

CHAPTER 9

STATE HEALTH BENEFITS PROGRAM

Authority

N.J.S.A. 52:14-17.27.

Source and Effective Date

R.2003 d.437, effective October 9, 2003.
See: 35 N.J.R. 2587(a), 35 N.J.R. 5149(a).

Chapter Expiration Date

Chapter 9, State Health Benefits Program, expires on October 9, 2008.

Chapter Historical Note

All provisions of this chapter were adopted by the Commission, pursuant to authority delegated at N.J.S.A. 52:14-17.27 and became effective prior to September 1, 1969. Amendments became effective December 19, 1969 as R.1969 d.33. See: 1 N.J.R. 10(b), 2 N.J.R. 8(a).

1970 Revisions: Amendments became effective December 10, 1970 as R.1970 d.147. See: 2 N.J.R. 94(d), 3 N.J.R. 11(a).

1971 Revisions: Amendments became effective February 17, 1971 as R.1971 d.21. See: 3 N.J.R. 10(a), 3 N.J.R. 52(c). Further amendments became effective October 5, 1971 as R.1971 d.177. See: 3 N.J.R. 138(a), 3 N.J.R. 236(a).

1972 Revisions: Amendments became effective October 4, 1972 as R.1972 d.200. See: 4 N.J.R. 168(b), 4 N.J.R. 283(c).

1973 Revisions: Amendments became effective January 4, 1973 as R.1973 d.8. See: 4 N.J.R. 282(a), 5 N.J.R. 59(b). Further amendments became effective June 6, 1973 as R.1973 d.148. See: 5 N.J.R. 76(a), 5 N.J.R. 181(a). Further amendments became effective October 2, 1973 as R.1973 d.285. See: 5 N.J.R. 243(a), 5 N.J.R. 393(a).

1974 Revisions: Amendments became effective August 19, 1974 as R.1974 d.228. See: 6 N.J.R. 156(a), 6 N.J.R. 360(c).

1975 Revisions: Amendments became effective March 14, 1975 as R.1975 d.68. See: 7 N.J.R. 76(a), 7 N.J.R. 181(a). Further amendments became effective March 13, 1975 as R.1975 d.65. See: 6 N.J.R. 495(a), 7 N.J.R. 180(c). Further amendments became effective June 9, 1975 as R.1975 d.159. See: 7 N.J.R. 118(e), 7 N.J.R. 349(b).

1976 Revisions: Amendments became effective April 22, 1976 as R.1976 d.124. See: 8 N.J.R. 85(c), 8 N.J.R. 263(a). Further amendments became effective October 8, 1976 as R.1976 d.313. See: 8 N.J.R. 443(c), 8 N.J.R. 539(a).

Subchapter 8, Prescription Drug Program, was formerly codified at 17:1-10 and was adopted as R.1977 d.117, effective April 7, 1977. See: 9 N.J.R. 142(c), 9 N.J.R. 243(a).

Subchapter 9, Dental Expense Program, was formerly codified at N.J.A.C. 17:1-11 (Chapter 1) and adopted as R.1978 d.99, effective March 15, 1978. See: 10 N.J.R. 38(b), 10 N.J.R. 175(d).

1978 Revisions: Amendments became effective April 8, 1978 as R.1978 d.130. See: 9 N.J.R. 600(a), 10 N.J.R. 265(a). Further amendments became effective April 18, 1978 as R.1978 d.131. See: 10 N.J.R. 80(b), 10 N.J.R. 265(b). Further amendments became effective December 26, 1978 as R.1978 d.442. See: 10 N.J.R. 456(a), 11 N.J.R. 105(b).

1979 Revisions: Amendments became effective April 23, 1979 as R.1979 d.159. See: 11 N.J.R. 94(d), 11 N.J.R. 304(c). Further amendments became effective July 3, 1979 as R.1979 d.261. See: 11 N.J.R. 208(b), 11 N.J.R. 415(a). Further amendments became effective October 4, 1979 as R.1979 d.396. See: 11 N.J.R. 303(d), 11 N.J.R. 595(c).

1980 Revisions: Amendments became effective July 1, 1980 as R.1980 d.300. See: 12 N.J.R. 216(b), 12 N.J.R. 497(b).

1981 Revisions: Amendments became effective June 4, 1981 as R.1981 d.138. See: 13 N.J.R. 110(b), 13 N.J.R. 376(b).

1982 Revisions: Amendments became effective October 18, 1982 as R.1982 d.341. See: 14 N.J.R. 36(a), 14 N.J.R. 1165(a).

1983 Revisions: Amendments became effective March 7, 1983 as R.1983 d.44. See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b). Further amendments became effective May 2, 1983 as R.1983 d.129. See: 15 N.J.R. 81(b), 15 N.J.R. 697(b). This chapter was readopted pursuant to Executive Order 66(1978) effective May 16, 1983 as R.1983 d.177. See: 15 N.J.R. 529(a), 15 N.J.R. 930(e). Further amendments became effective August 15, 1983 as R.1983 d.332. See: 15 N.J.R. 793(a), 15 N.J.R. 1383(d).

