

CHAPTER 9

STATE HEALTH BENEFITS PROGRAM

Authority

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

Source and Effective Date

R.1998 d.406, effective July 13, 1998.
See: 30 N.J.R. 1919(a), 30 N.J.R. 2953(c).

Executive Order No. 66(1978) Expiration Date

Chapter 9, State Health Benefits Program, expires on July 13, 2003.

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).

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).

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: Source and Effective Date.

Law Review and Journal Commentaries

State Health Benefits Program. Judith Nallin, 134 N.J.L.J. No. 3, 61 (1993).

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SUBCHAPTER 1. ADMINISTRATION**17:9-1.1 Commission meetings**

(a) The Commission shall meet, as necessary, at the call of the chairman or the secretary.

(b) Any two members of the Commission shall constitute a quorum for the purpose of conducting the business of the Commission.

(c) If a member is unable to attend a meeting, he shall designate a person to represent him as his alternate. The person so designated shall be permitted to vote on business brought before the Commission.

17:9-1.2 Records

(a) The minutes of the Commission meetings are public records and may be inspected during regular business hours at the office of the Division of Pensions under supervision of the Chief of the Health Benefits Bureau or other representatives of the office.

(b) Records considered confidential include all matters related to the coverage of individual participants and their families, mailing addresses of active and retired participants and individual files related to major medical claims where no official purpose or reason for inspection is indicated.

Case Notes

Board of education had sufficiently strong interest in obtaining information regarding health insurance claims paid for each employer participating in health care plan to permit it to gain access to information regarding its claims history under common-law right to inspect public records. Board of Educ. of Newark v. New Jersey Dept. of Treasury, Div. of Pensions, 145 N.J. 269, 678 A.2d 660 (1996).

“State bi-weekly sub-group” means a State payroll location or employment unit which reports to the program on a bi-weekly basis.

“State monthly sub-group” means a State payroll location or employment unit which reports to the program on a monthly basis.

New Rule, R.1996 d.298, effective June 17, 1996.
See: 28 N.J.R. 1944(a), 28 N.J.R. 3171(a).

SUBCHAPTER 2. COVERAGE

17:9-2.1 Enrollment charges

Each eligible employee shall be eligible to enroll for coverage without cost to the employee; and each employee's eligible dependents shall be eligible for enrollment for coverage provided that the additional charges for such coverage shall be paid by the employee as required by his or her employer.

As amended, R.1983 d.44, effective March 7, 1983.
See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word “premiums” was changed to “charges” and “his” to “his or her”.

17:9-2.2 Enrollment form

At the time each employee first becomes eligible for coverage, the employee shall complete enrollment and authorization forms indicating the employee's election to enroll or not to enroll for coverage on his or her own behalf; and the employee's election to enroll or not to enroll his or her dependents for coverage under one of the options to be provided in the commission's master contract or contracts.

As amended, R.1983 d.44, effective March 7, 1983.
See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

Added reference to female employees.

17:9-2.3 Annual enrollment period

(a) Any employee who shall elect not to enroll for coverage for himself or herself or for his or her dependent at the time such employee or dependent first becomes eligible for coverage shall subsequently be permitted to enroll himself or herself and his or her dependents only during the annual enrollment period, which is the month of April of each year with coverage effective for the first coverage period in July in the case of State coverage and the month of March with coverage effective July 1 in the case of local coverage.

(b) The annual enrollment period will be the annual opportunity for employees to elect participation in a health maintenance organization for themselves and their dependents. The change in the election cannot be made more frequently than once a year except where the employee moves and is no longer able to be serviced by a health

maintenance organization or the health maintenance organization is terminated.

(c) The State Health Benefits Commission may, at its discretion in order to optimize benefits, establish a special enrollment period at any time it deems necessary to do so.

Amended by R.1974 d.228, effective August 19, 1974.
See: 6 N.J.R. 156(a), 6 N.J.R. 360(c).
Amended by R.1976 d.124, effective April 22, 1976.
See: 8 N.J.R. 85(c), 8 N.J.R. 263(a).
Amended by R.1978 d.131, effective April 18, 1978.
See: 10 N.J.R. 80(b), 10 N.J.R. 265(b).
Amended by R.1978 d.442, effective December 26, 1978.
See: 10 N.J.R. 456(a), 11 N.J.R. 105(b).
Amended by R.1983 d.44, effective March 7, 1983.
See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word “his” was changed to “his or her”.
Amended by R.1985 d.18, effective February 4, 1985.
See: 16 N.J.R. 2422(a), 17 N.J.R. 320(b).

(c) added.
Amended by R.1993 d.259, effective June 7, 1993.
See: 25 N.J.R. 4025(a), 25 N.J.R. 2506(a).

