

S3809

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes Commerce
Budget &
Appropriations

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

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Gov. signs bills protecting Obamacare benefits," The Times, January 21, 2020

"Murphy signs legislation protecting ACA in NJ." NJBIZ (New Brunswick, NJ), January 16, 2020.

Rwh/cl

P.L. 2019, CHAPTER 355, *approved January 16, 2020*
Assembly, No. 5500 (*First Reprint*)

1 **AN ACT** concerning certain health insurance rate increases and
2 supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. In addition to any other applicable laws or regulations, a
8 carrier that seeks a rate increase as part of an informational filing
9 for an individual or small employer health benefits plan shall
10 comply with all of the provisions of this act. The Department of
11 Banking and Insurance shall review informational filings that are
12 subject to this act in the manner set forth in the provisions of this
13 act.

14

15 2. a. An informational rate filing by a carrier for an individual
16 or small employer health benefits plan offered in this State shall
17 contain information to support and justify rate requests. A rate
18 increase shall be subject to expanded review by the department
19 pursuant to the provisions of this act if the informational rate filing
20 requests a rate increase of 10 percent or more annually.

21 b. A rate increase meets or exceeds 10 percent annually if the
22 average increase for all enrollees weighted by premium volume for
23 any plan within the product meets or exceeds the 10 percent
24 threshold.

25 c. With respect to small employer plans, rate increases
26 submitted on a quarterly basis shall be considered both for each
27 specific quarter and in combination with any previous quarterly rate
28 increase or increases applicable to the same calendar year when
29 determining whether the rate increase meets or exceeds the 10
30 percent threshold for expanded review.

31 d. For the purposes of this act, “informational filing” means a
32 submission, by a carrier to the department, of rate-filings which
33 specify the plans offered, premium rates, all factors to be used in
34 the calculation of premium rates, and a detailed actuarial
35 memorandum supporting the calculation of the rates including a
36 certification by a qualified member of the American Academy of
37 Actuaries, the Society of Actuaries, or the Casualty Actuarial

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted June 6, 2019.

1 Society, all supporting data for the premium rates and such other
2 information as required by the department.

3

4 3. a. If the department determines that a carrier's requested
5 rate increase exceeds the 10 percent threshold for expanded rate
6 review set forth in section 2 of this act, the department shall require
7 the carrier to submit to the department, in addition to any other
8 information required to be filed, a written description justifying the
9 rate increase that complies with all of the provisions of this section.

10 b. The carrier shall include in its written description all
11 information prescribed by the department, including:

12 (1) a simple and brief narrative describing the data and
13 assumptions that were used to develop the rate increase;

14 (2) an explanation of the most significant factors causing the
15 rate increase, including a brief description of the relevant claims
16 and non-claims expense increases reported in the rate increase
17 summary;

18 (3) a brief description of the overall experience of the plan,
19 including historical and projected expenses, and loss ratios; and

20 (4) an actuarial memorandum that contains the reasoning and
21 assumptions supporting the data.

22 c. (1) Upon completion of the department's review of the rate
23 filing, the department shall promptly make available to the public a
24 consumer-friendly version of the written description justifying the
25 rate increase as provided by the carrier, excluding information that
26 is a trade secret or that is confidential commercial or financial
27 information.

28 (2) The department shall include on its website, along with each
29 written description posted on the website, information that explains:

30 (a) the purpose and role of the expanded rate review process;
31 and

32 (b) how the public can submit comments to the department on
33 the written description justifying the rate increase.

34

35 ¹4. a. Any information filed with the department pursuant to
36 this act may be disclosed in accordance with P.L.1963, c.73
37 (C.47:1A-1 et seq.), except that confidential information shall not
38 be disclosed by the department to any person other than employees
39 and representatives of the department.

40 b. A carrier shall separately identify any confidential
41 information filed with the department pursuant to this act. Any
42 information that is not identified as confidential information shall
43 be considered public information and subject to disclosure.

44 c. As used in this section, "confidential information" means
45 information contained in an actuarial memorandum filed with the
46 department pursuant to this act that has been certified by the actuary
47 preparing the memorandum as confidential or proprietary
48 information.¹

1 ¹**[4.]** 5.¹ This act shall take effect immediately.