1984 Revisions: Amendments became effective December 17, 1984 as R.1984 d.560. See: 16 N.J.R. 2422(b), 16 N.J.R. 3479(b).

1985 Revisions: Amendments became effective February 4, 1985 as R.1985 d.18. See: 16 N.J.R. 2422(a), 17 N.J.R. 320(b). Further amendments became effective April 1, 1985 as R.1985 d.165. See: 16 N.J.R. 3192(b), 17 N.J.R. 841(a). Further amendments became effective November 18, 1985 as R.1985 d.587. See: 17 N.J.R. 1399(a), 17 N.J.R. 2784(b).

1986 Revisions: Amendments became effective January 21, 1986 as R.1985 d.676. See: 17 N.J.R. 2386(a), 18 N.J.R. 2135(c). Further amendments became effective February 18, 1986 as R.1986 d.28. See: 17 N.J.R. 2868(a), 18 N.J.R. 427(b). Further amendments became effective October 20, 1986 as R.1986 d.423. See: 18 N.J.R. 1451(b), 18 N.J.R. 2135(c).

1987 Revisions: Amendments became effective December 7, 1987 as R.1987 d.497. See: 19 N.J.R. 1636(b), 19 N.J.R. 2303(b).

1988 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 9 expired on June 6, 1988, and subsequently was adopted as new rules by R.1988 d.461, effective October 3, 1988. See: 20 N.J.R. 1536(a), 20 N.J.R. 2466(d). Amendments became effective October 3, 1988 d.469. See: 20 N.J.R. 1536(b), 20 N.J.R. 2466(e). Further amendments became effective October 3, 1988 as R.1988 d.471. See: 20 N.J.R. 1537(a), 20 N.J.R. 2467(a). Further amendments became effective October 17, 1988 as R.1988 d.442. See: 20 N.J.R. 741(a), 20 N.J.R. 2590(b). Further amendments became effective October 3, 1988 as R.1988 d.470. See: 20 N.J.R. 1182(a), 20 N.J.R. 2467(b).

1989 Revisions: Added new rule 1.8 effective March 6, 1989 as R.1989 d.126. See: 20 N.J.R. 2863(a), 21 N.J.R. 638(c).

Subchapter 9, Dental Expense Programs, was recodified by R.1993 d.268, effective August 2, 1993. See: 25 N.J.R. 675(b), 25 N.J.R. 3506(b).

Pursuant to Executive Order No. 66(1978), Chapter 9, State Health Benefits Program, was readopted as R.1993 d.463, effective August 23, 1993. See: 25 N.J.R. 2651(b), 25 N.J.R. 4508(b).

Pursuant to Executive Order No. 66(1978), Chapter 9, State Health Benefits Program, was readopted as R.1998 d.406, effective July 13, 1998. See: 30 N.J.R. 1919(a), 30 N.J.R. 2953(a).

Chapter 9, State Health Benefits Program, was readopted as R.2003 d.437, effective October 9, 2003. See: Source and Effective Date. See, also, section annotations.

Subchapter 13, Chapter 375 Dependents, was adopted as new rules by R.2008 d.99, effective April 21, 2008. See: 39 N.J.R. 1645(a), 40 N.J.R. 2130(a).

Law Review and Journal Commentaries

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As amended, R.1973 d.8, eff. January 4, 1973.

See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

Amended by R.2003 d.437, effective November 3, 2003.

See: 35 N.J.R. 2587(a), 35 N.J.R. 5149(a).

Substituted "may" for "should" in the first sentence and added a second sentence.

Case Notes

Under statute requiring the minimum level of coverage for health benefits for local government employees to be substantially equivalent to the level available to State employees, Health Benefits Commission held able to increase health benefits available to participating local government employees when benefits available to State employees were increased as a result of negotiated agreement between the State and its employees. *New Jersey School Boards Ass'n v. Ewing Tp. Bd. of Educ.*, Mercer Cty., 183 N.J.Super. 215, 443 A.2d 761 (App.Div.1982).

Petitioner not entitled to refund of premiums paid during period of time he was ineligible for SHBP coverage. *Izzo v. State Health Benefits Commission*, 94 N.J.A.R.2d (TYP) 219.

17:9-5.2 Charges; interest charges

(a) By adoption of the appropriate resolution, the employer may request a premium delay of 30 or 60 days after the customary due date for such charges. If the employer terminates participation, any amounts outstanding must be paid with the final billing.

