this subsection as are  
33 appropriated by State law therefor, paid by employers participating  
34 in the program, and contributed by covered employees and retirees.  
35 Deposits and contributions to the subaccount shall be irrevocable  
36 and applied to the distribution of payments for the costs of health  
37 care services and prescription drug benefits and to fund the  
38 reasonable costs of administering the subaccount. Assets in the  
39 subaccount shall be expended or withdrawn, and deposits and  
40 withdrawals shall be reconciled, in accordance with regulations and  
41 procedures adopted pursuant to this subsection.

42 Moneys in the subaccount shall be invested in permitted  
43 investments or shall be held in interest-bearing accounts in such  
44 depositories as the State Treasurer may select, and may be invested  
45 and reinvested in permitted investments or invested and reinvested  
46 in the same manner as other accounts in the custody of the State  
47 Treasurer as provided by law. All interest or other income or  
48 earnings derived from the investment or reinvestment of moneys in

1 the subaccount shall be credited thereto and shall be determined on  
2 an aggregate basis for all participating employers.

3 The State Treasurer shall adopt, pursuant to the “Administrative  
4 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
5 and regulations as may be necessary to implement the provisions of  
6 this subsection.

7 e. Notwithstanding any law to the contrary and except as  
8 provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78,  
9 the payment in full of premium or periodic charges for eligible  
10 retirees and their dependents pursuant to section 3 of P.L.1987,  
11 c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-  
12 17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be  
13 continued without alteration or interruption and there shall be no  
14 premium sharing or periodic charges for certain school employees  
15 in retirement once they have met the criteria for vesting for pension  
16 benefits, which criteria for purposes of this subsection only shall  
17 mean the criteria for vesting in the Teachers' Pension and Annuity  
18 Fund. For purposes of this subsection, "premium sharing or periodic  
19 charges" shall mean payments by eligible retirees based upon a  
20 proportion of the premiums for health care benefits.  
21 (cf: P.L.2011, c.78, s.54)

22  
23 7. Sections 1 and 2 of this act shall take effect immediately,  
24 and sections 3 through 6 shall take effect after the expiration of all  
25 contracts in effect on the date of enactment of this act purchased  
26 pursuant to subsections a. of section 4 of P.L.1961, c.49 (C.52:14-  
27 17.28) and of section 35 of P.L.2007, c.103 (C.52:14-17.46.5), but  
28 the Department of the Treasury and the commissions may take such  
29 anticipatory administrative action prior thereto as may be necessary  
30 to effectuate the purposes of this act.

31

32

33

#### STATEMENT

34

35 This bill creates subaccounts in the State Health Benefits  
36 Program Fund and the School Employees' Health Benefits Program  
37 Fund. The bill also requires the State to procure a professional  
38 services contract for a third-party administrator for the State Health  
39 Benefits Program (SHBP) and the School Employees' Health  
40 Benefits Program (SEHBP).

41 The bill creates subaccounts in the SHBP and the SEHBP funds  
42 that will be dedicated for the payment of health care services claims  
43 and fees for covered services and for prescription drug benefits. No  
44 person may use or authorize the use of the assets in the subaccount  
45 for any purpose other than for the provision of benefits and the  
46 defraying of reasonable costs of administering the subaccount.

47 The bill requires the State to procure, in an expedited manner, a  
48 third-party administrator for the SHBP and the SEHBP. The third

1 party administrator will adjudicate claims for health care services  
2 provided under the programs, process direct payments of  
3 adjudicated claims for covered health care services and other health  
4 care services fees from the subaccount to health care providers and  
5 facilities, process payments for prescription drug benefits, and  
6 provide other related services, including maintaining a secure  
7 archive of medical and prescription drug claims and other health  
8 services payment data. The third-party administrator is to take all  
9 necessary action to reduce the administrative costs of the program,  
10 and the authority of the third-party administrator will not extend to  
11 health care services for Medicare-eligible retirees. The third-party  
12 administrator may not be a carrier, or subsidiary of that carrier, that  
13 has contracted with the State Health Benefits Commission (SHBC)  
14 or School Employees' Health Benefits Commission (SEHBC) to  
15 provide health care services under the State Health Benefits  
16 Program Act or School Employees' Health Benefits Program Act.

17 The bill authorizes the Division of Purchase and Property in the  
18 Department of the Treasury, to the extent necessary, to waive or  
19 modify any requirement under any other law or regulation that may  
20 interfere with the procurement. Upon the expiration of the initial  
21 contract awarded in an expedited manner, the division is to award  
22 any subsequent contract for a third-party administrator in  
23 accordance with current law governing a State agency's award of a  
24 public contract.

25 The third-party administrator will serve as a fiduciary of the  
26 subaccount in accordance with fiduciary standards equivalent to  
27 those under the "Employee Retirement Income Security Act of  
28 1974," and is to act in the best interest of covered employees and  
29 their enrolled eligible dependents. The third-party administrator  
30 will provide claims data and other reports in compliance with  
31 applicable State and federal laws, including HIPAA, to document  
32 the cost and nature of claims incurred, demographic information on  
33 the covered population, emerging utilization and demographic  
34 trends, and such other information as may be available to assist in  
35 the governance of the programs and in timely response to any  
36 requests from the Governor, State Treasurer, Division of Pensions  
37 and Benefits, SHBC, SEHBC, State Health Benefits Plan Design  
38 Committee, School Employees' Health Benefits Plan Design  
39 Committee, President of the Senate, and Speaker of the General  
40 Assembly.

41 The State Treasurer will deposit the funds necessary to  
42 accomplish the purposes of the bill, and deposits and contributions  
43 to the subaccount will be irrevocable and applied to the distribution  
44 of payments for the costs of health care services and prescription  
45 drug benefits and to fund the reasonable costs of administering the  
46 subaccount. Subaccount funds are to be invested or held in interest-  
47 bearing accounts, and any interest or other income or earnings

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1 derived from the investment or reinvestment of that money is to be  
2 credited to the subaccount.

3 The bill also requires any carrier with which the commissions  
4 contract for the provision of hospital, surgical, obstetrical, and other  
5 covered health care services and benefits to grant to the third-party  
6 administrator access to any provider network contract applicable to  
7 a health benefits plan offered under the SHBP or SEHBP.

8 Sections 1 and 2 of the bill will take effect immediately, and  
9 sections 3 through 6 will take effect after the expiration of all  
10 contracts with a carrier now in effect purchased for the provision of  
11 hospital, surgical, obstetrical, and other covered health care services  
12 and benefits under the State Health Benefits Program Act and the  
13 School Employees' Health Benefits Program Act.

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

[Second Reprint]

**SENATE, No. 3042**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 16, 2019

The Assembly State and Local Government Committee reports favorably and with committee amendments Senate Bill No. 3042 (2R).

As amended, this bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The bill creates subaccounts in the SHBP and the SEHBP funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the claims process, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to acknowledge the State's existing right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to make a technical correction.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Third Reprint]

## **SENATE, No. 3042**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3042 (3R).

As amended, this bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The bill creates subaccounts in the SHBP and the SEHBP funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the claims process, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will

occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to acknowledge the State's existing right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

PROPOSED COMMITTEE AMENDMENTS:

The committee amended the bill to specify that information provided to or obtained by the third-party medical claims reviewer is to be delivered, received, maintained, and reviewed in a manner, and may only contain material that is, consistent with the “Health Insurance Portability and Accountability Act of 1996,” Pub.L.104-191 (HIPAA). The amendments require a carrier to provide information associated with only persons who are participants in the State Health Benefits Program or the School Employees’ Health Benefits Program as is necessary to comply with HIPAA.

FISCAL NOTE:

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.

Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.

