



**S3808**

**SPONSOR'S STATEMENT:** (Begins on page 4 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](http://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 359, *approved January 16, 2020*  
Assembly, No. 5506 (*Second Reprint*)

1 AN ACT concerning certain individual <sup>1</sup>**[and small employer]**<sup>1</sup>  
2 health benefits plans, amending P.L.1992, c.161 and repealing  
3 parts of statutory law.

4

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

7

8 1. The following are repealed:  
9 P.L.2001, c.368 (C.17B:27A-4.4 through C.17B:27A-4.7 and  
10 C.17B:27A-19.11);

11 Section 49 of P.L.1991, c.187 (*not compiled*);

12 Sections 50 and 51 of P.L.1991, c.187 (C.17:48-6.13 and  
13 C.17:48-6.14);

14 Sections 52 and 53 of P.L.1991, c.187 (C.17:48A-6.8 and  
15 C.17:48A-6.9);

16 Sections 54 and 55 of P.L.1991, c.187 (C.17:48E-22.1 and  
17 C.17:48E-22.2);

18 Sections 56 and 57 of P.L.1991, c.187 (C.17B:26B-1 and  
19 C.17B:26B-2);

20 Sections 58 and 59 of P.L.1991, c.187 (C.26:2J-4.2 and C.26:2J-  
21 4.3).

22

23 2. Section 3 of P.L.1992, c.161 (C.17B:27A-4) is amended to  
24 read as follows:

25 3. a. No later than 180 days after the effective date of this  
26 section of P.L.2008, c.38, a carrier shall, as a condition of issuing  
27 small employer health benefits plans in this State, also offer  
28 individual health benefits plans. The plans shall be offered on an  
29 open enrollment, modified community rated basis, pursuant to the  
30 provisions of this act and P.L.2008, c.38. Every carrier that issues  
31 small employer health benefits plans pursuant to P.L.1992, c.162  
32 (C.17B:27A-17 et seq.) shall make a good faith effort to market  
33 individual health benefits plans.

34 b. A carrier shall offer to an eligible person a choice of at least  
35 three individual health benefits plans established by the board  
36 pursuant to section 6 of P.L.1992, c.161 (C.17B:27A-7). **[One plan**  
37 **shall be a basic health benefits plan.]** <sup>2</sup>**[A carrier may elect to**  
38 **convert any individual contract or policy forms in force on the**  
39 **effective date of P.L.2008, c.38 to any of the benefit plans, except**  
40 **that the carrier may not convert more than 25% of existing contracts**

**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>**Assembly AFI committee amendments adopted June 6, 2019.**

<sup>2</sup>**Assembly AAP committee amendments adopted June 13, 2019.**

1 or policies each year, and the replacement plan shall be of no less  
2 actuarial value than the policy or contract being replaced.】<sup>2</sup>

3 【Notwithstanding the provisions of this subsection to the  
4 contrary, a health maintenance organization which is a qualified  
5 health maintenance organization pursuant to the "Health  
6 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.  
7 s.300e et seq.) shall be permitted to offer a basic health benefits  
8 plan in accordance with the provisions of that law in lieu of the  
9 plans required pursuant to this subsection.】

10 c. (1) 【A basic health benefits plan shall provide the benefits  
11 set forth in section 55 of P.L.1991, c.187 (C.17:48E-22.2), section  
12 57 of P.L.1991, c.187 (C.17B:26B-2) or section 59 of P.L.1991,  
13 c.187 (C.26:2J-4.3), as the case may be.】 (Deleted by amendment,  
14 P. L. , c. )(Pending before the Legislature as this bill).

15 (2) 【Notwithstanding the provisions of this subsection or any  
16 other law to the contrary, a carrier may, with the approval of the  
17 board, modify the coverage provided for in sections 55, 57, and 59  
18 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3,  
19 respectively) or provide alternative benefits or services from those  
20 required by this subsection if they are within the intent of this act or  
21 if the board changes the benefits included in the basic health  
22 benefits plan.】 (Deleted by amendment, P. L. , c. )(Pending  
23 before the Legislature as this bill).

