

# 17B:27A-25

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2003                    **CHAPTER:** 163  
**NJSA:** 17B:27A-25    (Small employer health benefits—rating provisions)

**BILL NO:** A3318

**SPONSOR(S):** Cohen and Bateman

**DATE INTRODUCED:** February 10, 2003

**COMMITTEE:**            **ASSEMBLY:** Banking and Insurance

**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** March 13, 2003

**SENATE** June 23, 2003

**DATE OF APPROVAL:** August 22, 2003

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (2<sup>nd</sup> reprint enacted)  
(Amendments during passage denoted by superscript numbers)

[SPONSORS STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                                    [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**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:** No

P.L. 2003, CHAPTER 163, *approved August 22, 2003*  
Assembly, No. 3318 (*Second Reprint*)

1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending <sup>2</sup>and supplementing<sup>2</sup> P.L.1992, c.162.

3

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

6

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

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

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

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

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

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

34 (5) Any policy or contract issued after January 1, 1994 to a small  
35 employer who was not previously covered by a health benefits plan  
36 issued by the issuing small employer carrier, shall be subject to the  
37 same premium rate restrictions as provided in [paragraphs (1), (2)  
38 and] paragraph (3) of this subsection, which rate restrictions shall be  
39 effective on the date the policy or contract is issued.

**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 ABI committee amendments adopted March 10, 2003.

<sup>2</sup> Senate SCM committee amendments adopted May 15, 2003.

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

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

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

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

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

9 d. Notwithstanding any other provision of law to the contrary, this  
10 act shall apply to a carrier which provides a health benefits plan to one  
11 or more small employers through a policy issued to an association or  
12 trust of employers.

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

20 e. Nothing contained herein shall prohibit the use of premium rate  
21 structures to establish different premium rates for individuals and  
22 family units.

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

33 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
34 decrease premiums for any policy form or benefit rider offered  
35 pursuant to subsection i. of section 3 of P.L.1992, c.162  
36 (C.17B:27A-19) subject to this act may implement such increase or  
37 decrease upon making an informational filing with the commissioner  
38 of such increase or decrease, along with the actuarial assumptions and  
39 methods used by the carrier in establishing such increase or decrease,  
40 provided that the anticipated minimum loss ratio for all policy forms  
41 shall not be less than 75% of the premium therefor as provided in  
42 paragraph (2) of this subsection. Until December 31, 1996, the  
43 informational filing shall also include the carrier's rating plan and  
44 classification system in connection with such increase or decrease.

45 (2) Each calendar year, a carrier shall return, in the form of  
46 aggregate benefits for all of the five standard policy forms offered by

1 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
2 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
3 all of the standard policy forms, other than alliance policy forms, and  
4 at least 75% of the aggregate premiums collected for all of the  
5 non-standard policy forms [and at least 75% of the aggregate  
6 premiums collected for all of the alliance policy forms] during that  
7 calendar year. A carrier shall return at least 75% of the premiums  
8 collected for all of the <sup>2</sup>[alliance policy forms] alliances<sup>2</sup> during that  
9 calendar year, which loss ratio may be calculated in the aggregate for  
10 all of the <sup>2</sup>[alliance policy forms] alliances or separately for each  
11 alliance<sup>2</sup> <sup>1</sup>[or separately for each alliance policy form]<sup>1</sup>. Carriers shall  
12 annually report, no later than August 1st of each year, the loss ratio  
13 calculated pursuant to this section for all of the standard, other than  
14 alliance policy forms, non-standard policy forms and alliance policy  
15 forms for the previous calendar year, provided that a carrier may  
16 annually report the loss ratio calculated pursuant to this section for all  
17 of the <sup>2</sup>[alliance policy forms] alliances<sup>2</sup> in the aggregate <sup>2</sup>or  
18 separately for each alliance<sup>2</sup> <sup>1</sup>[or separately for each alliance policy  
19 form]<sup>1</sup>. In each case where the loss ratio fails to substantially comply  
20 with the 75% loss ratio requirement, the carrier shall issue a dividend  
21 or credit against future premiums for all policyholders with the  
22 standard, other than alliance policy forms, nonstandard policy forms  
23 or alliance policy forms, as applicable, in an amount sufficient to  
24 assure that the aggregate benefits paid in the previous calendar year  
25 plus the amount of the dividends and credits shall equal 75% of the  
26 aggregate premiums collected for the respective policy forms in the  
27 previous calendar year. All dividends and credits must be distributed  
28 by December 31 of the year following the calendar year in which the  
29 loss ratio requirements were not satisfied. The annual report required  
30 by this paragraph shall include a carrier's calculation of the dividends  
31 and credits applicable to standard, other than alliance policy forms,  
32 non-standard policy forms and alliance policy forms, as well as an  
33 explanation of the carrier's plan to issue dividends or credits. The  
34 instructions and format for calculating and reporting loss ratios and  
35 issuing dividends or credits shall be specified by the commissioner by  
36 regulation. Such regulations shall include provisions for the  
37 distribution of a dividend or credit in the event of cancellation or  
38 termination by a policyholder. For purposes of this paragraph,  
39 "alliance policy forms" means policies purchased by small employers  
40 who are members of Small Employer Purchasing Alliances.