In addition, the bill requires any carrier with which the State Health Benefits Commission (SHBC) or School Employees’ Health Benefits Commission (SEHBC) contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the State Health Benefits Program (SHBP) or School Employees’ Health Benefits Program (SEHBP). Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the claims reviewer including, but not limited to, medical claims information in provider networks contracts, leaving the State exposed to a potential additional cost.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3042**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3042, with committee amendments.

As amended, this bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The bill creates subaccounts in the SHBP and the SEHBP funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide real-time or near-real-time review and oversight of the medical claims payment processing, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to reserve to the State the right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

COMMITTEE AMENDMENTS:

The committee amendments:

- replace the term third-party administrator with third-party medical claims reviewer;
- reflect in the findings and declarations the intention to hire a third-party medical claims reviewer to provide real-time or near-real-time review and oversight of the claims process;
- require that the medical claims reviewer will act in the best interests of the State, participating employers, program participants and their families;
- permit the contract awarded to the medical claims reviewer to base compensation upon a percentage of the costs recovered by the State as a result of the information provided by the medical claims reviewer;
- clarify that a contract for a third-party medical claims reviewer is to be extended or awarded after the initial contract expires, and that such action will be in accordance with State contracting law;
- provide that the State will pay its share of the premium or periodic charges for the benefits provided under the SHBP;
- remove prescription drug claims from the purview of the third-party medical claims reviewer;
- remove the requirement that the claims reviewer serve as a fiduciary of the subaccounts or act as the adjudicator of claims or payor of claims directly to health care facilities and providers;
- remove language providing for specific types of contributions that must be deposited in the subaccounts by the State Treasurer;
- remove the requirement that deposits and contributions to the subaccounts be irrevocable;
- incorporate the following into the description of medical claims data: the claim number, provider name and contact information, amount charged, amount paid, and the Current Procedural Terminology (CPT) code;
- permit the State Treasurer and the Division of Pensions and Benefits to direct the medical claims reviewer to provide appropriate medical and prescription drug claims and other health services payment data to a health care services provider or other authorized entity;
- provide that documents and other information, except for medical claims data, provided from a carrier to the State or the claims reviewer pursuant to the bill concerning provider network contracts, provider health care services, and contractual discounts will be considered proprietary;

- require that any contract entered into with a carrier to provide health care services reserve to the State the right to withhold payment for administrative services or to pursue any other remedy deemed appropriate by the State Treasurer if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors over a certain threshold that have resulted in a loss to the State, which threshold will be provided for in the contract or by administrative rule;
- require the contract to permit the State to recover any loss resulting from errors identified by the medical claims reviewer; and
- make certain technical changes.

FISCAL IMPACT:

The fiscal impact of this bill is indeterminate. Savings will accrue from contracting with a Medical Claims Reviewer for the review and oversight of the medical claims payment process, to the extent that reductions in payment of improper or excessive claims exceed the cost of the contract.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 3042**

with Senate Floor Amendments  
(Proposed by Senator SARLO)

ADOPTED: FEBRUARY 21, 2019

These Senate amendments:

- require that a third-party medical claims reviewer provide regular, frequent, ongoing review and oversight of the claims process, rather than real-time review;
- specify that the Treasurer will place into the subaccount moneys paid by employers and contributed by employees participating in the program;
- remove the exclusion from subpoena and discovery for materials required to be given by a carrier to the State or third-party medical claims reviewer when disclosing information in provider network contracts;
- clarify that the right of the State to withhold payment or pursue other remedies exists irrespective of any language in the bill to that effect; and
- make other minor technical changes.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3042**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: DECEMBER 11, 2018

**SUMMARY**

- Synopsis:** Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party administrator.
- Type of Impact:** Indeterminate State and local fiscal impact.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local boards of education, local government entities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures</b>		Indeterminate impact	
<b>Local Expenditures</b>		Indeterminate impact	

- The impact of this bill on State and local health benefits program expenditures is indeterminate. This is because some provisions of the bill may increase costs to contract with a new third party administrator (TPA) for claims processing and adjudication for medical and prescription drug claims, while other provisions of the bill may result in health benefit cost reductions.
- The net fiscal impact of separating the managed care services function and the claims processing function between two different TPAs is dependent on the net difference between forgoing savings from the economies of scale of a merged entity and gaining savings from providing tighter control over claims processing and payments. The Office of Legislative Services (OLS) has no information available which could serve as a basis for quantifying this net difference.
- The TPA may incur costs from the provisions of the bill that require the new TPA to create, store, and maintain a secure archive of medical and prescription drug claims and other health services information which could then be passed on to the health benefits funds.

## **BILL DESCRIPTION**

This bill creates subaccounts in the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

This bill also requires the State to procure, in an expedited manner, a third-party administrator for the SHBP and the SEHBP that will adjudicate claims for health care services provided under the programs, process direct payments of adjudicated claims for covered health care services and other health care services fees from the subaccount to health care providers and facilities, process payments for prescription drug benefits, and provide other related services, including maintaining a secure archive of medical and prescription drug claims and other health services payment data. The third-party administrator is to take all necessary action to reduce the administrative costs of the program, and the authority of the third-party administrator will not extend to health care services for Medicare-eligible retirees. The third-party administrator may not be a carrier, or a subsidiary of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the division is to award any subsequent contract for a third-party administrator in accordance with current law governing a State agency's award of a public contract.

The bill also requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to grant to the third-party administrator access to any provider network contract applicable to a health benefits plan offered under the SHBP or SEHBP.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The net fiscal impact of this bill is indeterminate. This is because some provisions of the bill may increase costs to contract with a new third party administrator for claims processing and adjudication for medical and prescription drug claims, while other provisions of the bill may result in health benefit cost reductions. The net effect of these changes is indeterminate.

Currently, the third party administrators of the SHBP and SEHBP, Horizon and Aetna, perform two primary functions: a managed care function and a claims processing and adjudication function. Managed care services include provider networks that negotiate specific standards and costs for the provision of health care services and treatments. Managed care organizations include doctors, hospitals, medical facilities, and other medical professionals.

Examples of managed care organizations include, but are not limited to physician-hospital organizations, integrated delivery organizations, and independent physician or practice associations. There are three types of managed care organizations: health maintenance organizations, preferred provider organizations, and point of service plans. Claims processing and claims adjudication services include adjudication of claims for health care services provided under the programs, processing direct payments of adjudicated claims for covered health care services and other health care services fees, to health care providers and facilities, processing payments for prescription drug benefits, and providing other related services, including maintaining a secure archive of medical and prescription drug claims and other health services payment data.

This bill prohibits the carrier with which the State has contracted, on behalf of the SHBP and the SEHBP, for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits or the provider networks for those services from serving as the third party administrator for claims processing and claims adjudication, altering the current third party administrator business configuration. The bill further requires the State to contract with a third party administrator through an expedited process for claims processing and claims adjudication for both the medical and prescription drug components of health care benefits for public employees.

Historically, a third party administrator's main responsibility was claims handling for self-insured employers and self-insured groups. The Health Maintenance Organization Act of 1973 enabled the creation of managed care organizations (MCOs). According to Hou-Wen Jeng, A.C.A.S., an actuary and author of an article published in 1996 entitled, TPA Service Pricing and Incentive Contracts, "With the introduction of managed care organizations (MCOs) in many states, the role of TPAs in the business of claims handling may soon be fundamentally changed. Judging from the developments over the past few years, TPAs and MCOs may have to share, in the near future, the responsibilities in medical cost containment, rehabilitation, and return-to-work programs. On the other hand, TPAs may be in an excellent position to launch their own medical networks and merge these two functions into one." Since that time, TPAs expanded to perform both functions. While economies of scale may have provided certain efficiencies to merged TPA entities in the beginning, other inefficiencies from such large TPA entities performing both MCO and TPAs service emerged.