24 (3) 【A contract or policy for a basic health benefits plan  
25 provided for in this section may contain or provide for coinsurance  
26 or deductibles, or both, except that no deductible shall be payable in  
27 excess of a total of \$250 by an individual or \$500 by a family unit  
28 during any benefit year; and no coinsurance shall be payable in  
29 excess of a total of \$500 by an individual or by a family unit during  
30 any benefit year.】 (Deleted by amendment, P. L. , c. )(Pending  
31 before the Legislature as this bill).

32 (4) 【Notwithstanding the provisions of paragraph (3) of this  
33 subsection or any other law to the contrary, a carrier may provide  
34 for increased deductibles or coinsurance for a basic health benefits  
35 plan if approved by the board or if the board increases deductibles  
36 or coinsurance included in the basic health benefits plan.】 (Deleted  
37 by amendment, P. L. , c. )(Pending before the Legislature as  
38 this bill).

39 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
40 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
41 with respect to the filing of policy forms shall not apply to health  
42 plans issued on or after the effective date of this act.

43 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
44 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
45 rate filings shall not apply to individual health plans issued on or  
46 after the effective date of this act.

1 d. Every group conversion contract or policy issued after the  
 2 effective date of this act shall be issued pursuant to this section;  
 3 except that this requirement shall not apply to any group conversion  
 4 contract or policy in which a portion of the premium is chargeable  
 5 to, or subsidized by, the group policy from which the conversion is  
 6 made.

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

8 f. <sup>2</sup>~~¶~~In addition to the rider packages provided for in  
 9 subsection c. of section 6 of P.L.1992, c.161 (C.17B:27A-7), every  
 10 carrier may offer, in connection with the health benefits plans  
 11 required to be offered by this section, any number of riders which  
 12 may add benefits or increase the actuarial value of any of the plans.  
 13 Any such rider or amendment thereof shall be filed with the board  
 14 for informational purposes before the rider may be sold. The added  
 15 premium for each rider shall be listed separately from the premium  
 16 for the standard plan.

17 The commissioner shall disapprove any rider filed pursuant to  
 18 this subsection that is unjust, unfair, inequitable, unreasonably  
 19 discriminatory, misleading, contrary to law or the public policy of  
 20 this State. The commissioner's determination shall be in writing and  
 21 shall be appealable. ~~¶ (Deleted by amendment, P.L. \_\_\_\_\_,~~  
 22 ~~c. )(Pending before the Legislature as this bill)<sup>2</sup>~~  
 23 (cf: P.L.2008, c.38, s.11)

24  
 25 <sup>1</sup>3. Section 4 of P.L.1992, c.161 (C.17B:27A-5) is amended to  
 26 read as follows:

27 4. The following provisions shall not apply to ~~¶~~basic health  
 28 benefits plans and ~~¶~~managed care health benefits plans issued pursuant  
 29 to section 3 of this act:

30 Sections 12, 32 through 35, inclusive, of P.L.1985, c.236  
 31 (C.17:48E-12 and C.17:48E-32 through C.17:48E-35, inclusive);  
 32 section 2 of P.L.1987, c.62 (C.17:48E-35.1); sections 3, 4 and 6 of  
 33 P.L.1991, c.279 (C.17:48E-35.4, 17B:26-2.1e and 26:2J-4.4); section 1  
 34 of P.L.1977, c.118 (C.17B:26-2.1); section 1 of P.L.1983, c.53  
 35 (C.17B:26-2.1a); section 1 of P.L.1987 c.64 (C.17B:26-2.1c);  
 36 P.L.1979, c.328 (C.17B:26-2.2 et seq.); and sections 1 and 2 of  
 37 P.L.1979, c.161 (C.17B:26-44.1 and C.17B:26-44.2).<sup>1</sup>  
 38 (cf: P.L.1992, c.161, s.4)

39  
 40 <sup>1</sup>~~¶~~3. ~~4.~~<sup>1</sup> This act shall take effect immediately.

41  
 42  
 43  
 44 Repeals statute authorizing offering of “Basic and Essential”  
 45 health benefits plans under individual health benefits plans and  
 46 other statutes concerning basic health plans; makes conforming  
 47 amendments.

# ASSEMBLY, No. 5506

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

**Sponsored by:**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Repeals statute authorizing offering of “Basic and Essential” health benefits plans under individual health benefits and small employer health benefits plans and other statutes concerning basic health plans; makes conforming amendments.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain individual and small employer health  
2 benefits plans, amending P.L.1992, c.161 and repealing parts of  
3 statutory law.