2

3

4

5

6 Expands rate review process in DOBI for certain individual and
7 small employer health benefits plans.

ASSEMBLY, No. 5500

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Co-Sponsored by:

Assemblyman Caputo

SYNOPSIS

Expands rate review process in DOBI for certain individual and small employer health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/7/2019)

1 AN ACT concerning certain health insurance rate increases and
2 supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. In addition to any other applicable laws or regulations, a
8 carrier that seeks a rate increase as part of an informational filing
9 for an individual or small employer health benefits plan shall
10 comply with all of the provisions of this act. The Department of
11 Banking and Insurance shall review informational filings that are
12 subject to this act in the manner set forth in the provisions of this
13 act.

14

15 2. a. An informational rate filing by a carrier for an individual
16 or small employer health benefits plan offered in this State shall
17 contain information to support and justify rate requests. A rate
18 increase shall be subject to expanded review by the department
19 pursuant to the provisions of this act if the informational rate filing
20 requests a rate increase of 10 percent or more annually.

21 b. A rate increase meets or exceeds 10 percent annually if the
22 average increase for all enrollees weighted by premium volume for
23 any plan within the product meets or exceeds the 10 percent
24 threshold.

25 c. With respect to small employer plans, rate increases
26 submitted on a quarterly basis shall be considered both for each
27 specific quarter and in combination with any previous quarterly rate
28 increase or increases applicable to the same calendar year when
29 determining whether the rate increase meets or exceeds the 10
30 percent threshold for expanded review.

31 d. For the purposes of this act, “informational filing” means a
32 submission, by a carrier to the department, of rate-filings which
33 specify the plans offered, premium rates, all factors to be used in
34 the calculation of premium rates, and a detailed actuarial
35 memorandum supporting the calculation of the rates including a
36 certification by a qualified member of the American Academy of
37 Actuaries, the Society of Actuaries, or the Casualty Actuarial
38 Society, all supporting data for the premium rates and such other
39 information as required by the department.

40

41 3. a. If the department determines that a carrier’s requested
42 rate increase exceeds the 10 percent threshold for expanded rate
43 review set forth in section 2 of this act, the department shall require
44 the carrier to submit to the department, in addition to any other
45 information required to be filed, a written description justifying the
46 rate increase that complies with all of the provisions of this section.

47 b. The carrier shall include in its written description all
48 information prescribed by the department, including:

- 1 (1) a simple and brief narrative describing the data and
2 assumptions that were used to develop the rate increase;
- 3 (2) an explanation of the most significant factors causing the
4 rate increase, including a brief description of the relevant claims
5 and non-claims expense increases reported in the rate increase
6 summary;
- 7 (3) a brief description of the overall experience of the plan,
8 including historical and projected expenses, and loss ratios; and
- 9 (4) an actuarial memorandum that contains the reasoning and
10 assumptions supporting the data.
- 11 c. (1) Upon completion of the department's review of the rate
12 filing, the department shall promptly make available to the public a
13 consumer-friendly version of the written description justifying the
14 rate increase as provided by the carrier, excluding information that
15 is a trade secret or that is confidential commercial or financial
16 information.
- 17 (2) The department shall include on its website, along with each
18 written description posted on the website, information that explains:
- 19 (a) the purpose and role of the expanded rate review process;
20 and
- 21 (b) how the public can submit comments to the department on
22 the written description justifying the rate increase.

23
24 4. This act shall take effect immediately.

25
26
27 STATEMENT

28
29 This bill establishes a rate increase review process in the
30 Department of Banking and Insurance for individual and small
31 employer health benefits plans.

32 Currently, under the Affordable Care Act (ACA), New Jersey is
33 required to maintain a process to review health insurance rate
34 increases according to certain criteria that identifies "unreasonable"
35 rate increases, and requires health insurance carriers to provide
36 justifications for them. This bill makes those federal requirements a
37 part of New Jersey statutory law, so that consumers in the State will
38 have those protections in the event that the ACA is repealed or
39 modified.

40 In addition to any other applicable laws or regulations, if a
41 carrier seeks a rate increase as part of an informational filing for an
42 individual or small employer health benefits plan, the increase shall
43 be deemed to meet the rate review threshold and shall be subject to
44 expanded review by the department if the informational rate filing
45 requests a rate increase of 10 percent or more annually.

46 If the department determines that a carrier's requested rate
47 increase exceeds the rate review threshold, the department shall
48 require, in addition to any information required to be filed, the

1 carrier to submit to the department a written description justifying
2 the rate increase that includes all of the following:

3 (1) a simple and brief narrative describing the data and
4 assumptions that were used to develop the rate increase;

5 (2) an explanation of the most significant factors causing the
6 rate increase, including a brief description of the relevant claims
7 and non-claims expense increases reported in the rate increase
8 summary;

9 (3) a brief description of the overall experience of the plan,
10 including historical and projected expenses, and loss ratios; and

11 (4) an actuarial memorandum that contains the reasoning and
12 assumptions supporting the data.