(b) For the purpose of local coverage, in the Traditional Plan, the employer must remit to the Division of Pensions and Benefits charges covering a one-month period by the due date printed on the bill.

(c) If the transmittal report and full payment of health benefits charges are not received within 15 days of the due date, as cited on the monthly transmittal mailed from the Division of Pensions and Benefits, interest at the rate of one percent per annum above the average annualized daily rate of return on the State Cash Management Fund as published by the Division of Investment for the most recent fiscal year shall be applied to the total transmittal of health benefits charges from the 16th day until the payment is received. The interest penalty will also be applied if payment is received by the Health Benefits Bureau without the transmittal report for proper distribution.

As amended, R.1978 d.442, eff. December 26, 1978.

See: 10 N.J.R. 456(a), 11 N.J.R. 105(b).

As amended, R.1983 d.44, eff. March 7, 1983.

See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word "premiums" was changed to "charges".

Amended by R.1986 d.28, effective February 18, 1986.

See: 17 N.J.R. 2868(a), 18 N.J.R. 427(b).

(b) added.

Recodified from N.J.A.C. 17:9-5.3 and amended by R.2003 d.437, effective November 3, 2003.

See: 35 N.J.R. 2587(a), 35 N.J.R. 5149(a).

Added a new (a), recodified former (a) and (b) as (b) and (c) with amend to new (b). Former N.J.A.C. 17:9-5.2, Waiting period, was repealed.

17:9-5.3 Local employer payment of dependent charges

(a) The statute requires the employer to pay the employee's cost of the coverage and may pay any portion of the cost for the dependent coverage.

(b) Any employer who elects to pay any portion of the cost for dependent coverage shall pay the same proportion of the cost of such dependent coverage for all employees covered in the program.

(c) However, when a local employer submits a resolution provided by the State Health Benefit Commission to change the amount paid toward the cost of dependent coverage, all employees must be resolicited with respect to coverage for themselves and their dependents.

(d) The employer shall give all employees an opportunity for completing, and forwarding a new enrollment form within 60 days following the employer's assumption of the dependent premium charges.

(e) Any employee who fails to complete and forward the required form within the time limits which have been prescribed, may effect such change of enrollment only during the annual enrollment period.

As amended, R.1973 d.8, eff. January 4, 1973.

See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

As amended, R.1974 d.229, eff. August 19, 1974.

See: 6 N.J.R. 123(b), 6 N.J.R. 360(d).

Recodified from N.J.A.C. 17:9-5.4 and amended by R.2003 d.437, effective November 3, 2003.

See: 35 N.J.R. 2587(a), 35 N.J.R. 5149(a).

Rewrote (b) and (c) and deleted the gender reference in (d). Former N.J.A.C. 17:9-5.3, Advance charges; interest charges, recodified to N.J.A.C. 17:9-5.2.

17:9-5.4 Local employer resolution; P.L. 1974, c.88; P.L. 1979, c.54; P.L. 1999, c.48

(a) A local employer will satisfy the requirements of P.L. 1974, c.88, by adopting a resolution designed to:

1. Apply to all eligible present and future pensioners of the employer and their dependents;
2. Continue as long as the employer participates in the program;
3. Provide for local employer reimbursement of Federal Medicare charges for eligible pensioners and/or their spouses, as well as the payment of health insurance charges required by the program, on a basis comparable to the reimbursement made by the State to its eligible pensioners and their spouses in accordance with the provisions of P.L. 1972, c.75 (see N.J.A.C. 17:9-5.5);
4. Require the local employer to pay the full cost of Traditional, NJ PLUS, or HMO coverage;
5. Provide for an effective date not earlier than the first day of the month at least 90 days following receipt of the local employer's resolution on forms approved by the Division.

(b) A local employer may also adopt an additional resolution designed to apply to all eligible pensioners and their dependents who retired on or after July 1, 1964, in accordance with the provisions of P.L. 1979, c.54. Such resolution shall meet the prescriptions of subsection (a) of this section.

(c) Under the provisions of P.L. 1981, c.436, as amended, an educational or local employer may also adopt an additional resolution designed to apply the provision of Chapter 88 to surviving spouses of qualified retirees.

(d) Under the provisions of P.L. 1981, c.436, as amended, an educational or local employer may also adopt an additional resolution designed to apply the provision of Chapter 88 to those former employees who retired since the employer adopted the provisions of the State Health Benefits Program but who did not continue coverage because of the cost to the member.