4

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

7

8 1. The following are repealed:

9 P.L.2001, c.368 (C.17B:27A-4.4 through C.17B:27A-4.7 and  
10 C.17B:27A-19.11);

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15 C.17:48A-6.9);

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18 Sections 56 and 57 of P.L.1991, c.187 (C.17B:26B-1 and  
19 C.17B:26B-2);

20 Sections 58 and 59 of P.L.1991, c.187 (C.26:2J-4.2 and C.26:2J-  
21 4.3).

22

23 2. Section 3 of P.L.1992, c.161 (C.17B:27A-4) is amended to  
24 read as follows:

25 3. a. No later than 180 days after the effective date of this  
26 section of P.L.2008, c.38, a carrier shall, as a condition of issuing  
27 small employer health benefits plans in this State, also offer  
28 individual health benefits plans. The plans shall be offered on an  
29 open enrollment, modified community rated basis, pursuant to the  
30 provisions of this act and P.L.2008, c.38. Every carrier that issues  
31 small employer health benefits plans pursuant to P.L.1992, c.162  
32 (C.17B:27A-17 et seq.) shall make a good faith effort to market  
33 individual health benefits plans.

34 b. A carrier shall offer to an eligible person a choice of at least  
35 three individual health benefits plans established by the board  
36 pursuant to section 6 of P.L.1992, c.161 (C.17B:27A-7). **【One plan  
37 shall be a basic health benefits plan.】** A carrier may elect to  
38 convert any individual contract or policy forms in force on the  
39 effective date of P.L.2008, c.38 to any of the benefit plans, except  
40 that the carrier may not convert more than 25% of existing contracts  
41 or policies each year, and the replacement plan shall be of no less  
42 actuarial value than the policy or contract being replaced.

43 **【Notwithstanding the provisions of this subsection to the  
44 contrary, a health maintenance organization which is a qualified**

**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 health maintenance organization pursuant to the "Health  
2 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.  
3 s.300e et seq.) shall be permitted to offer a basic health benefits  
4 plan in accordance with the provisions of that law in lieu of the  
5 plans required pursuant to this subsection.】

6 c. (1) 【A basic health benefits plan shall provide the benefits  
7 set forth in section 55 of P.L.1991, c.187 (C.17:48E-22.2), section  
8 57 of P.L.1991, c.187 (C.17B:26B-2) or section 59 of P.L.1991,  
9 c.187 (C.26:2J-4.3), as the case may be.】 (Deleted by amendment,  
10 P. L. , c. (Pending before the Legislature as this bill).

11 (2) 【Notwithstanding the provisions of this subsection or any  
12 other law to the contrary, a carrier may, with the approval of the  
13 board, modify the coverage provided for in sections 55, 57, and 59  
14 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3,  
15 respectively) or provide alternative benefits or services from those  
16 required by this subsection if they are within the intent of this act or  
17 if the board changes the benefits included in the basic health  
18 benefits plan.】 (Deleted by amendment, P. L. , c. (Pending  
19 before the Legislature as this bill).

20 (3) 【A contract or policy for a basic health benefits plan  
21 provided for in this section may contain or provide for coinsurance  
22 or deductibles, or both, except that no deductible shall be payable in  
23 excess of a total of \$250 by an individual or \$500 by a family unit  
24 during any benefit year; and no coinsurance shall be payable in  
25 excess of a total of \$500 by an individual or by a family unit during  
26 any benefit year.】 (Deleted by amendment, P. L. , c. (Pending  
27 before the Legislature as this bill).

28 (4) 【Notwithstanding the provisions of paragraph (3) of this  
29 subsection or any other law to the contrary, a carrier may provide  
30 for increased deductibles or coinsurance for a basic health benefits  
31 plan if approved by the board or if the board increases deductibles  
32 or coinsurance included in the basic health benefits plan.】 (Deleted  
33 by amendment, P. L. , c. (Pending before the Legislature as this  
34 bill).

35 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
36 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
37 with respect to the filing of policy forms shall not apply to health  
38 plans issued on or after the effective date of this act.

39 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
40 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
41 rate filings shall not apply to individual health plans issued on or  
42 after the effective date of this act.

43 d. Every group conversion contract or policy issued after the  
44 effective date of this act shall be issued pursuant to this section;  
45 except that this requirement shall not apply to any group conversion  
46 contract or policy in which a portion of the premium is chargeable



1 to, or subsidized by, the group policy from which the conversion is  
2 made.