The OLS notes that the fiscal impact of separating the MCO function and the TPA function between two different "TPA" entities is dependent on the net difference between forgoing savings from the economies of scale of a merged entity and gaining savings from providing tighter control over claims processing and payments. The OLS has no information available to which could serve as a basis for quantifying this net difference.

Additionally, the new TPA may incur costs from the provisions of the bill that duplicate the current TPA database of claims information by requiring the new TPA to create, store, and maintain a secure archive of medical and prescription drug claims and other health services information. The new TPA could pass these costs on to the health benefits funds in its contract, but the bill requires the new TPA to be procured under an expedited, reverse auction basis, so these costs may ultimately be reduced in the bidding process.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Senior Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**SENATE, No. 3042**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: FEBRUARY 6, 2019

### **SUMMARY**

- Synopsis:** Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.
- Type of Impact:** Indeterminate State and local expenditure impact.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local boards of education, local government entities.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures</b>		Indeterminate impact	
<b>Local Expenditures</b>		Indeterminate impact	

- The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the real-time review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.
- Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.
- In addition, the bill requires any carrier with which the commissions contract for the provision health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to medical claims data and information in provider networks contracts, leaving the State exposed to a potential additional cost.

## **BILL DESCRIPTION**

This bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The subaccounts in the SHBP and the SEHBP funds will be dedicated to the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide real-time or near-real-time review and oversight of the medical claims payment processing, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to reserve to the State the right

to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None Received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the real-time review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract. These savings may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill. In addition, the bill requires any carrier with which the commissions contract for the provision health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to medical claims data and information in provider networks contracts, leaving the State exposed to a potential additional cost.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst)

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 3042**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: MARCH 21, 2019

### **SUMMARY**

- Synopsis:** Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.
- Type of Impact:** Indeterminate State and local expenditure impact.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local boards of education, local government entities.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures</b>		Indeterminate impact	
<b>Local Expenditures</b>		Indeterminate impact	

- The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.
- Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.
- In addition, the bill requires any carrier with which the commissions contract for the provision health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to medical claims information in provider networks contracts, leaving the State exposed to a potential additional cost.

## **BILL DESCRIPTION**

This bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The subaccounts in the SHBP and the SEHBP funds will be dedicated to the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the medical claims payment processing, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and place into the subaccount moneys paid by the employers and contributed by employees participating in the program which will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commission contracts for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.



The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to reserve to the State the right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract. These savings may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill. In addition, the bill requires any carrier with which the commissions contract for the provision health care services and benefits to provide to the third-party medical claims reviewer medical claims information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided will be proprietary and considered to contain trade secrets. As such, it will not be subject to requests for information pursuant to the Open Public Records Act. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to medical claims data and information in provider networks contracts, leaving the State exposed to a potential additional cost.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

## SENATE, No. 3042

### STATE OF NEW JERSEY 218th LEGISLATURE

#### SUMMARY

DATED: JUNE 20, 2019

**Synopsis:** Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.

**Type of Impact:** Annual State and local expenditure impact.

**Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local boards of education, local government entities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures</b>		Indeterminate Impact	
<b>Local Expenditures</b>		Indeterminate Impact	

- The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.
- Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.
- In addition, the bill requires any carrier with which the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the State Health Benefits Program (SHBP) or School Employees' Health Benefits Program (SEHBP). Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the claims reviewer including,

but not limited to, medical claims information in provider networks contracts, leaving the State exposed to a potential additional cost.

## **BILL DESCRIPTION**

This bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the SHBP and the SEHBP.

The subaccounts in the SHBP and the SEHBP funds will be dedicated to the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the medical claims payment processing, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the SHBC or the SEHBC to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and place into the subaccount moneys paid by the employers and contributed by employees participating in the program which will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a

health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to reserve to the State the right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract. These savings may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill. In addition, the bill requires any carrier with which the commissions contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided will be proprietary and considered to contain trade secrets. As such, it will not be subject to requests for information pursuant to the Open Public Records Act. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to, medical claims data and information in provider networks contracts, leaving the State exposed to a potential additional cost.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4619

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 18, 2018

**Sponsored by:**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**SYNOPSIS**

Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party administrator.

**CURRENT VERSION OF TEXT**

As introduced.



A4619 PINTOR MARIN

2

1 AN ACT concerning the State Health Benefits Program and the  
2 School Employees' Health Benefits Program, amending  
3 P.L.1961, c.49 and P.L.2007, c.103, and supplementing  
4 P.L.1961, c.49 (C.52:14-17.25 et seq.).

5

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

8

9 1. (New section) The Legislature finds and declares that:

10 a. The cost of health care in this country has been increasing at  
11 a pace that will make our current system of health care delivery  
12 unsustainable on its present trajectory.

13 b. As health care costs continue to rise more quickly than the  
14 average annual income, those costs displace other priorities for  
15 individuals, such as saving for retirement or their children's  
16 education, and even discourage people from obtaining  
17 recommended health care. The litany of research in this area has  
18 demonstrated that all necessary action must be taken to reduce costs  
19 wherever possible.

20 c. One way to reduce costs is to increase the control that a self-  
21 insured employer, such as the State, exercises over health care  
22 programs and plans, as occurs when hiring a third-party  
23 administrator to manage claims processing.

24 d. Hiring a third-party administrator to receive, archive,  
25 manage, adjudicate, and pay claims serves the best interests of the  
26 State and the thousands of employees and their dependents covered  
27 under the State Health Benefits Program and the School Employees'  
28 Health Benefits Program. A third-party administrator would act as a  
29 fiduciary to program participants, work toward identifying and  
30 eliminating systemic errors, recover overpayments, and pay only the  
31 required and appropriate amounts due and owing on claims as a  
32 result of proper adjudication.

33 e. For the purpose of facilitating greater efficiency and  
34 transparency in the provision of health benefits to State employees,  
35 their eligible family members, and others receiving health benefits  
36 under the programs, the State of New Jersey deems it fitting and  
37 crucial to procure a third-party administrator expeditiously, with a  
38 goal for implementation in the plan year beginning in January of  
39 2020.

40

41 2. (New section) a. Notwithstanding the provisions of any  
42 other law to the contrary, a contract for the services of a third-party  
43 administrator for the State Health Benefits Program and the School  
44 Employees' Health Benefits Program shall be procured in an  
45 expedited process and in the manner provided by this section.

**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       b. The Division of Purchase and Property in the Department of  
2 the Treasury shall procure, without the need for formal  
3 advertisement, but through the solicitation of proposals from  
4 professional services vendors, a third-party administrator, which  
5 shall be responsible for the adjudication and processing of direct  
6 payments for health care services rendered to participants in the  
7 State Health Benefits Program and School Employees' Health  
8 Benefits Program and for the processing of payments for the  
9 prescription drug benefits of those participants in accordance with  
10 the adjudicative tools procured or provided by the State. The third-  
11 party administrator shall perform all duties in accordance with all  
12 applicable State and federal laws and with the rules and regulations  
13 issued by the State Treasurer and the State Health Benefits  
14 Commission and the School Employees' Health Benefits  
15 Commission, and shall act as a fiduciary in the best interest of  
16 covered persons under the programs. The third-party administrator  
17 shall not be the carrier, or a subsidiary, related party, or affiliate  
18 thereof, with which the State has contracted pursuant to section 4 of  
19 P.L.1961, c.49 (C.52:14-17.28) or section 35 of P.L.2007, c.103  
20 (C.52:14-17.46.5) for the provision of hospital, surgical, obstetrical,  
21 and other covered health care services and benefits or for the  
22 provider networks for those services. The third-party administrator  
23 shall not exercise any authority over the provision of health care  
24 benefits for Medicare-eligible retirees.