13 The bill also requires the department, upon completion of the
14 review of the rate filing, to promptly make available to the public a
15 consumer-friendly version of the written description justifying the
16 rate increase as provided by the carrier, excluding information that
17 is a trade secret or that is confidential commercial or financial
18 information.

19 The department shall include on its website, along with each
20 written description posted on the website, information that explains:

21 (1) the purpose and role of the expanded rate process, and

22 (2) how the public can submit comments to the department on
23 the written description justifying the rate increase.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5500

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 5500.

This bill establishes a rate increase review process in the Department of Banking and Insurance for individual and small employer health benefits plans.

Currently, under the Affordable Care Act (ACA), New Jersey is required to maintain a process to review health insurance rate increases according to certain criteria that identifies “unreasonable” rate increases, and requires health insurance carriers to provide justifications for them. This bill makes those federal requirements a part of New Jersey statutory law, so that consumers in the State will have those protections in the event that the ACA is repealed or modified.

In addition to any other applicable laws or regulations, if a carrier seeks a rate increase as part of an informational filing for an individual or small employer health benefits plan, the increase shall be deemed to meet the rate review threshold and shall be subject to expanded review by the department if the informational rate filing requests a rate increase of 10 percent or more annually.

If the department determines that a carrier’s requested rate increase exceeds the rate review threshold, the department shall require, in addition to any information required to be filed, the carrier to submit to the department a written description justifying the rate increase that includes all of the following:

- (1) a simple and brief narrative describing the data and assumptions that were used to develop the rate increase;
- (2) an explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in the rate increase summary;
- (3) a brief description of the overall experience of the plan, including historical and projected expenses, and loss ratios; and
- (4) an actuarial memorandum that contains the reasoning and assumptions supporting the data.

The bill also requires the department, upon completion of the review of the rate filing, to promptly make available to the public a consumer-friendly version of the written description justifying the rate increase as provided by the carrier, excluding information that is a trade secret or that is confidential commercial or financial information.

The department shall include on its website, along with each written description posted on the website, information that explains:

- (1) the purpose and role of the expanded rate process, and
- (2) how the public can submit comments to the department on the written description justifying the rate increase.

As amended, the bill provides that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information contained in an actuarial memorandum may not be disclosed by the department to any person other than employees and representatives of the department.

Committee Amendments:

The committee amended the bill to provide that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information may not be disclosed by the department to any person other than employees and representatives of the department.

The amendments require carriers to separately identify any confidential information filed with the department pursuant to this act. Any information that is not identified as confidential information is be considered public information and subject to disclosure.

The amendments provide that "confidential information" means information contained in an actuarial memorandum filed with the department pursuant to the bill that has been certified by the actuary preparing the memorandum as confidential or proprietary information.

The committee amendments are intended to mirror the confidentiality provisions contained in the regulations concerning informational rate filing requirements for small employer health benefits plans.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5500

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5500.

Assembly Bill No. 5500 establishes a rate increase review process in the Department of Banking and Insurance for individual and small employer health benefits plans.

Currently, under the Affordable Care Act (ACA), New Jersey is required to maintain a process to review health insurance rate increases according to certain criteria that identifies “unreasonable” rate increases, and requires health insurance carriers to provide justifications for them. This bill makes those federal requirements a part of New Jersey statutory law, so that consumers in the State will have those protections in the event that the ACA is repealed or modified.

In addition to any other applicable laws or regulations, if a carrier seeks a rate increase as part of an informational filing for an individual or small employer health benefits plan, the increase shall be deemed to meet the rate review threshold and shall be subject to expanded review by the department if the informational rate filing requests a rate increase of 10 percent or more annually.

If the department determines that a carrier’s requested rate increase exceeds the rate review threshold, the department shall require, in addition to any information required to be filed, the carrier to submit to the department a written description justifying the rate increase that includes all of the following:

- (1) a simple and brief narrative describing the data and assumptions that were used to develop the rate increase;
- (2) an explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in the rate increase summary;
- (3) a brief description of the overall experience of the plan, including historical and projected expenses, and loss ratios; and
- (4) an actuarial memorandum that contains the reasoning and assumptions supporting the data.