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

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

1 i. The provisions of this act shall apply to health benefits plans  
2 which are delivered, issued for delivery, renewed or continued on or  
3 after January 1, 1994.

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

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

12 (cf: P.L.2001, c.225, s.9)

13

14 2. (New section) The Commissioner of Banking and Insurance  
15 shall promulgate rules and regulations pursuant to the "Administrative  
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to  
17 effectuate the provisions of this act.

18

19 3. This act shall take effect <sup>2</sup>[90] 30<sup>2</sup> days after enactment.

20

21

22

23

24 \_\_\_\_\_  
25 Clarifies certain rating provisions for small employer health benefits  
purchasing alliance policies.

# ASSEMBLY, No. 3318

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 10, 2003

**Sponsored by:**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**SYNOPSIS**

Clarifies certain rating provisions for small employer health benefits purchasing alliance policies.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/11/2003)**

1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending P.L.1992, c.162.

3

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

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

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

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

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

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

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

34 (5) Any policy or contract issued after January 1, 1994 to a small  
35 employer who was not previously covered by a health benefits plan  
36 issued by the issuing small employer carrier, shall be subject to the  
37 same premium rate restrictions as provided in [paragraphs (1), (2)  
38 and] paragraph (3) of this subsection, which rate restrictions shall be  
39 effective on the date the policy or contract is issued.

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

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

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

**Matter underlined thus is new matter.**

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

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

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

5 d. Notwithstanding any other provision of law to the contrary, this  
6 act shall apply to a carrier which provides a health benefits plan to one  
7 or more small employers through a policy issued to an association or  
8 trust of employers.

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

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

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

29 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
30 decrease premiums for any policy form or benefit rider offered  
31 pursuant to subsection i. of section 3 of P.L.1992, c.162  
32 (C.17B:27A-19) subject to this act may implement such increase or  
33 decrease upon making an informational filing with the commissioner  
34 of such increase or decrease, along with the actuarial assumptions and  
35 methods used by the carrier in establishing such increase or decrease,  
36 provided that the anticipated minimum loss ratio for all policy forms  
37 shall not be less than 75% of the premium therefor as provided in  
38 paragraph (2) of this subsection. Until December 31, 1996, the  
39 informational filing shall also include the carrier's rating plan and  
40 classification system in connection with such increase or decrease.

41 (2) Each calendar year, a carrier shall return, in the form of  
42 aggregate benefits for all of the five standard policy forms offered by  
43 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
44 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
45 all of the standard policy forms, other than alliance policy forms, and  
46 at least 75% of the aggregate premiums collected for all of the



1 non-standard policy forms [and at least 75% of the aggregate  
2 premiums collected for all of the alliance policy forms] during that  
3 calendar year. A carrier shall return at least 75% of the premiums  
4 collected for all of the alliance policy forms during that calendar year,  
5 which loss ratio may be calculated in the aggregate for all of the  
6 alliance policy forms or separately for each alliance policy form.  
7 Carriers shall annually report, no later than August 1st of each year,  
8 the loss ratio calculated pursuant to this section for all of the standard,  
9 other than alliance policy forms, non-standard policy forms and  
10 alliance policy forms for the previous calendar year, provided that a  
11 carrier may annually report the loss ratio calculated pursuant to this  
12 section for all of the alliance policy forms in the aggregate or  
13 separately for each alliance policy form. In each case where the loss  
14 ratio fails to substantially comply with the 75% loss ratio requirement,  
15 the carrier shall issue a dividend or credit against future premiums for  
16 all policyholders with the standard, other than alliance policy forms,  
17 nonstandard policy forms or alliance policy forms, as applicable, in an  
18 amount sufficient to assure that the aggregate benefits paid in the  
19 previous calendar year plus the amount of the dividends and credits  
20 shall equal 75% of the aggregate premiums collected for the respective  
21 policy forms in the previous calendar year. All dividends and credits  
22 must be distributed by December 31 of the year following the calendar  
23 year in which the loss ratio requirements were not satisfied. The  
24 annual report required by this paragraph shall include a carrier's  
25 calculation of the dividends and credits applicable to standard, other  
26 than alliance policy forms, non-standard policy forms and alliance  
27 policy forms, as well as an explanation of the carrier's plan to issue  
28 dividends or credits. The instructions and format for calculating and  
29 reporting loss ratios and issuing dividends or credits shall be specified  
30 by the commissioner by regulation. Such regulations shall include  
31 provisions for the distribution of a dividend or credit in the event of  
32 cancellation or termination by a policyholder. For purposes of this  
33 paragraph, "alliance policy forms" means policies purchased by small  
34 employers who are members of Small Employer Purchasing Alliances.