25       c. Notwithstanding the provisions of any other law to the  
26 contrary, for the purpose of expediting the procurement of a third-  
27 party administrator, the following provisions shall apply as  
28 modifications to law or regulation that may interfere with the  
29 expedited procurement:

30       (1) the timeframes for challenging the specifications shall be  
31 modified as determined by the division;

32       (2) in lieu of advertising in accordance with sections 2, 3, and 4  
33 of P.L.1954, c.48 (C.52:34-7, C.52:34-8, and C.52:34-9), the  
34 division shall advertise the request for proposals for the above  
35 service and any addenda thereto on the division's website;

36       (3) the period of time that the State Comptroller has to review  
37 the request for proposals for the procurement of a third-party  
38 administrator for compliance with applicable public contracting  
39 laws, rules, and regulations, pursuant to section 10 of P.L.2007,  
40 c.52 (C.52:15C-10), shall be 10 business days or less if practicable,  
41 as determined by the State Comptroller;

42       (4) the timeframes for submission under section 4 of P.L.2012,  
43 c.25 (C.52:32-58) and section 1 of P.L.1977, c.33 (C.52:25-24.2)  
44 shall be extended to prior to the issuance of a Notice of Intent to  
45 Award;

46       (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)  
47 shall not apply to technical and support services, under this section,  
48 provided by a vendor using a "24/7 follow-the-sun model" as long



1 as the contractor is able to provide such services in the United  
2 States during the business day; and

3 (6) the term “bids” in subparagraph (f) of subsection a. of  
4 section 7 of P.L.1954, c.48 (C.52:34-12) shall not include pricing  
5 which will be revealed to all responsive bidders during the  
6 negotiation process.

7 d. The division may, to the extent necessary, waive or modify  
8 any requirement under any other law or regulation that may  
9 interfere with the expeditious procurement of this service.

10 e. Upon the expiration of the initial contract for a third-party  
11 administrator procured pursuant to subsection b. of this section, the  
12 procurement of such service thereafter shall be in accordance with  
13 P.L.1954, c.48 (C.52:34-6 et seq.) and any other applicable law  
14 governing the awarding of public contracts by a State agency.

15

16 3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to  
17 read as follows:

18 6. **[(A)]** a. For each active covered State employee and for  
19 the eligible dependents the employee may have enrolled at the  
20 employee's option, the State, from funds appropriated therefor, shall  
21 pay the premium or periodic charges for the benefits provided under  
22 the contract in amounts equal to the premium or periodic charges  
23 for the benefits provided under such a contract covering the  
24 employee and the employee's enrolled dependents.

25 **[(B)]** An employee may, on an optional basis, enroll the  
26 employee's dependents for coverage under the contract subject to  
27 such regulations and conditions as the commission and the carrier  
28 may prescribe.

29 b. There is hereby created a health benefits fund. Said fund  
30 shall be used to pay the premiums or periodic charges for which the  
31 State is responsible under this act.

32 c. The fund shall contain a dedicated subaccount reserved for  
33 payment of claims and other health services fees for covered health  
34 services and prescription drug benefits provided to covered State  
35 employees and their enrolled eligible dependents. No person shall  
36 use or authorize the use of the assets in the subaccount, or the  
37 investment earnings thereon, for any purpose other than for the  
38 provision of benefits in accordance with the terms of the State  
39 Health Benefits Program and for defraying the reasonable costs of  
40 administering the subaccount.

41 A third-party administrator, procured pursuant to section 2 of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill),  
43 shall serve as a fiduciary of the subaccount in accordance with  
44 fiduciary standards equivalent to those under the “Employee  
45 Retirement Income Security Act of 1974” (29 U.S.C. s.1001 et seq.)  
46 and shall, in the performance of administrative services for the  
47 program, act in the best interest of covered State employees and  
48 their enrolled eligible dependents. Nothing in this subsection shall

1 be construed as subjecting the program, its plans, or the State to the  
2 provisions of the “Employee Retirement Income Security Act of  
3 1974” (29 U.S.C. s.1001 et seq.).

4 The third-party administrator shall be responsible for overseeing  
5 and coordinating the payment of claims and other health services  
6 fees for which the State is responsible on a self-funded basis. The  
7 third-party administrator shall provide adjudication of claims for  
8 health care services provided under the program, process direct  
9 payments of adjudicated claims for covered health care services and  
10 other health care services fees from the subaccount to health care  
11 providers and facilities in accordance with the terms of the  
12 program, process payments for prescription drug benefits in  
13 accordance with the adjudicative technology procured or provided  
14 by the State, and provide related services for the program as  
15 required herein. The submission of such claims and payments shall  
16 be governed by and occur within the timeframe allotted by the rules  
17 and regulations issued by the State Treasurer pursuant to this  
18 subsection. The third-party administrator shall take all necessary  
19 action to reduce the administrative costs of the program. The third-  
20 party administrator shall promptly inform the commission and the  
21 State Treasurer if moneys are not, or cannot reasonably be,  
22 expected to be collected or disbursed in the appropriate amounts or  
23 if any fund reserve established by the commission has fallen below  
24 the required level.

25 The third-party administrator shall store and maintain a secure  
26 archive of medical and prescription drug claims data and other  
27 health services payment information and provide such data and  
28 other reports in compliance with applicable State and federal laws,  
29 including the “Health Insurance Portability and Accountability Act  
30 of 1996,” Pub.L.104-191, to document the cost and nature of claims  
31 incurred, demographic information on the covered population,  
32 emerging utilization and demographic trends, and such other  
33 information as may be available to assist in the governance of the  
34 program and in timely response to any requests from the Governor,  
35 the State Treasurer, the Division of Pensions and Benefits, the State  
36 Health Benefits Commission, the State Health Benefits Plan Design  
37 Committee, the President of the Senate, and the Speaker of the  
38 General Assembly. The State Health Benefits Commission or the  
39 State Health Benefits Plan Design Committee may direct the third-  
40 party administrator to provide appropriate medical and prescription  
41 drug claims and other health services payment data to a health care  
42 services provider or other authorized entity, in compliance with  
43 applicable State and federal laws, including the “Health Insurance  
44 Portability and Accountability Act of 1996,” Pub.L.104-191, for the  
45 specific purpose of improving the quality and value of health care  
46 services delivered to plan participants.

47 The State Treasurer shall deposit into the subaccount the moneys  
48 necessary to accomplish the purposes of this subsection as are

1 appropriated by State law therefor, paid by employers participating  
2 in the program, and contributed by employees and retirees of the  
3 State and employees and retirees of employers other than the State  
4 participating in the program. Deposits and contributions to the  
5 subaccount shall be irrevocable and applied to the distribution of  
6 payments for the costs of health care services and prescription drug  
7 benefits and to fund the reasonable costs of administering the  
8 subaccount. Assets in the subaccount shall be expended or  
9 withdrawn, and deposits and withdrawals shall be reconciled, in  
10 accordance with regulations and procedures adopted pursuant to this  
11 subsection.

12 Moneys in the subaccount shall be invested in permitted  
13 investments or shall be held in interest-bearing accounts in such  
14 depositories as the State Treasurer may select, and may be invested  
15 and reinvested in permitted investments or invested and reinvested  
16 in the same manner as other accounts in the custody of the State  
17 Treasurer as provided by law. All interest or other income or  
18 earnings derived from the investment or reinvestment of moneys in  
19 the subaccount shall be credited thereto and shall be determined on  
20 an aggregate basis for all participating employers.

21 The State Treasurer shall adopt, pursuant to the “Administrative  
22 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
23 and regulations as may be necessary to implement the provisions of  
24 this subsection.