The bill also requires the department, upon completion of the review of the rate filing, to promptly make available to the public a consumer-friendly version of the written description justifying the rate

increase as provided by the carrier, excluding information that is a trade secret or that is confidential commercial or financial information.

The department shall include on its website, along with each written description posted on the website, information that explains:

(1) the purpose and role of the expanded rate process, and

(2) how the public can submit comments to the department on the written description justifying the rate increase.

As amended, the bill provides that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information contained in an actuarial memorandum may not be disclosed by the department to any person other than employees and representatives of the department.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5500

STATE OF NEW JERSEY

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5500 (1R).

This bill establishes a rate increase review process in the Department of Banking and Insurance for individual and small employer health benefits plans.

Currently, under the Affordable Care Act (ACA), New Jersey is required to maintain a process to review health insurance rate increases according to certain criteria that identifies “unreasonable” rate increases, and requires health insurance carriers to provide justifications for them. This bill makes those federal requirements a part of New Jersey statutory law, so that consumers in the State will have those protections in the event that the ACA is repealed or modified.

In addition to any other applicable laws or regulations, if a carrier seeks a rate increase as part of an informational filing for an individual or small employer health benefits plan, the increase shall be deemed to meet the rate review threshold and shall be subject to expanded review by the department if the informational rate filing requests a rate increase of 10 percent or more annually.

If the department determines that a carrier’s requested rate increase exceeds the rate review threshold, the department shall require, in addition to any information required to be filed, the carrier to submit to the department a written description justifying the rate increase that includes all of the following:

- (1) a simple and brief narrative describing the data and assumptions that were used to develop the rate increase;
- (2) an explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in the rate increase summary;
- (3) a brief description of the overall experience of the plan, including historical and projected expenses, and loss ratios; and
- (4) an actuarial memorandum that contains the reasoning and assumptions supporting the data.

The bill also requires the department, upon completion of the review of the rate filing, to promptly make available to the public a consumer-friendly version of the written description justifying the rate

increase as provided by the carrier, excluding information that is a trade secret or that is confidential commercial or financial information.

The department shall include on its website, along with each written description posted on the website, information that explains:

(1) the purpose and role of the expanded rate process, and

(2) how the public can submit comments to the department on the written description justifying the rate increase.

The bill provides that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information contained in an actuarial memorandum may not be disclosed by the department to any person other than employees and representatives of the department.

As reported, this bill is identical to Senate Bill No. 3809, as amended and reported by the committee.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE, No. 3809

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 30, 2019

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Expands rate review process in DOBI for certain individual and small employer health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain health insurance rate increases and
2 supplementing Title 17B of the New Jersey Statutes.

3

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

6

7 1. In addition to any other applicable laws or regulations, a
8 carrier that seeks a rate increase as part of an informational filing
9 for an individual or small employer health benefits plan shall
10 comply with all of the provisions of this act. The Department of
11 Banking and Insurance shall review informational filings that are
12 subject to this act in the manner set forth in the provisions of this
13 act.

14

15 2. a. An informational rate filing by a carrier for an individual
16 or small employer health benefits plan offered in this State shall
17 contain information to support and justify rate requests. A rate
18 increase shall be subject to expanded review by the department
19 pursuant to the provisions of this act if the informational rate filing
20 requests a rate increase of 10 percent or more annually.

21 b. A rate increase meets or exceeds 10 percent annually if the
22 average increase for all enrollees weighted by premium volume for
23 any plan within the product meets or exceeds the 10 percent
24 threshold.

25 c. With respect to small employer plans, rate increases
26 submitted on a quarterly basis shall be considered both for each
27 specific quarter and in combination with any previous quarterly rate
28 increase or increases applicable to the same calendar year when
29 determining whether the rate increase meets or exceeds the 10
30 percent threshold for expanded review.

31 d. For the purposes of this act, “informational filing” means a
32 submission, by a carrier to the department, of rate-filings which
33 specify the plans offered, premium rates, all factors to be used in
34 the calculation of premium rates, and a detailed actuarial
35 memorandum supporting the calculation of the rates including a
36 certification by a qualified member of the American Academy of
37 Actuaries, the Society of Actuaries, or the Casualty Actuarial
38 Society, all supporting data for the premium rates and such other
39 information as required by the department.

40

41 3. a. If the department determines that a carrier’s requested
42 rate increase exceeds the 10 percent threshold for expanded rate
43 review set forth in section 2 of this act, the department shall require
44 the carrier to submit to the department, in addition to any other
45 information required to be filed, a written description justifying the
46 rate increase that complies with all of the provisions of this section.