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

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

41 i. The provisions of this act shall apply to health benefits plans  
42 which are delivered, issued for delivery, renewed or continued on or  
43 after January 1, 1994.

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

45 k. A carrier who negotiates a reduced premium rate with a Small  
46 Employer Purchasing Alliance for members of that alliance shall

1 provide a reduction in the premium rate filed in accordance with  
2 paragraph (3) of subsection a. of this section, expressed as a  
3 percentage, which reduction shall be based on volume or other  
4 efficiencies or economies of scale and shall not be based on health  
5 status-related factors.

6 (cf: P.L.2001, c.225, s.9).

7

8 2. The Commissioner of Banking and Insurance shall promulgate  
9 rules and regulations pursuant to the "Administrative Procedure Act,"  
10 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the  
11 provisions of this act.

12

13 3. This act shall take effect 90 days after enactment.

14

15

16

#### STATEMENT

17

18 This bill clarifies the methods a health insurance carrier may use in  
19 (1) meeting the 2 to 1 rating band requirement and (2) calculating the  
20 75% loss ratio requirement for policies or contracts offered to a small  
21 employer (that is, an employer with two to 50 employees) who is a  
22 member of a Small Employer Purchasing Alliance.

23 Specifically, the bill provides that a carrier's Small Employer  
24 Purchasing Alliance policies or contracts shall be rated separately from  
25 other small employer health benefits policies or contracts offered by  
26 the carrier. In this manner, a carrier may separate its alliance business  
27 from its other small employer health benefits plan business for the  
28 purposes of meeting the requirement that the premium rate charged to  
29 the highest rated small employer group purchasing a health benefits  
30 plan from the carrier shall not be greater than 200% of the premium  
31 rate charged for the lowest rated small employer group purchasing that  
32 same health benefits plan.

33 In addition, the bill allows a carrier to determine, for the purposes  
34 of calculating the 75% loss ratio requirement for alliance policies or  
35 contracts, whether to calculate the loss ratio based upon the aggregate  
36 premiums collected for all of its alliance policy forms, or separately for  
37 each alliance policy form. Pursuant to the loss ratio requirement,  
38 carriers must pay out at least \$.75 in benefits for every \$1 dollar in  
39 premium collected. Carriers who do not meet this requirement must  
40 refund any difference as a dividend or credit to a contract or  
41 policyholder.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3318**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 10, 2003

The Assembly Banking and Insurance Committee reports favorably, and with committee amendments, Assembly Bill No. 3318.

This bill, as amended by the committee, clarifies the methods a health insurance carrier may use in (1) meeting the 2 to 1 rating band requirement and (2) calculating the 75% loss ratio requirement for policies or contracts offered to a small employer (that is, an employer with two to 50 employees) who is a member of a Small Employer Purchasing Alliance.

For the purposes of community rating, this bill provides that small employer health benefits policies or contracts offered by a health insurance carrier to employers who are members of a Small Employer Purchasing Alliance shall be rated separately from other non-alliance small employer health benefits policies or contracts offered by the carrier.

In addition, the bill provides that a carrier shall calculate the loss ratio based upon the aggregate premiums collected for all of its alliance policy forms, for the purposes of calculating the 75% loss ratio requirement for Small Employer Purchasing Alliance policies or contracts.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to delete language which would have allowed a carrier to calculate the 75% loss ratio requirement for Small Employer Purchasing Alliance policies or contracts separately for each alliance policy form.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 3318**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably, and with committee amendments, Assembly Bill No. 3318 (1R).

This bill, as amended by the committee, clarifies the methods a health insurance carrier may use in (1) meeting the 2 to 1 rating band requirement and (2) calculating the 75% loss ratio requirement for policies or contracts offered to a small employer (that is, an employer with two to 50 employees) who is a member of a Small Employer Purchasing Alliance.

For the purposes of community rating, this bill provides that small employer purchasing alliances shall be rated separately from other non-alliance small employer health benefits policies or contracts offered by the carrier.

In addition, the bill allows a carrier, for the purposes of calculating the 75% loss ratio requirement for small employer purchasing alliances, to calculate the loss ratio based upon the aggregate premiums collected for all of its alliances or for each alliance.

The committee amended the bill to clarify that, for the purposes of calculating the 75% loss ratio requirement, the carrier may use the aggregate of all of its alliances or of each alliance, rather than its alliance policy forms.