25 (cf: P.L.1996, c.8, s.3)

26

27 4. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to  
28 read as follows:

29 4. a. The commission shall negotiate with and arrange for the  
30 purchase, on such terms as it deems to be in the best interests of the  
31 State and its employees, from carriers licensed to operate in the  
32 State or in other jurisdictions, as appropriate, contracts providing  
33 hospital, surgical, obstetrical, and other covered health care services  
34 and benefits covering employees of the State and their dependents,  
35 and shall execute all documents pertaining thereto for and on behalf  
36 and in the name of the State.

37 b. Except for contracts entered into after June 30, 2007, the  
38 commission shall not enter into a contract under this act unless the  
39 benefits provided thereunder equal or exceed the minimum  
40 standards specified in section 5 of P.L.1961, c.49 (C.52:14-17.29)  
41 for the particular coverage which such contract provides, and unless  
42 coverage is available to all eligible employees and their dependents  
43 on the basis specified by section 7 of P.L.1961, c.49 (C.52:14-  
44 17.31), except that a State employee enrolled in the program on or  
45 after July 1, 2003 and all law enforcement officers employed by the  
46 State for whom there is a majority representative for collective  
47 negotiations purposes may not be eligible for coverage under the  
48 traditional plan as defined in section 2 of P.L.1961, c.49 (C.52:14-

1 17.26) pursuant to a binding collective negotiations agreement or  
2 pursuant to the application by the commission, in its sole discretion,  
3 of the terms of any collective negotiations agreement binding on the  
4 State to State employees for whom there is no majority  
5 representative for collective negotiations purposes.

6 c. The commission shall not enter into a contract under  
7 P.L.1961, c.49 (C.52:14-17.25 et seq.) after June 30, 2007, unless  
8 the contract includes the successor plan, one or more health  
9 maintenance organization plans and a State managed care plan that  
10 shall be substantially equivalent to the NJ PLUS plan in effect on  
11 June 30, 2007, with adjustments to that plan pursuant to a binding  
12 collective negotiations agreement or pursuant to action by the  
13 commission, in its sole discretion, to apply such adjustments to  
14 State employees for whom there is no majority representative for  
15 collective negotiations purposes, and unless coverage is available to  
16 all eligible employees and their dependents on the basis specified  
17 by section 7 of P.L.1961, c.49 (C.52:14-17.31), except as provided  
18 in subsection d. of this section.

19 d. Eligibility for coverage under the successor plan may be  
20 limited pursuant to a binding collective negotiations agreement or  
21 pursuant to the application by the commission, in its sole discretion,  
22 of the terms of any collective negotiations agreement binding on the  
23 State to State employees for whom there is no majority  
24 representative for collective negotiations purposes. Coverage under  
25 the successor plan and under the State managed care plan required  
26 to be included in a contract entered into pursuant to subsection c. of  
27 this section shall be made available in retirement to all State  
28 employees who accrued 25 years of nonconcurrent service credit in  
29 one or more State or locally-administered retirement systems before  
30 July 1, 2007. Coverage under the State managed care plan required  
31 to be included in a contract entered into pursuant to subsection c. of  
32 this section shall be made available in retirement to all State  
33 employees who accrue 25 years of nonconcurrent service credit in  
34 one or more State or locally-administered retirement systems on or  
35 after July 1, 2007.

36 e. Actions taken by the commission before the effective date of  
37 P.L.2007, c. 103 in anticipation of entering into any contract  
38 pursuant to subsection c. of this section are hereby deemed to have  
39 been within the authority of the commission pursuant to P.L.1961,  
40 c.49 (C.52:14-17.25 et seq.).

41 f. Any carrier with which the commission contracts for the  
42 provision of hospital, surgical, obstetrical, and other covered health  
43 care services and benefits pursuant to this section shall grant to the  
44 third-party administrator, procured pursuant to section 2 of P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill), access to  
46 any provider network contract, and provider health care services  
47 and contractual discounts provided thereunder, applicable to a

1 health benefits plan offered under the State Health Benefits  
2 Program.

3 (cf: P.L.2007, c.103, s.21)

4

5 5. Section 35 of P.L.2007, c. 103 (C.52:14-17.46.5) is amended  
6 to read as follows:

7 35. a. The commission shall negotiate with and arrange for the  
8 purchase, on such terms as it deems in the best interests of the State,  
9 participating employers and those persons covered hereunder from  
10 carriers licensed to operate in the State or in other jurisdictions, as  
11 appropriate, contracts providing benefits required by the School  
12 Employees' Health Benefits Program Act, as specified in section 36  
13 of P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the  
14 commission may determine to provide, so long as such modification  
15 of benefits is in the best interests of the State, participating  
16 employers and those persons covered hereunder, and is consistent  
17 with the provisions of section 40 of that act (C.52:14-17.46.10). The  
18 commission shall have authority to execute all documents  
19 pertaining thereto for and on behalf of the State. The commission  
20 shall not enter into a contract under the School Employees' Health  
21 Benefits Program Act, unless the benefits provided thereunder are  
22 equal to or exceed the standards specified in section 36 of that act,  
23 or as such standards are modified pursuant to section 40 of that act.

24 b. The rates charged for any contract purchased under the  
25 authority of the School Employees' Health Benefits Program Act  
26 shall reasonably and equitably reflect the cost of the benefits  
27 provided based on principles which in the judgment of the  
28 commission are actuarially sound. The rates charged shall be  
29 determined based upon accepted group rating principles with due  
30 regard to the experience, both past and contemplated, under the  
31 contract. The commission shall have the right to particularize  
32 subgroups for experience purposes and rates. No increase in rates  
33 shall be retroactive.

34 c. The commission shall be authorized to accept an assignment  
35 of contract rights from or enter into an agreement, contract,  
36 memorandum of understanding or other terms with the State Health  
37 Benefits Commission to ensure that coverage for eligible  
38 employees, retirees and dependents under the School Employees'  
39 Health Benefits Program whose benefits had been provided through  
40 the State Health Benefits Program is continued without interruption.  
41 The transition provided for in this subsection shall occur within one  
42 year of the effective date of the School Employees' Health Benefits  
43 Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-  
44 17.46.1 through C.52:14-17.46.11).

45 d. Benefits under the contract or contracts purchased as  
46 authorized by the School Employees' Health Benefits Program Act  
47 may be subject to such limitations, exclusions, or waiting periods as  
48 the commission finds to be necessary or desirable to avoid inequity,

1 unnecessary utilization, duplication of services or benefits  
2 otherwise available, including coverage afforded under the laws of  
3 the United States, such as the federal Medicare program, or for  
4 other reasons.

5 e. The initial term of any contract purchased by the  
6 commission under the authority of the School Employees' Health  
7 Benefits Program Act shall be for such period to which the  
8 commission and the carrier may agree, but permission may be made  
9 for automatic renewal in the absence of notice of termination by the  
10 commission. Subsequent terms for which any contract may be  
11 renewed as herein provided shall each be limited to a period not to  
12 exceed one year.

13 f. Any carrier with which the commission contracts for the  
14 provision of hospital, surgical, obstetrical, and other covered health  
15 care services and benefits pursuant to this section shall grant to the  
16 third-party administrator, procured pursuant to section 2 of P.L. ,  
17 c. (C. ) (pending before the Legislature as this bill), access to  
18 any provider network contract, and provider health care services  
19 and contractual discounts provided thereunder, applicable to a  
20 health benefits plan offered under the School Employees' Health  
21 Benefits Program.

22 (cf: P.L.2007, c.103, s.35)

23

24 6. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended  
25 to read as follows:

26 39. a. For each active covered employee and for the eligible  
27 dependents the employee may have enrolled at the employee's  
28 option, from funds appropriated therefor, the employer shall pay to  
29 the commission the premium or periodic charges for the benefits  
30 provided under the contract in amounts equal to the premium or  
31 periodic charges for the benefits provided under such a contract  
32 covering the employee and the employee's enrolled dependents.