47 b. The carrier shall include in its written description all
48 information prescribed by the department, including:

- 1 (1) a simple and brief narrative describing the data and
2 assumptions that were used to develop the rate increase;
- 3 (2) an explanation of the most significant factors causing the
4 rate increase, including a brief description of the relevant claims
5 and non-claims expense increases reported in the rate increase
6 summary;
- 7 (3) a brief description of the overall experience of the plan,
8 including historical and projected expenses, and loss ratios; and
- 9 (4) an actuarial memorandum that contains the reasoning and
10 assumptions supporting the data.
- 11 c. (1) Upon completion of the department's review of the rate
12 filing, the department shall promptly make available to the public a
13 consumer-friendly version of the written description justifying the
14 rate increase as provided by the carrier, excluding information that
15 is a trade secret or that is confidential commercial or financial
16 information.
- 17 (2) The department shall include on its website, along with each
18 written description posted on the website, information that explains:
- 19 (a) the purpose and role of the expanded rate review process;
20 and
- 21 (b) how the public can submit comments to the department on
22 the written description justifying the rate increase.

23
24 4. This act shall take effect immediately.

25
26
27 STATEMENT

28
29 This bill establishes a rate increase review process in the
30 Department of Banking and Insurance for individual and small
31 employer health benefits plans.

32 Currently, under the Affordable Care Act (ACA), New Jersey is
33 required to maintain a process to review health insurance rate
34 increases according to certain criteria that identifies "unreasonable"
35 rate increases, and requires health insurance carriers to provide
36 justifications for them. This bill makes those federal requirements a
37 part of New Jersey statutory law, so that consumers in the State will
38 have those protections in the event that the ACA is repealed or
39 modified.

40 In addition to any other applicable laws or regulations, if a
41 carrier seeks a rate increase as part of an informational filing for an
42 individual or small employer health benefits plan, the increase shall
43 be deemed to meet the rate review threshold and shall be subject to
44 expanded review by the department if the informational rate filing
45 requests a rate increase of 10 percent or more annually.

46 If the department determines that a carrier's requested rate
47 increase exceeds the rate review threshold, the department shall
48 require, in addition to any information required to be filed, the

1 carrier to submit to the department a written description justifying
2 the rate increase that includes all of the following:

3 (1) a simple and brief narrative describing the data and
4 assumptions that were used to develop the rate increase;

5 (2) an explanation of the most significant factors causing the
6 rate increase, including a brief description of the relevant claims
7 and non-claims expense increases reported in the rate increase
8 summary;

9 (3) a brief description of the overall experience of the plan,
10 including historical and projected expenses, and loss ratios; and

11 (4) an actuarial memorandum that contains the reasoning and
12 assumptions supporting the data.

13 The bill also requires the department, upon completion of the
14 review of the rate filing, to promptly make available to the public a
15 consumer-friendly version of the written description justifying the
16 rate increase as provided by the carrier, excluding information that
17 is a trade secret or that is confidential commercial or financial
18 information.

19 The department shall include on its website, along with each
20 written description posted on the website, information that explains:

21 (1) the purpose and role of the expanded rate process, and

22 (2) how the public can submit comments to the department on
23 the written description justifying the rate increase.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3809

STATE OF NEW JERSEY

DATED: JUNE 3, 2019

The Senate Commerce Committee reports favorably Senate Bill No. 3809.

This bill establishes a rate increase review process in the Department of Banking and Insurance for individual and small employer health benefits plans.

Currently, under the Affordable Care Act (ACA), New Jersey is required to maintain a process to review health insurance rate increases according to certain criteria that identifies “unreasonable” rate increases, and requires health insurance carriers to provide justifications for them. This bill makes those federal requirements a part of New Jersey statutory law, so that consumers in the State will have those protections in the event that the ACA is repealed or modified.

In addition to any other applicable laws or regulations, if a carrier seeks a rate increase as part of an informational filing for an individual or small employer health benefits plan, the increase shall be deemed to meet the rate review threshold and shall be subject to expanded review by the department if the informational rate filing requests a rate increase of 10 percent or more annually.

If the department determines that a carrier’s requested rate increase exceeds the rate review threshold, the department shall require, in addition to any information required to be filed, the carrier to submit to the department a written description justifying the rate increase that includes all of the following:

- (1) a simple and brief narrative describing the data and assumptions that were used to develop the rate increase;
- (2) an explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in the rate increase summary;
- (3) a brief description of the overall experience of the plan, including historical and projected expenses, and loss ratios; and
- (4) an actuarial memorandum that contains the reasoning and assumptions supporting the data.