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

4 f. In addition to the rider packages provided for in subsection  
5 c. of section 6 of P.L.1992, c.161 (C.17B:27A-7), every carrier may  
6 offer, in connection with the health benefits plans required to be  
7 offered by this section, any number of riders which may add  
8 benefits or increase the actuarial value of any of the plans. Any  
9 such rider or amendment thereof shall be filed with the board for  
10 informational purposes before the rider may be sold. The added  
11 premium for each rider shall be listed separately from the premium  
12 for the standard plan.

13 The commissioner shall disapprove any rider filed pursuant to  
14 this subsection that is unjust, unfair, inequitable, unreasonably  
15 discriminatory, misleading, contrary to law or the public policy of  
16 this State. The commissioner's determination shall be in writing and  
17 shall be appealable.

18 (cf: P.L.2008, c.38, s.11)

19

20 3. This act shall take effect immediately.

21

22

23

#### STATEMENT

24

25 This bill repeals the statute which authorizes health insurance  
26 carriers to offer "Basic and Essential" health benefits plans in the  
27 individual and small employer health benefits markets.

28 Under New Jersey law, the Basic and Essential Plan (B&E Plan)  
29 is authorized as an option under both the individual and small  
30 employer health benefits plans. Enacted in 2002, the B&E Plan was  
31 designed as a reduced benefit plan to encourage additional  
32 individuals and small employers to purchase at least an "entry  
33 level" health benefits plan. The B&E Plan fails to meet the  
34 requirements of the federal Affordable Care Act's (ACA) Essential  
35 Health Benefits in multiple ways. Because of the interaction of the  
36 State and federal law, it was determined that the State requirement  
37 to offer the B&E Plan was preempted, and carriers had to stop  
38 offering B&E plans. Without this repeal, if the ACA is eliminated  
39 at the federal level, carriers would again be required to offer the  
40 B&E Plan in accordance with New Jersey law.

41 The bill also repeals another statute, enacted prior to the 2002  
42 law, that required the offering of a "basic health benefits plan" and  
43 makes some conforming amendments elsewhere in the statutes, to  
44 eliminate any confusion.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 5506**

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. 5506.

This bill repeals the statute which authorizes health insurance carriers to offer “Basic and Essential” health benefits plans in the individual health benefits market.

Under New Jersey law, the Basic and Essential Plan (B&E Plan) is authorized as an option under the individual health benefits plan. Enacted in 2002, the B&E Plan was designed as a reduced benefit plan to encourage additional individuals to purchase at least an “entry level” health benefits plan. The B&E Plan fails to meet the requirements of the federal Affordable Care Act’s (ACA) Essential Health Benefits in multiple ways. Because of the interaction of the State and federal law, it was determined that the State requirement to offer the B&E Plan was preempted, and carriers had to stop offering B&E plans. Without this repeal, if the ACA is eliminated at the federal level, carriers would again be required to offer the B&E Plan in accordance with New Jersey law.

The bill also repeals another statute, enacted prior to the 2002 law, that required the offering of a “basic health benefits plan” and makes some conforming amendments elsewhere in the statutes, to eliminate any confusion.

Committee Amendments:

The committee amended the bill to remove references to the small employer health benefits plan that were inadvertently included in the bill as introduced. The amendments also removed a reference to the basic health benefits plan from an existing section of law.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 5506

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5506 (1R).

This bill repeals the statute which authorizes health insurance carriers to offer “Basic and Essential” health benefits plans in the individual health benefits market.

Under New Jersey law, the Basic and Essential Plan (B&E Plan) is authorized as an option under the individual health benefits plan. Enacted in 2002, the B&E Plan was designed as a reduced benefit plan to encourage additional individuals to purchase at least an “entry level” health benefits plan. The B&E Plan fails to meet the requirements of the federal Affordable Care Act’s (ACA) Essential Health Benefits in multiple ways. Because of the interaction of the State and federal law, it was determined that the State requirement to offer the B&E Plan was preempted, and carriers had to stop offering B&E plans. Without this repeal, if the ACA is eliminated at the federal level, carriers would again be required to offer the B&E Plan in accordance with New Jersey law.