33 b. The obligations of any employer to pay the premium or  
34 periodic charges for health benefits coverage provided under the  
35 School Employees' Health Benefits Program Act, sections 31  
36 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-  
37 17.46.11), may be determined by means of a binding collective  
38 negotiations agreement, including any agreement in force at the  
39 time the employer commences participation in the School  
40 Employees' Health Benefits Program. With respect to employees for  
41 whom there is no majority representative for collective negotiations  
42 purposes, the employer may, in its sole discretion, modify the  
43 respective payment obligations set forth in law for the employer and  
44 such employees in a manner consistent with the terms of any  
45 collective negotiations agreement binding on the employer.

46 Commencing on the effective date of P.L.2010, c.2 and upon the  
47 expiration of any applicable binding collective negotiations  
48 agreement in force on that effective date, employees shall pay 1.5

1 percent of base salary, through the withholding of the contribution,  
2 for health benefits coverage provided under P.L.2007, c.103  
3 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that  
4 may be required additionally pursuant to this subsection by means  
5 of a binding collective negotiations agreement or the modification  
6 of payment obligations.

7 c. There is hereby established a School Employee Health  
8 Benefits Program fund consisting of all contributions to premiums  
9 and periodic charges remitted to the State treasury by participating  
10 employers for employee coverage. All such contributions shall be  
11 deposited in the fund and the fund shall be used to pay the portion  
12 of the premium and periodic charges attributable to employee and  
13 dependent coverage.

14 d. The fund shall contain a dedicated subaccount reserved for  
15 payment of claims and other health services fees for covered health  
16 services and prescription drug benefits provided to covered  
17 employees and their enrolled eligible dependents. No person shall  
18 use or authorize the use of the assets in the subaccount, or the  
19 investment earnings thereon, for any purpose other than for the  
20 provision of benefits in accordance with the terms of the School  
21 Employees' Health Benefits Program and for defraying the  
22 reasonable costs of administering the subaccount.

23 A third-party administrator, procured pursuant to section 2 of  
24 P.L. , c. (C. ) (pending before the Legislature as this bill),  
25 shall serve as a fiduciary of the subaccount in accordance with  
26 fiduciary standards equivalent to those under the "Employee  
27 Retirement Income Security Act of 1974" (29 U.S.C. s.1001 et seq.)  
28 and shall, in the performance of administrative services for the  
29 program, act in the best interest of covered employees and their  
30 enrolled eligible dependents. Nothing in this subsection shall be  
31 construed as subjecting the program, its plans, or the State to the  
32 provisions of the "Employee Retirement Income Security Act of  
33 1974" (29 U.S.C. s.1001 et seq.).

34 The third-party administrator shall be responsible for overseeing  
35 and coordinating the payment of claims and other health services  
36 fees for which the State is responsible on a self-funded basis. The  
37 third-party administrator shall provide adjudication of claims for  
38 health care services provided under the program, process direct  
39 payments of adjudicated claims for covered health care services and  
40 other health care services fees from the subaccount to health care  
41 providers and facilities in accordance with the terms of the  
42 program, process payments for prescription drug benefits in  
43 accordance with the adjudicative technology procured or provided  
44 by the State, and provide related services for the program as  
45 required herein. The submission of such claims and payments shall  
46 be governed by and occur within the timeframe allotted by the rules  
47 and regulations issued by the State Treasurer pursuant to this  
48 subsection. The third-party administrator shall take all necessary

1 action to reduce the administrative costs of the program. The third-  
2 party administrator shall promptly inform the commission and the  
3 State Treasurer if moneys are not, or cannot reasonably be,  
4 expected to be collected or disbursed in the appropriate amounts or  
5 if any fund reserve established by the commission has fallen below  
6 the required level.

7 The third-party administrator shall store and maintain a secure  
8 archive of medical and prescription drug claims data and other  
9 health services payment information and provide such data and  
10 other reports in compliance with applicable State and federal laws,  
11 including the “Health Insurance Portability and Accountability Act  
12 of 1996,” Pub.L.104-191, to document the cost and nature of claims  
13 incurred, demographic information on the covered population,  
14 emerging utilization and demographic trends, and such other  
15 information as may be available to assist in the governance of the  
16 program and in timely response to any requests from the Governor,  
17 the State Treasurer, the Division of Pensions and Benefits, the  
18 School Employees’ Health Benefits Commission, the School  
19 Employees’ Health Benefits Plan Design Committee, the President  
20 of the Senate, and the Speaker of the General Assembly. The  
21 School Employees’ Health Benefits Commission or the School  
22 Employees’ Health Benefits Plan Design Committee may direct the  
23 third-party administrator to provide appropriate medical and  
24 prescription drug claims and other health services payment data to a  
25 health care services provider or other authorized entity, in  
26 compliance with applicable State and federal laws, including the  
27 “Health Insurance Portability and Accountability Act of 1996,”  
28 Pub.L.104-191, for the specific purpose of improving the quality  
29 and value of health care services delivered to plan participants.

30 The State Treasurer shall deposit into the subaccount the moneys  
31 necessary to accomplish the purposes of this subsection as are  
32 appropriated by State law therefor, paid by employers participating  
33 in the program, and contributed by covered employees and retirees.  
34 Deposits and contributions to the subaccount shall be irrevocable  
35 and applied to the distribution of payments for the costs of health  
36 care services and prescription drug benefits and to fund the  
37 reasonable costs of administering the subaccount. Assets in the  
38 subaccount shall be expended or withdrawn, and deposits and  
39 withdrawals shall be reconciled, in accordance with regulations and  
40 procedures adopted pursuant to this subsection.

41 Moneys in the subaccount shall be invested in permitted  
42 investments or shall be held in interest-bearing accounts in such  
43 depositories as the State Treasurer may select, and may be invested  
44 and reinvested in permitted investments or invested and reinvested  
45 in the same manner as other accounts in the custody of the State  
46 Treasurer as provided by law. All interest or other income or  
47 earnings derived from the investment or reinvestment of moneys in



1 the subaccount shall be credited thereto and shall be determined on  
2 an aggregate basis for all participating employers.

3 The State Treasurer shall adopt, pursuant to the “Administrative  
4 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
5 and regulations as may be necessary to implement the provisions of  
6 this subsection.

7 e. Notwithstanding any law to the contrary and except as  
8 provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78,  
9 the payment in full of premium or periodic charges for eligible  
10 retirees and their dependents pursuant to section 3 of P.L.1987,  
11 c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-  
12 17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be  
13 continued without alteration or interruption and there shall be no  
14 premium sharing or periodic charges for certain school employees  
15 in retirement once they have met the criteria for vesting for pension  
16 benefits, which criteria for purposes of this subsection only shall  
17 mean the criteria for vesting in the Teachers' Pension and Annuity  
18 Fund. For purposes of this subsection, "premium sharing or periodic  
19 charges" shall mean payments by eligible retirees based upon a  
20 proportion of the premiums for health care benefits.  
21 (cf: P.L.2011, c.78, s.54)

22  
23 7. Sections 1 and 2 of this act shall take effect immediately,  
24 and sections 3 through 6 shall take effect after the expiration of all  
25 contracts in effect on the date of enactment of this act purchased  
26 pursuant to subsections a. of section 4 of P.L.1961, c.49 (C.52:14-  
27 17.28) and of section 35 of P.L.2007, c.103 (C.52:14-17.46.5), but  
28 the Department of the Treasury and the commissions may take such  
29 anticipatory administrative action prior thereto as may be necessary  
30 to effectuate the purposes of this act.