The bill also requires the department, upon completion of the review of the rate filing, to promptly make available to the public a consumer-friendly version of the written description justifying the

rate increase as provided by the carrier, excluding information that is a trade secret or that is confidential commercial or financial information.

The department shall include on its website, along with each written description posted on the website, information that explains:

- (1) the purpose and role of the expanded rate process, and
- (2) how the public can submit comments to the department on the written description justifying the rate increase.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3809

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3809, with committee amendments.

This bill, as amended, establishes a rate increase review process in the Department of Banking and Insurance for individual and small employer health benefits plans.

Currently, under the Affordable Care Act (ACA), New Jersey is required to maintain a process to review health insurance rate increases according to certain criteria that identifies “unreasonable” rate increases, and requires health insurance carriers to provide justifications for them. This bill makes those federal requirements a part of New Jersey statutory law, so that consumers in the State will have those protections in the event that the ACA is repealed or modified.

In addition to any other applicable laws or regulations, if a carrier seeks a rate increase as part of an informational filing for an individual or small employer health benefits plan, the increase shall be deemed to meet the rate review threshold and shall be subject to expanded review by the department if the informational rate filing requests a rate increase of 10 percent or more annually.

If the department determines that a carrier’s requested rate increase exceeds the rate review threshold, the department shall require, in addition to any information required to be filed, the carrier to submit to the department a written description justifying the rate increase that includes all of the following:

- (1) a simple and brief narrative describing the data and assumptions that were used to develop the rate increase;
- (2) an explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in the rate increase summary;
- (3) a brief description of the overall experience of the plan, including historical and projected expenses, and loss ratios; and
- (4) an actuarial memorandum that contains the reasoning and assumptions supporting the data.

The bill also requires the department, upon completion of the review of the rate filing, to promptly make available to the public a consumer-friendly version of the written description justifying the rate

increase as provided by the carrier, excluding information that is a trade secret or that is confidential commercial or financial information.

The department shall include on its website, along with each written description posted on the website, information that explains:

- (1) the purpose and role of the expanded rate process, and
- (2) how the public can submit comments to the department on the written description justifying the rate increase.

The bill provides that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information contained in an actuarial memorandum may not be disclosed by the department to any person other than employees and representatives of the department.

As amended and reported, this bill is identical to Assembly Bill No. 5500 (1R), as also reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

1) provide that any information filed with the department pursuant to the bill may be disclosed in accordance with New Jersey's open public records law, except that confidential information may not be disclosed by the department to any person other than employees and representatives of the department.

2) require carriers to separately identify any confidential information filed with the department pursuant to this act. Any information that is not identified as confidential information is be considered public information and subject to disclosure.

3) provide that "confidential information" means information contained in an actuarial memorandum filed with the department pursuant to the bill that has been certified by the actuary preparing the memorandum as confidential or proprietary information.

4) are intended to mirror the confidentiality provisions contained in the regulations concerning informational rate filing requirements for small employer health benefits plans.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

Governor Murphy Signs Legislative Package Protecting the Affordable Care Act in New Jersey

01/16/2020

TRENTON – Governor Phil Murphy today signed a package of bills to safeguard the provisions of the Affordable Care Act (ACA) in New Jersey. The bills, which will codify into state law the basic protections for health care consumers that are part of the Affordable Care Act, include protections for no-cost preventative care and contraception, prohibit exclusions for pre-existing conditions, allow children to stay on their parents' plan until age 26, and incorporate mental health and maternity care as part of essential benefits, among others. The Governor highlighted the importance of these bills during an armchair discussion with Hackensack Meridian Health Chief Executive Officer Bob Garret.

“At a time when the Affordable Care Act is under siege by the Trump Administration and being challenged in the courts, New Jersey has a responsibility to protect and provide access to high-quality, affordable health care for all of our residents,” **said Governor Murphy**. “I applaud my colleagues in the Legislature for taking the critical steps necessary to ensure that the provisions of the Affordable Health Care Act are codified into state law and for working to make the health of our residents a top priority.”

The Governor signed the following bills into law:

A5500 (Greenwald, Lopez, Lampitt/Pou, Lagana) - Expands rate review process in DOBI for certain individual and small employer health benefits plans.

A5501 (McKeon, Vainieri Huttel, Speight/Pou, Weinberg) - Requires continuation of health benefits dependent coverage until child turns 26 years of age.