17:9-2.4 Coverage changes; exceptions

(a) An employee may change his or her enrollment and the enrollment of his or her dependents to any type of coverage at any time if such changes result from a change in family, dependency or employment status of the employee or his or her dependents. Such changes will be permitted under the following conditions:

1. *Marriage.* Any employee who has been enrolled for coverage and who subsequently marries may enroll the spouse and eligible dependents, if any, for any appropriate type of coverage by completing and forwarding a new enrollment form within the period beginning 60 days prior to the marriage and ending 60 days after such marriage. In the event that the spouse of such employee is already enrolled as an employee, the provisions of N.J.A.C. 17:9-3.9 shall apply to such spouse's enrollment.

2. *Divorce; separation.* Any employee who has been enrolled or has been covered as a dependent of an enrolled employee and is subsequently divorced may enroll, delete from coverage or cover any eligible dependents by completing and forwarding a new enrollment form within 60 calendar days after the divorce of such employee or dependent of an employee who was covered previously under the spouse's contract. A change of enrollment of this nature is optional in the case of separation.

3. *Death of spouse or dependent child.* Any employee, who is enrolled as the dependent of another employee who dies, may thereupon enroll as an employee, and may enroll any eligible dependents, for any appropriate coverage by completing and forwarding a new enrollment form within 60 days following the death. Any employee may, upon the death of a spouse or dependent child who is enrolled as a dependent, enroll himself or herself and any other eligible dependents for any appropriate coverage by completing and forwarding a new enrollment form.

4. *Return from military leave.* Any employee, upon return from any period of military leave without pay, may enroll himself or herself and any eligible dependents for any appropriate coverage by completing and forwarding an enrollment form within 60 days after the date of his or her return to active full-time employment. In the event a dependent of an employee is discharged from military service, the employee may enroll such dependent for any appropriate coverage within the time specified above.

5. *No minor children.* Any employee who shall have enrolled one or more dependent children as dependents may enroll for any coverage at the time the last such dependent child reaches age 23 or marries prior to that time by completing and forwarding a new enrollment form.

6. *A spouse ceases to be an employee.* If two spouses, both of whom are also employees, are enrolled for any coverage and one of them ceases to be an employee or becomes ineligible for coverage as an employee, the other spouse may enroll for any appropriate coverage and may enroll all eligible dependents for that coverage by completing and forwarding a new enrollment form within 60 days after the change of status occurs.

7. *Adoption or guardian of dependent children.* When an employee with single coverage or husband and wife coverage adopts children, becomes legal guardian of children, assumes direct support of children, he or she may enroll such eligible dependents for any appropriate type of coverage by completing and forwarding a new enrollment form within the period beginning 60 days prior to and ending 60 days after completion of legal action involving the adoption or guardianship. Such application must be accompanied by legal papers stipulating the relationship.

8. *Retirement or COBRA enrollment.* When an employee enrolls in the retiree or COBRA group, he or she may, within 60 days of the qualifying event, select a plan other than the plan which covered the employee as an active employee.

9. *Upon return to employment from an approved leave of absence.* The employee may elect to change coverage to add any eligible dependent(s) who had been removed from this group coverage while the employee was on such leave.

(b) An employee may change his or her enrollment and the enrollment of his eligible dependents to any type of coverage under conditions other than those specified in subsection (a) of this Section, only during the annual enrollment period.

(c) An employee who wishes to change his or her enrollment and the enrollment of his or her eligible dependents for any of the reasons included in (a) above but who has failed to complete and forward the required enrollment form within the time limits which have been prescribed, may

effect such change of enrollment only during the annual enrollment period. For provisions governing coverages and charges for 10-month employees, see N.J.A.C. 17:9-5.11(c).

Amended by R.1973 d.8, effective Jan. 4, 1973.

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

Amended by R.1989 d.335, effective July 3, 1989.

See: 21 N.J.R. 886(a), 21 N.J.R. 1836(a).

Reference to N.J.A.C. 17:9-45.11(c) added and technical changes made.

Amended by R.1993 d.249, effective June 7, 1993.

See: 25 N.J.R. 4025(c), 25 N.J.R. 2506(b).

Amended by R.1993 d.349, effective July 6, 1993.

See: 25 N.J.R. 1671(b), 25 N.J.R. 2899(a).

17:9-2.5 Employee coverage requirements

(a) For each employee who shall elect to be covered for himself or herself, coverage shall become effective only after all of the following conditions have been satisfied:

1. The master contract or contracts are effective;
2. In the case of local coverage, the employer's participation has been approved by the Commission;
3. The employee satisfies the definition of "employee", is eligible for coverage; and
4. An enrollment form has been legibly completed by the employee and registered by the State Centralized Payroll Section or the certifying agent of the local employer with the Health Benefits Bureau of the Division of Pensions within the prescribed time limits.

Amended by R.1973 d.8, effective Jan. 4, 1973.

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

Case Notes

Leave of absence due to illness not qualifying event entitling employee to COBRA notification of continuation of benefits rights. *Kilcoyne v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 200.