31

32

33

#### STATEMENT

34

35 This bill creates subaccounts in the State Health Benefits  
36 Program Fund and the School Employees' Health Benefits Program  
37 Fund. The bill also requires the State to procure a professional  
38 services contract for a third-party administrator for the State Health  
39 Benefits Program (SHBP) and the School Employees' Health  
40 Benefits Program (SEHBP).

41 The bill creates subaccounts in the SHBP and the SEHBP funds  
42 that will be dedicated for the payment of health care services claims  
43 and fees for covered services and for prescription drug benefits. No  
44 person may use or authorize the use of the assets in the subaccount  
45 for any purpose other than for the provision of benefits and the  
46 defraying of reasonable costs of administering the subaccount.

47 The bill requires the State to procure, in an expedited manner, a  
48 third-party administrator for the SHBP and the SEHBP. The third

1 party administrator will adjudicate claims for health care services  
2 provided under the programs, process direct payments of  
3 adjudicated claims for covered health care services and other health  
4 care services fees from the subaccount to health care providers and  
5 facilities, process payments for prescription drug benefits, and  
6 provide other related services, including maintaining a secure  
7 archive of medical and prescription drug claims and other health  
8 services payment data. The third-party administrator is to take all  
9 necessary action to reduce the administrative costs of the program,  
10 and the authority of the third-party administrator will not extend to  
11 health care services for Medicare-eligible retirees. The third-party  
12 administrator may not be a carrier, or subsidiary of that carrier, that  
13 has contracted with the State Health Benefits Commission (SHBC)  
14 or School Employees' Health Benefits Commission (SEHBC) to  
15 provide health care services under the State Health Benefits  
16 Program Act or School Employees' Health Benefits Program Act.

17 The bill authorizes the Division of Purchase and Property in the  
18 Department of the Treasury, to the extent necessary, to waive or  
19 modify any requirement under any other law or regulation that may  
20 interfere with the procurement. Upon the expiration of the initial  
21 contract awarded in an expedited manner, the division is to award  
22 any subsequent contract for a third-party administrator in  
23 accordance with current law governing a State agency's award of a  
24 public contract.

25 The third-party administrator will serve as a fiduciary of the  
26 subaccount in accordance with fiduciary standards equivalent to  
27 those under the "Employee Retirement Income Security Act of  
28 1974," and is to act in the best interest of covered employees and  
29 their enrolled eligible dependents. The third-party administrator  
30 will provide claims data and other reports in compliance with  
31 applicable State and federal laws, including HIPAA, to document  
32 the cost and nature of claims incurred, demographic information on  
33 the covered population, emerging utilization and demographic  
34 trends, and such other information as may be available to assist in  
35 the governance of the programs and in timely response to any  
36 requests from the Governor, State Treasurer, Division of Pensions  
37 and Benefits, SHBC, SEHBC, State Health Benefits Plan Design  
38 Committee, School Employees' Health Benefits Plan Design  
39 Committee, President of the Senate, and Speaker of the General  
40 Assembly.

41 The State Treasurer will deposit the funds necessary to  
42 accomplish the purposes of the bill, and deposits and contributions  
43 to the subaccount will be irrevocable and applied to the distribution  
44 of payments for the costs of health care services and prescription  
45 drug benefits and to fund the reasonable costs of administering the  
46 subaccount. Subaccount funds are to be invested or held in interest-  
47 bearing accounts, and any interest or other income or earnings

1 derived from the investment or reinvestment of that money is to be  
2 credited to the subaccount.

3 The bill also requires any carrier with which the commissions  
4 contract for the provision of hospital, surgical, obstetrical, and other  
5 covered health care services and benefits to grant to the third-party  
6 administrator access to any provider network contract applicable to  
7 a health benefits plan offered under the SHBP or SEHBP.

8 Sections 1 and 2 of the bill will take effect immediately, and  
9 sections 3 through 6 will take effect after the expiration of all  
10 contracts with a carrier now in effect purchased for the provision of  
11 hospital, surgical, obstetrical, and other covered health care services  
12 and benefits under the State Health Benefits Program Act and the  
13 School Employees' Health Benefits Program Act.

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 4619**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 16, 2019

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4619.

As amended, this bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The bill creates subaccounts in the SHBP and the SEHBP funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the claims process, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will

occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to acknowledge the State's existing right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- replace the term third-party administrator with third-party medical claims reviewer;
- reflect in the findings and declarations the intention to hire a third-party medical claims reviewer to provide regular, frequent, ongoing review and oversight of the claims process;
- require that the medical claims reviewer will act in the best interests of the State, participating employers, program participants and their families;
- permit the contract awarded to the medical claims reviewer to base compensation upon a percentage of the costs recovered by the State as a result of the information provided by the medical claims reviewer;
- clarify that a contract for a third-party medical claims reviewer is to be extended or awarded after the initial contract expires, and that such action will be in accordance with State contracting law;
- provide that the State will pay its share of the premium or periodic charges for the benefits provided under the SHBP;
- remove prescription drug claims from the purview of the third-party medical claims reviewer;
- remove the requirement that the claims reviewer serve as a fiduciary of the subaccounts or act as the adjudicator of claims or payor of claims directly to health care facilities and providers;
- clarify that the State Treasurer will deposit all moneys necessary to provide for the health programs, as modified by the bill, including that which is paid by employers and contributed by employees participating in the program;
- remove the requirement that deposits and contributions to the subaccounts be irrevocable;
- incorporate the following into the description of medical claims data: the claim number, provider information, amount charged, amount paid, and the Current Procedural Terminology (CPT) code;
- permit the State Treasurer and the Division of Pensions and Benefits to direct the medical claims reviewer to provide appropriate medical and prescription drug claims and other health services payment data to a health care services provider or other authorized entity;
- provide that documents and other information, except for medical claims data, provided from a carrier to the State or the claims reviewer pursuant to the bill concerning provider network contracts, provider health care services, and contractual discounts will be considered proprietary;

- require that any contract entered into with a carrier to provide health care services acknowledge to the State's existing right to withhold payment for administrative services or to pursue any other remedy deemed appropriate by the State Treasurer if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors over a certain threshold that have resulted in a loss to the State, which threshold will be provided for in the contract or by administrative rule;
- require the contract to permit the State to recover any loss resulting from errors identified by the medical claims reviewer; and
- make certain technical changes.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 4619

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4619 (1R).

As amended, this bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

The bill creates subaccounts in the SHBP and the SEHBP funds that will be dedicated for the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the claims process, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will



occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and deposits and contributions to the subaccount will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to acknowledge the State's existing right to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

COMMITTEE AMENDMENTS:

The committee amended the bill to specify that information provided to or obtained by the third-party medical claims reviewer is to be delivered, received, maintained, and reviewed in a manner, and may only contain material that is, consistent with the “Health Insurance Portability and Accountability Act of 1996,” Pub.L.104-191 (HIPAA). The amendments require a carrier to provide information associated with only persons who are participants in the State Health Benefits Program or the School Employees’ Health Benefits Program as is necessary to comply with HIPAA.

FISCAL IMPACT:

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.

Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.

In addition, the bill requires any carrier with which the State Health Benefits Commission (SHBC) or School Employees’ Health Benefits Commission (SEHBC) contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the State Health Benefits Program (SHBP) or School Employees’ Health Benefits Program (SEHBP). Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the claims reviewer including, but not limited to, medical claims information in provider networks contracts, leaving the State exposed to a potential additional cost.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 4619

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 20, 2019

#### SUMMARY

**Synopsis:** Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.

**Type of Impact:** Annual State and local expenditure impact.

**Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local boards of education, local government entities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures</b>		Indeterminate Impact	
<b>Local Expenditures</b>		Indeterminate Impact	

- The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract.
- Savings from review and oversight may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill.
- In addition, the bill requires any carrier with which the State Health Benefits Commission (SHBC) or School Employees' Health Benefits Commission (SEHBC) contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims data and information in provider network contracts applicable to a health benefits plan offered under the State Health Benefits Program (SHBP) or School Employees' Health Benefits Program (SEHBP). Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the claims reviewer including, but not limited to, medical claims information in provider networks contracts, leaving the State exposed to a potential additional cost.