(e) Under the provisions of P.L. 1999, c.48 (N.J.S.A. 52:14-17.38), a participating local employer, excluding employers deemed to be covered by N.J.S.A. 52:14-17.28b or employees of school boards covered by N.J.S.A. 52:14-17.32f, 17.32f1 and 17.32f2 may by resolution adopt any of the age and service requirements found in N.J.S.A. 52:14-17.38 in determining eligibility to qualify for employer-paid post-retirement medical benefits. A participating local employer may also negotiate payment obligations with their employees for post-retirement medical benefits. The payment obligations of the participating local employer shall be the payment obligations applicable to the employee on the date the employee retires on a disability pension or the date the employee meets the service credit and service requirements for the employer payment of coverage as established by the resolution adopting the provisions of P.L. 1999, c.48.

As amended, R.1971 d.177, eff. October 5, 1971.

See: 3 N.J.R. 138(a), 3 N.J.R. 236(a).

As amended, R.1973 d.285, eff. October 2, 1973.

See: 5 N.J.R. 243(a), 5 N.J.R. 393(a).

As amended, R.1975 d.65, eff. March 13, 1975.

See: 6 N.J.R. 495(a), 7 N.J.R. 180(c).

As amended, R.1979 d.396, eff. October 4, 1979.

See: 11 N.J.R. 303(d), 11 N.J.R. 595(c).

As amended, R.1983 d.44, eff. March 7, 1983.

See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word "premiums" was changed to "charges".

Recodified from N.J.A.C. 17:9-5.5 and amended by R.2003 d.437, effective November 3, 2003.

See: 35 N.J.R. 2587(a), 35 N.J.R. 5149(a).

Rewrote the section. Former N.J.A.C. 17:9-5.4, "Local employer payment of dependent charges", recodified to N.J.A.C. 17:9-5.3.

Case Notes

Statute calls for uniformity in coverage to all eligible employees with respect to contracts made on prospective basis. *Weiner v. County of Essex*, 262 N.J.Super. 270, 620 A.2d 1071 (L.1992).

County, which was successor to county welfare board, was collaterally estopped from asserting defenses that it did not specifically assume obligation to pay postretirement medical benefits. *Weiner v. County of Essex*, 262 N.J.Super. 270, 620 A.2d 1071 (L.1992).

Requirement of paragraph (a)1 held valid as reasonable and necessary for the administration of the Health Benefits Program Act; denial of implementation of negotiated health benefits plan by Commission upheld due to discrimination between eligible employees. *New Jersey Policemen's Benevolent Ass'n Local # 42 v. New Jersey State Health Benefits Commission*, 153 N.J.Super. 152, 379 A.2d 285 (App.Div. 1977).

17:9-5.5 Medicare refunds

(a) Where the State, directly or indirectly, reimburses the retiree for the Medicare Part B charges:

1. The amount of the reimbursements made for Medicare Part B shall be determined by law or, through a collective bargaining agreement or contract, but in no case shall it exceed the standard monthly cost of Medicare Part B.

2. As Medicare Part B premium reimbursements are dependent upon sufficient annual appropriations from the legislature, eligible reimbursements regarding Medicare Part B premiums will include only those premiums that have been paid for the period up to 12 months immediately preceding receipt of proof of Medicare and not those paid prior to the 12 months immediately preceding receipt of proof of full Medicare entitlement.

3. Wherever possible, the reimbursement will be added directly to the retirement allowance.

4. Where the reimbursement cannot be added to the retirement allowance, a separate check for the reimbursement will be mailed to the retiree. All reimbursements made for Medicare Part B shall be made payable to the retiree.

(b) Where authorized by law, a participating local employer paying for the cost of coverage for enrollment in a SHBP Plan for a retiree may reimburse the retiree for all or part of the cost of Part B of the Federal Medicare program for the retiree and enrolled spouse or eligible domestic partner, as appropriate. The participating local employer is responsible for the payment of such reimbursements.

(c) All reimbursements made pursuant to part (b) above shall be made payable to the retiree constituting the most timely payment for Medicare Part B coverage. The amount of the reimbursement shall be determined by law or, through a collective bargaining agreement or contract, but in no case shall it exceed the standard monthly cost of Medicare Part B. The reimbursement shall be made as frequently as determined by the participating local employer, but not less frequently than annually. As with the State, local employers are limited by budget allocations; therefore, retroactive refunds are limited to one year.

(d) In no event shall duplicate reimbursements be made to any retiree for the retiree or the retiree's spouse or eligible domestic partner. If the spouse or eligible domestic partner of a retiree receives reimbursement for Medicare Part B by the State in their retirement allowances, then the spouse or domestic partner shall only be eligible for the Medicare Part B reimbursement based upon their employment and not the retiree's employment. Spouses or domestic partners reimbursed directly by their employer and not through the State must submit proof that they have waived that other Medicare Part B reimbursement in order to be reimbursed as a spouse or domestic partner of the retiree. In addition, the retiree is not eligible to receive reimbursement for the difference between the amounts reimbursed to a spouse or domestic partner from other Medicare Part B reimbursement and the amounts reimbursed to the retiree under the SHBP.