A5503 (Reynolds-Jackson, Swain/Vitale, Cryan) - Establishes open enrollment period under Individual Health Coverage Program.

A5504 (Benson, Schaer/Cryan, Diegnan) - Applies 85 percent loss ratio requirement to certain large group health benefits carriers.

A5506 (Tully, Danielsen/Singleton, Diegnan) - Repeals statute authorizing offering of “Basic and Essential” health benefits plans under individual health benefits plans and other statutes concerning basic health plans; makes conforming amendments.

A5507 (McKeon, Conaway, Mukherji/Pou, Ruiz) - Requires health benefits coverage for certain preventive services.

A5508 (Zwicker, Murphy, Sumter/Ruiz, Pou) - Revises law requiring health benefits coverage for certain contraceptives.

A5248 (Conaway, Mukherji, McKeon/Gill, Singleton) - Preserves certain requirements that health insurance plans cover essential health benefits.

S626 (Vitale, Diegnan/Vainieri Huttel, Chiaravalloti, Downey, Danielsen) - Clarifies prohibition on preexisting condition exclusions in health insurance policies.

“It is more than health insurance, it is security. It is the safety you feel in knowing that if something goes wrong you have somewhere to go,” **said Senator Pou**. “While not every New Jerseyan has health insurance coverage, there are a lot more people covered now because of the Affordable Care Act than there were before the landmark legislation led by the Obama administration. This life-saving federal program, however, is currently being attacked by Trump and the Republicans in Congress and I am proud of the Governor and Legislature for

standing up for residents and making the ACA the law of our state, regardless of who is in the White House.”

“With the President trying to do everything he can to destroy the Affordable Care Act, I’m glad the legislature and the administration worked together to ensure that the people who benefitted from the ACA will be protected in New Jersey,” **said Senator Vitale**. “We cannot leave the health and safety of New Jerseyans up to the whims of the oval office. These laws, along with the state health care exchange signed earlier, will go a long way to make sure our state can offer affordable health care to all of our residents.”

“The Affordable Care Act gave millions of people across the country access to health care and protected those with pre-existing conditions from being discriminated against by health insurance companies,” **said Senator Singleton**. “Taking away a person’s health insurance, regardless of whether or not they will be able to find an alternative, is disgraceful. New Jersey is a state that protects its residents, and by strengthening the ACA in this state, we will continue to protect working and middle class families.”

“Contraception was named as one of the top ten public health achievements of the 20th century by the Centers for Disease Control and Prevention. That was twenty years ago, whether or not insurance plans cover contraceptives shouldn’t be a question today,” **said Senator Ruiz**. “It’s a matter of public health and it’s a matter of gender equity. People should have access to birth control and this law will help ensure that they do.”

A5500

“The affordable care act has helped tens of thousands of New Jersey residents gain access to healthcare for themselves and their families,” **said Assemblyman Greenwald**. “With this law, we are keeping healthcare affordable for working families by preventing unreasonable rate hikes for the insured, preserving the substantial progress we’ve made on increasing access to quality healthcare in New Jersey.”

“The Affordable Care Act has changed the lives of many New Jersey families,” **said Assemblywoman Lopez**. “Protecting families against unjustified rate changes is critical to maintaining and expanding access to healthcare in the state for many more residents.”

“This is the next practical step in protecting thousands of New Jerseyans who have been afforded healthcare benefits under the Affordable Care Act,” **said Assemblywoman Lampitt**. “The key is to ensure health insurance remains affordable for all residents by keeping an eye on and preventing unnecessary rate increases.”

A5501

Assemblymembers McKeon, Vainieri Huttle, and Speight issued a joint statement:

“With many college graduates returning home while they look for jobs, there was a steep rise in residents ages 19 -26 without access to healthcare. For those who did have insurance through their parents, the cost became an additional, unexpected burden on families. The Affordable Care Act has significantly helped to reduce the uninsured rate for young adults under the age of 26 by allowing parents to cover them in their own plans without the requirement of a separate premium. Codifying this into New Jersey State law will help families ensure their children, whether they are continuing their education or at home temporarily, are provided for in terms of healthcare.”

A5503

Assemblymembers Reynolds-Jackson and Swain issued the following statement:

“Changes on the federal level of ACA have deliberately shortened the open enrollment period by 50 percent placing consumers at a great disadvantage. There’s less time to research their coverage options and enroll. As New Jersey embarks on the creation of a State-based healthcare exchange, it is critical to ensure open enrollment periods which provide enough time, promotion and access for residents.”