The bill also repeals another statute, enacted prior to the 2002 law, that required the offering of a “basic health benefits plan” and makes some conforming amendments elsewhere in the statutes, to eliminate any confusion.

### COMMITTEE AMENDMENTS:

The committee amendments make technical corrections to delete portions of the statutory law which have become obsolete.

### FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

**ASSEMBLY, No. 5506**

# **STATE OF NEW JERSEY**

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5506 (2R).

This bill repeals the statute that authorizes health insurance carriers to offer “Basic and Essential” health benefits plans in the individual health benefits market.

Under New Jersey law, the Basic and Essential Plan (B&E Plan) is authorized as an option under the individual health benefits plan. Enacted in 2002, the B&E Plan was designed as a reduced benefit plan to encourage additional individuals to purchase at least an “entry level” health benefits plan. The B&E Plan fails to meet the requirements of the federal Affordable Care Act’s (ACA) Essential Health Benefits in multiple ways. Thus, due to this interaction of State and federal law, the State requirement to offer the B&E Plan is preempted by the federal law. As a result, carriers are prohibited from offering B&E plans. Without this repeal, if the ACA is eliminated at the federal level, carriers would again be required to offer the B&E Plan in accordance with New Jersey law.

The bill also repeals another statute, enacted prior to the 2002 law, which required the offering of a “basic health benefits plan” and makes some conforming amendments elsewhere in the statutes, to eliminate any confusion.

As reported, Assembly Bill No. 5506 (2R) is identical to Senate Bill No. 3808, as amended and reported by the committee.

### FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

**SENATE, No. 3808**

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

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INTRODUCED MAY 30, 2019

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

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43 **【Notwithstanding the provisions of this subsection to the**  
44 **contrary, a health maintenance organization which is a qualified**

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4 plan in accordance with the provisions of that law in lieu of the  
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6 c. (1) 【A basic health benefits plan shall provide the benefits  
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8 57 of P.L.1991, c.187 (C.17B:26B-2) or section 59 of P.L.1991,  
9 c.187 (C.26:2J-4.3), as the case may be.】 (Deleted by amendment,  
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12 other law to the contrary, a carrier may, with the approval of the  
13 board, modify the coverage provided for in sections 55, 57, and 59  
14 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3,  
15 respectively) or provide alternative benefits or services from those  
16 required by this subsection if they are within the intent of this act or  
17 if the board changes the benefits included in the basic health  
18 benefits plan.】 (Deleted by amendment, P. L. , c. (Pending  
19 before the Legislature as this bill).

20 (3) 【A contract or policy for a basic health benefits plan  
21 provided for in this section may contain or provide for coinsurance  
22 or deductibles, or both, except that no deductible shall be payable in  
23 excess of a total of \$250 by an individual or \$500 by a family unit  
24 during any benefit year; and no coinsurance shall be payable in  
25 excess of a total of \$500 by an individual or by a family unit during  
26 any benefit year.】 (Deleted by amendment, P. L. , c. (Pending  
27 before the Legislature as this bill).

28 (4) 【Notwithstanding the provisions of paragraph (3) of this  
29 subsection or any other law to the contrary, a carrier may provide  
30 for increased deductibles or coinsurance for a basic health benefits  
31 plan if approved by the board or if the board increases deductibles  
32 or coinsurance included in the basic health benefits plan.】 (Deleted  
33 by amendment, P. L. , c. (Pending before the Legislature as this  
34 bill).

35 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
36 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
37 with respect to the filing of policy forms shall not apply to health  
38 plans issued on or after the effective date of this act.

39 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
40 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
41 rate filings shall not apply to individual health plans issued on or  
42 after the effective date of this act.

43 d. Every group conversion contract or policy issued after the  
44 effective date of this act shall be issued pursuant to this section;  
45 except that this requirement shall not apply to any group conversion  
46 contract or policy in which a portion of the premium is chargeable

1 to, or subsidized by, the group policy from which the conversion is  
2 made.

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

4 f. In addition to the rider packages provided for in subsection  
5 c. of section 6 of P.L.1992, c.161 (C.17B:27A-7), every carrier may  
6 offer, in connection with the health benefits plans required to be  
7 offered by this section, any number of riders which may add  
8 benefits or increase the actuarial value of any of the plans. Any  
9 such rider or amendment thereof shall be filed with the board for  
10 informational purposes before the rider may be sold. The added  
11 premium for each rider shall be listed separately from the premium  
12 for the standard plan.