## **BILL DESCRIPTION**

This bill creates subaccounts in the State Health Benefits Program Fund and the School Employees' Health Benefits Program Fund. The bill also requires the State to procure a professional services contract for a third-party medical claims reviewer for the SHBP and the SEHBP.

The subaccounts in the SHBP and the SEHBP funds will be dedicated to the payment of health care services claims and fees for covered services and for prescription drug benefits. No person may use or authorize the use of the assets in the subaccount for any purpose other than for the provision of benefits and the defraying of reasonable costs of administering the subaccount.

The bill requires the State to procure, in an expedited manner, a third-party medical claims reviewer for the SHBP and the SEHBP. The third party medical claims reviewer will provide regular, frequent, ongoing review and oversight of the medical claims payment processing, and will maintain a secure archive of medical claims and other health services payment data. The authority of the third-party medical claims reviewer will not extend to health care services for Medicare-eligible retirees. The third-party medical claims reviewer may not be a carrier, or subsidiary or affiliate of that carrier, that has contracted with the SHBC or the SEHBC to provide health care services under the State Health Benefits Program Act or School Employees' Health Benefits Program Act.

The bill authorizes the Division of Purchase and Property in the Department of the Treasury, to the extent necessary, to waive or modify any requirement under any other law or regulation that may interfere with the procurement. Upon the expiration of the initial contract awarded in an expedited manner, the award of a subsequent contract for a third-party medical claims reviewer is required and will occur in accordance with current law governing a State agency's award of a public contract.

The third-party medical claims reviewer will act in the best interests of the State, participating employers, and covered employees and their enrolled eligible dependents. The third-party medical claims reviewer will provide claims data and other reports in compliance with applicable State and federal laws, including HIPAA, to document the cost and nature of claims incurred, demographic information on the covered population, emerging utilization and demographic trends, and such other information as may be available to assist in the governance of the programs and in timely response to any requests from the Governor, State Treasurer, Division of Pensions and Benefits, SHBC, SEHBC, State Health Benefits Plan Design Committee, School Employees' Health Benefits Plan Design Committee, President of the Senate, and Speaker of the General Assembly.

The State Treasurer will deposit the funds necessary to accomplish the purposes of the bill, and place into the subaccount moneys paid by the employers and contributed by employees participating in the program which will be applied to the distribution of payments for the costs of health care services and prescription drug benefits and to fund the reasonable costs of administering the subaccount. Subaccount funds are to be invested or held in interest-bearing accounts, and any interest or other income or earnings derived from the investment or reinvestment of that money is to be credited to the subaccount.

The bill requires any carrier with which the commissions contract for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits to provide to the third-party medical claims reviewer information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided pursuant to this requirement, except for medical claims data, will be considered proprietary data.

The bill requires that any contract entered into with a carrier to provide hospital, surgical, obstetrical, and other covered health care services and benefits is to reserve to the State the right

to withhold payment for administrative services or to pursue any other appropriate remedy if the State concludes, based upon information provided by a third-party medical claims reviewer, that the carrier has committed errors resulting in a loss to the State in a quantity or value, or both, beyond a certain threshold, as will be provided in the contract or by administrative rule. The contract is to permit the State to recover any loss resulting from errors identified by the third-party medical claims reviewer.

The bill will take effect immediately, except that sections 4 and 5 will take effect after the expiration of all contracts with a carrier now in effect purchased for the provision of hospital, surgical, obstetrical, and other covered health care services and benefits under the State Health Benefits Program Act and the School Employees' Health Benefits Program Act.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The impact of this bill on State and local expenditures is indeterminate. Savings may accrue from contracting with a medical claims reviewer for the regular, frequent, and ongoing review and oversight of the medical claims process, to the extent that reductions in the payment of improper or excessive claims exceed the cost of the contract. These savings may be reduced by any costs the third-party medical claims reviewer incurs and passes on to the State from the archive and reporting requirements under the bill. In addition, the bill requires any carrier with which the commissions contract for the provision of health care services and benefits to provide to the third-party medical claims reviewer medical claims information in provider network contracts applicable to a health benefits plan offered under the SHBP or SEHBP. The information provided will be proprietary and considered to contain trade secrets. As such, it will not be subject to requests for information pursuant to the Open Public Records Act. Nothing in the bill precludes the carrier with whom the State contracts for health care services from charging the third-party medical claims reviewer or the State for the information it provides to the third-party administrator including, but not limited to, medical claims data and information in provider networks contracts, leaving the State exposed to a potential additional cost.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Signs Fiscal Year 2020 Budget into Law and Acts on Other Legislation

06/30/2019

**TRENTON** - Today, Governor Phil Murphy took action on the following bills:

## **BILLS SIGNED:**

**A-5601/S-3956 (Pintor Marin, Jones, Johnson/Sarlo)** – with Line Item Veto – Makes Fiscal Year 2019 State supplemental appropriations totaling \$34,208,000.

[Line Item Veto of A-5601](#)

[Line Item Veto Message on A-5601](#)

**S-3042/A-4619 (Sarlo, Oroho/Pintor Marin, Wirths)** – Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.

**S-3599/A-5185 (Singleton/Wimberly, Jasey, Speight)** – Revises neighborhood revitalization tax credit program to increase permitted annual tax credit allocation to \$15 million.

**A-5604/S-2298 (Freiman, Pinkin, Milam, DePhillips, Zwicker, Land/Corrado, Singleton)** – Increases tax credit provided for qualified investments under "New Jersey Angel Investor Tax Credit Act."

**A-5609/S-3960 (Land, Freiman, Armato, Johnson, Mukherji, Milam, Mazzeo/Sarlo, Addiego)** – Increases gross income tax deduction available to veterans from \$3,000 to \$6,000.

**A-5385/S-3877 (Burzichelli, Pintor Marin, Reynolds-Jackson/Sarlo, Singleton)** – Concerns sale, taxation, and forfeiture of container e-liquid.

**A-5603/S-3957 (McKeon, Jones/Pou)** – Increases annual assessment on net written premiums of HMOs to support charity care from two percent to three percent in FY 2020.

**A-5607/S-3958 (Murphy, Johnson/Sweeney)** – Provides limited period for dissolution or reinstatement of revoked or inactive business charters using expedited process, allows for payment of reduced administrative fee, and revises certain business filing fees.

**S-2020/A-5600 (Sarlo/Pintor Marin, Burzichelli)** – with Line Item Veto – Appropriates \$38,748,610,000 in State funds and \$16,748,645,972 in federal funds for the State budget for fiscal year 2019-2020.

[Line Item Veto of S-2020](#)

[Line Item Veto Message on S-2020](#)

**A-5610/S-3984 (McKnight, Quijano, Mosquera, Mukherji/Weinberg)** – Makes FY 2020 supplemental appropriation of \$12.453 million; amends appropriations for Camp Irvington and Turtle Back Zoo; adds language provision appropriating \$3.1 million for immigration status-related legal assistance.

**A-5611/S-3987 (Timberlake, Giblin, McKeon/Codey, Gill)** – Makes Fiscal Year 2020 State supplemental appropriation of \$7,500,000 for East Orange General Hospital.

## **BILLS VETOED:**

**A-5098/S-3491 (Pintor Marin, Chaparro, Jimenez/Ruiz, Codey)** – CONDITIONAL – Raises, over time, hourly Medicaid reimbursement rate for personal care services to \$25.

[Copy of Message on A-5098](#)