A5504

“The Affordable Care Act was groundbreaking in expanding health insurance coverage for millions of Americans. It is important for our state that we maintain the essential protections of Obamacare for all our families,” **said Assemblyman Benson**. “This new state law will help guarantee the money residents spend on their health insurance overwhelmingly goes to the medical care and services they need.”

“This law allows for continued oversight of health insurance companies so that our state can make sure they are properly applying customers’ payments,” **said Assemblyman Schaer**. “There is no room for frivolous spending when it comes to health; the hard-earned money coming out of our residents’ paychecks for health insurance should go towards actually giving them the treatments, tests, procedures and medications they need.”

A5507

Assemblymembers McKeon, Conaway and Mukherji joint statement:

“Preventive healthcare is critical to helping individuals’ live longer, healthier lives. In the long run, preventive medicine and services helps families’ keep healthcare costs down and avoid potential health problems. These are services every resident relies on for themselves and their children. The Affordable Care Act ensured more residents’ access to preventive care than before. Setting these same standards under the State-based healthcare exchange will continue to protect New Jersey families’ and their access to these critical services.”

A5506

“It’s understandable that the government wanted to encourage Americans to purchase ACA health insurance by initially offering simple and inexpensive plans,” **said Assemblyman Tully**. “However, we now know these ‘Basic and Essential Plans’ simply do not cover the healthcare services many people require, which is why the ACA no longer allows them. In case the ACA is ever dismantled at the federal level, this law will make sure providers in our state do not begin offering these limited plans again.”

“Although some people were drawn to the lower-cost healthcare plans the ACA once provided, many didn’t realize just how limited their coverage would be,” **said Assemblyman Danielsen**. “When it comes to healthcare, the services provided can literally mean the difference between life and death. From high stakes procedures to daily medicine, no one should have to lose their life or experience crushing medical debt due to a lack of coverage. This will help make sure such restrictive plans can never be offered in the future.”

A5508

Assemblymembers Zwicker, Murphy, and Sumter joint statement:

“Federal changes to the Affordable Care Act aimed to jeopardize women’s access to safe, preventive care. This new law will remove those obstacles in New Jersey and preserve the benefits afforded to residents’ under the ACA. With this law, women will continue to have insurance that covers contraception without having to pay out of pocket.”

“Because of the Affordable Care Act, as many as 133 million people – or 51 percent of Americans – who have pre-existing conditions are guaranteed that condition will be covered by their health insurer,” **said Assemblywoman Vainieri Huttle**. “But the ACA has been threatened in the past few years. This new law will safeguard this crucial protection for patients should anything ever happen to the ACA.”

“When the ACA was passed, state law was never changed to include the mandate for coverage of pre-existing conditions,” **said Assemblyman Chiaravalloti**. “This important update sends a clear message that we in New Jersey believe health care is not a privilege, but a right.”

“People with pre-existing conditions had their lives changed when the Affordable Care Act became law in 2010,” **said Assemblywoman Downey**. “For the first time, they could not be denied coverage by an insurance company because of their conditions, from diabetes to allergies to cancer. We cannot go back to a world where people had less access to critical medications or treatments because of poor insurance coverage. With this law, we ensure that will never happen in New Jersey.”

“No one should ever be penalized for having a medical condition,” **said Assemblyman Danielsen**. “The ACA paved the way for Americans to begin seeing what was possible when they had access to coverage for pre-existing conditions. So many people now have far better quality of life as a result, and that’s something we will fight to protect and guarantee for all New Jersey residents.”

A5248

“As a physician, I firmly believe that access to health care is a right, not a privilege,” **said Assemblyman Conaway**. “We took a tremendous step forward toward securing that right for all Americans under the Affordable Care Act. The legislation signed today will enshrine the essential health benefits and guiding principles of the ACA into State law, so that New Jerseyans will continue receiving the same benefits if the ACA were ever struck down.”

“We hear stories far too often of patients facing discrimination because of their age or disability,” **said Assemblyman Mukherji**. “No one should be penalized or taken advantage of for having a health condition. This is the law of the land nationwide, and we’ve now reaffirmed these values here in New Jersey.”

“Essential health benefits are exactly that: essential,” **said Assemblyman McKeon**. “Our children need vision and oral care; our new mothers need maternity care; and at any moment, anyone may need emergency services. I’m proud to live in a state that values the health and wellbeing of its residents, so much that it guarantees certain protections under the law.”