13 The commissioner shall disapprove any rider filed pursuant to  
14 this subsection that is unjust, unfair, inequitable, unreasonably  
15 discriminatory, misleading, contrary to law or the public policy of  
16 this State. The commissioner's determination shall be in writing and  
17 shall be appealable.

18 (cf: P.L.2008, c.38, s.11)

19

20 3. This act shall take effect immediately.

21

22

23

#### STATEMENT

24

25 This bill repeals the statute which authorizes health insurance  
26 carriers to offer "Basic and Essential" health benefits plans in the  
27 individual and small employer health benefits markets.

28 Under New Jersey law, the Basic and Essential Plan (B&E Plan)  
29 is authorized as an option under both the individual and small  
30 employer health benefits plans. Enacted in 2002, the B&E Plan was  
31 designed as a reduced benefit plan to encourage additional  
32 individuals and small employers to purchase at least an "entry  
33 level" health benefits plan. The B&E Plan fails to meet the  
34 requirements of the federal Affordable Care Act's (ACA) Essential  
35 Health Benefits in multiple ways. Because of the interaction of the  
36 State and federal law, it was determined that the State requirement  
37 to offer the B&E Plan was preempted, and carriers had to stop  
38 offering B&E plans. Without this repeal, if the ACA is eliminated  
39 at the federal level, carriers would again be required to offer the  
40 B&E Plan in accordance with New Jersey law.

41 The bill also repeals another statute, enacted prior to the 2002  
42 law, that required the offering of a "basic health benefits plan" and  
43 makes some conforming amendments elsewhere in the statutes, to  
44 eliminate any confusion.



SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 3808**

**STATE OF NEW JERSEY**

DATED: JUNE 3, 2019

The Senate Commerce Committee reports favorably Senate Bill No. 3808.

This bill repeals the statute which authorizes health insurance carriers to offer “Basic and Essential” health benefits plans in the individual health benefits market.

Under New Jersey law, the Basic and Essential Plan (B&E Plan) is authorized as an option under the individual health benefits plan. Enacted in 2002, the B&E Plan was designed as a reduced benefit plan to encourage additional individuals to purchase at least an “entry level” health benefits plan. The B&E Plan fails to meet the requirements of the federal Affordable Care Act’s (ACA) Essential Health Benefits in multiple ways. Because of the interaction of the State and federal law, it was determined that the State requirement to offer the B&E Plan was preempted, and carriers had to stop offering B&E plans. Without this repeal, if the ACA is eliminated at the federal level, carriers would again be required to offer the B&E Plan in accordance with New Jersey law.

The bill also repeals another statute, enacted prior to the 2002 law, that required the offering of a “basic health benefits plan” and makes some conforming amendments elsewhere in the statutes, to eliminate any confusion.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3808**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3808, with committee amendments.

This bill, as amended, repeals the statute that authorizes health insurance carriers to offer “Basic and Essential” health benefits plans in the individual health benefits market.

Under New Jersey law, the Basic and Essential Plan (B&E Plan) is authorized as an option under the individual health benefits plan. Enacted in 2002, the B&E Plan was designed as a reduced benefit plan to encourage additional individuals to purchase at least an “entry level” health benefits plan. The B&E Plan fails to meet the requirements of the federal Affordable Care Act’s (ACA) Essential Health Benefits in multiple ways. Thus, due to this interaction of State and federal law, the State requirement to offer the B&E Plan is preempted by the federal law. As a result, carriers are prohibited from offering B&E plans. Without this repeal, if the ACA is eliminated at the federal level, carriers would again be required to offer the B&E Plan in accordance with New Jersey law.

The bill also repeals another statute, enacted prior to the 2002 law, which required the offering of a “basic health benefits plan” and makes some conforming amendments elsewhere in the statutes, to eliminate any confusion.

As amended and reported, Senate Bill No. 3808 is identical to Assembly Bill No. 5506 (2R), also reported by the committee.

#### COMMITTEE AMENDMENTS:

The committee amendments remove references to the small employer health benefits plan that were inadvertently included in the bill as introduced. The amendments also remove a reference to the basic health benefits plan from an existing section of law and make technical corrections to delete portions of the statutory law which have become obsolete.

These amendments make the bill identical to Assembly Bill No. 5506 (2R).

#### 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.”