17:9-2.6 Effective date; State employees and dependents

For State employees and their dependents for whom an enrollment application has been filed with the Division of Pensions, coverage is effective on the first day of the fifth payroll period of employment for a sub-group which reports on a bi-weekly basis, or the first day following the completion of two months of continuous service for a sub-group which reports on a monthly basis. If employee deductions are required for HMO coverage, deductions begin on the first day of the third payroll period of employment for bi-weekly sub-groups and approximately one month prior to the effective date of coverage for monthly sub-groups.

As amended, R.1973 d.8, effective Jan. 4, 1973.

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

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

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

The word "premium" was changed to "charge".

Repeal and New Rule by R.1989 d.469, effective September 5, 1989.

See: 21 N.J.R. 1503(a), 21 N.J.R. 2807(a).

All State employees and dependents participating in the State Health Benefits Program allowed to obtain coverage within a two-month period.

17:9-2.7 Effective date; local employees and dependents

For local employees and their dependents for whom an enrollment application has been filed with the Division of Pensions, coverage is effective on the first day following the completion of two months of continuous service. If employee deductions are required for HMO or dependent coverage, deductions begin approximately one month prior to the effective date of coverage.

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

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

The word "premium" was changed to "charge".
Repeal and New Rule by R.1989 d.469, effective September 5, 1989.
See: 21 N.J.R. 1503(a), 21 N.J.R. 2807(a).

All local employees and dependents participating in the State Health Benefits Program allowed to obtain coverage within a two-month period.

17:9-2.8 Effective date; ineligible employees and dependents

(a) An employee who, at the time of his or her coverage would otherwise become effective, is not actively at work on a full-time basis at his or her customary place of employment or other location to which his or her employment requires him or her to travel, shall not be covered until he or she is so actively at work. Such employee shall be eligible for coverage immediately upon his or her return to active full-time work.

(b) The major medical coverage for a dependent (except a newborn child), who, at the time of his or her coverage would otherwise become effective, is confined in a medical facility primarily for medical care or treatment on the date the major medical coverage would otherwise become effective with respect to that dependent, will be deferred until his or her final medical release from all such confinement.

(c) Employees and dependents who cannot meet the requirements established by this rule, but who were covered under a major medical insurance plan of their public employer just prior to the employer's participation in the State program, shall be permitted to enroll.

As amended, R.1984 d.560, eff. December 17, 1984.

See: 16 N.J.R. 2422(b), 16 N.J.R. 3479(b).

Section substantially amended.

Cross References

Major medical benefits coverage, ineligible dependents, see N.J.A.C. 17:9-3.7.

17:9-2.9 Transfers

(a) In order to provide mobility to employees of participating employers, as well as of the State, employees who transfer from one State payroll to another, or from one participating employer to another, or from the State to a participating employer, or from a participating employer to the State, may continue coverage under the program as long as they enter the service of the new employer in a period for which contributions have already been made; however, if coverage has been terminated, the employee will again have to satisfy the two-month, continuous-employment waiting period and the actively-at-work requirement in order to obtain the coverage again.

(b) For employees who will have the option of traditional coverage or electing HMO participation upon a transfer, as described in subsection (a) of this section, a 30-day period will be available for the selection of coverage during which period their former coverage will be continued.

As amended, R.1976 d.124, effective April 22, 1976.

See: 8 N.J.R. 85(c), 8 N.J.R. 263(a).

Case Notes

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

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

17:9-2.10 HMO; elections

(a) Employees who locate in an area serviced by a participating HMO will have a 30-day period for the selection of coverage during which period their former coverage will be continued. The status of employees who have no HMO election to make will be the same as the described for employees who transfer. (See N.J.A.C. 17:9-2.9(a).)

(b) Employees who are participating in an eligible HMO but who move out of the area serviced by that HMO will have a 30-day period to select one of the following options:

1. Continue participation in the former HMO; or
2. Transfer participation to an eligible HMO in the new area, if such is available in the new area; or
3. Transfer coverage into the traditional program.

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.1976 d.124, eff. April 22, 1976.

See: 8 N.J.R. 85(c), 8 N.J.R. 263(a).

As amended, R.1983 d.129, eff. May 2, 1983.

See: 15 N.J.R. 81(b), 15 N.J.R. 697(b).

Subsection (b) added.

17:9-2.11 Coverage for survivors

(a) For purposes of the continuity of coverage in the event of accidental or ordinary death where the survivors are eligible for periodic pension benefits for life, or until a dependent child is no longer eligible for such benefits, coverage may be extended until such time as the application for such death benefits is formally approved by the board of trustees of the retirement system paying the benefit, or by the carrier underwriting the individual annuity contracts. If it is not necessary for a board of trustees to approve the application, then the application for such benefits will be considered approved when the necessary action has been taken by the Division of Pensions, the local retirement system, or the carrier.