

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.1986 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.

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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).

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(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).

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.

(b) The eligible survivor of the deceased employee must submit personal payments to the health benefits program in order to continue coverage.

(c) Should coverage lapse through no fault of the survivor, who would be eligible to continue such coverage, retroactive coverage may be granted up to a period of three months, provided the payment of charges is made.

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.1979 d.159, eff. April 23, 1979.

See: 11 N.J.R. 94(d), 11 N.J.R. 304(c).

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

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

Reference to premiums changed to charges.

17:9-2.12 Major Medical; eligible charges at enrollment (local employees)

(a) For purposes of local coverage, all eligible charges incurred by an eligible employee or his or her covered dependents, from January 1 of a calendar year to the effective date of coverage for his or her participating employer, will be considered to satisfy the deductibles and copayments required under the Major Medical coverage. The above provision is contingent upon the eligible employee being actively at work on the effective date of coverage and his or her dependents not be deferred as stated under N.J.A.C. 17:9-2.8(b).

(b) The charges considered are to be eligible charges under the Major Medical contract and no charges will be considered that would have been paid by the basic plan, had the employee had such coverage. No charges will be used to satisfy the deductibles and copayments for which the employee has been reimbursed by any source where any employer participated under another contract.

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

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

Deleted "being able to satisfy the normal activities test required by the contract". Inserted "not be deferred . . . N.J.A.C. 17:9-2.8(b)".

Amended by R.1988 d.469, eff. October 3, 1988.

See: 20 N.J.R. 1526(b), 20 N.J.R. 2466(e).

Added "deductibles and copayments".

17:9-2.13 Major Medical; extension of coverage charges

(a) For purposes of the payment of claims under the Major Medical contract, if immediately prior to his or her entry into the eligible classes an employee or dependent was covered under the extension of coverage provisions of the Major Medical contract, such coverage will be effective immediately but solely with respect to charges incurred in connection with the illness for which such person was covered under said extension if the following conditions are satisfied:

1. The charges would have been considered eligible charges had the extension not terminated;
2. The coverage under the extension would have not otherwise terminated.

(b) Full coverage subject to the regular rules shall begin on the payroll corresponding to the payroll on which deductions are resumed.

17:9-2.14 Effective date; maternity benefits

Effective January 1, 1973, maternity and obstetrical benefits are extended to employees and dependent wives with single, husband and wife, and parent and child coverage.

R.1973 d.148, eff. June 6, 1973.

See: 5 N.J.R. 168(a), 5 N.J.R. 247(b).

17:9-2.15 Major Medical; separate plans

If the State or local employer adopts separate plans for all employees or for some portion of covered employees for prescription drug reimbursement, vision care, or other health care benefits, largely duplicating or minimizing the benefits provided under the Major Medical program, such services or benefits for the participants of such separate plans will no longer be considered eligible for reimbursement under the Major Medical program to the extent benefits are provided under such plans.

R.1975 d.68, eff. March 14, 1975.

See: 7 N.J.R. 76(a), 7 N.J.R. 181(a).

As amended, R.1980 d.300, eff. July 1, 1980.

See: 12 N.J.R. 216(b), 12 N.J.R. 497(b).

17:9-2.16 Policy provisions adoption

The State Health Benefits Commission adopts by reference all of the policy provisions contained in the contracts between the carriers, the health maintenance organizations and the State Health Benefits Commission as well as any subsequent amendments thereto, to the exclusion of all other possible coverages.

R.1981 d.138, effective June 4, 1981.

See: 13 N.J.R. 110(b), 13 N.J.R. 376(b).

OAL Note: The contract provisions incorporated by reference in this rule have been filed with Administrative Publications and Filings, Office of Administrative Law, as part of the official text of this rule, but are not reproduced herein.

Case Notes

Health Benefits Commission was without statutory authority to exclude from coverage of mentally ill persons while providing coverage for mental retardation or physical disability. *G.B. v. State Health Benefits Com'n*, 222 N.J.Super. 83, 535 A.2d 1010 (A.D.1988).

Denial of fees for above average charges for medical procedures required to treat severely injured thumb upheld when determination of such fees were found proper. *Rosengren v. State Health Benefits Commission*, 97 N.J.A.R.2d (TYP) 9.

Claims for health benefits were ordered credited where procedures used to treat insured's diagnosed neck and facial pain were found to be commonly and customarily recognized as appropriate treatment. *Urban v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 255.

Denial of coverage for eyelid surgery as cosmetic was reasonable where there was no evidence that surgery was performed to correct vision obstruction. *Weber v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 167.

Reimbursement for installation of vehicle hand controls was properly denied where applicant failed to show medical necessity. *Shanberg v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 92.

Elderly stroke victim was not entitled to reimbursement for private duty nursing care without competent medical testimony showing medical necessity. *Miller v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 78.

Insured not entitled to reimbursement for continuing physical therapy costs. *Ritscher v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 55.

Reimbursement for surgical fees over customary charge properly denied where methodology for determining customary fees not unreasonable. *Seymour v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 33.

State health benefits provider may determine customary fee based on complexity of surgical procedure and local economic and geographic considerations. *Montag v. State Health Benefits Commission*, 96 N.J.A.R.2d (TYP) 23.

Private-duty nursing care and expenses denied; regular-duty nurses could have provided same services. *Blumenthal v. The State Health Benefits Commission*, 95 N.J.A.R.2d (TYP) 16.

Private duty nursing services following hip surgery were not a reimbursable medical necessity. *Heifetz v. Benefits Commission*, 93 N.J.A.R.2d (TYP) 313.

Portion of nursing costs due to preparation of insulin injections for employee's diabetes was reimbursable. *Gettis v. Benefits Commission*, 93 N.J.A.R.2d (TYP) 311.

Replacement of fixed bridge unit was excluded from coverage under state dental plan. *Bruno v. Benefits Commission*, 93 N.J.A.R.2d (TYP) 295.

Rental of passive motion machine to rehabilitate knee fracture was not reimbursable. *O'Brien v. Benefits Commission*, 93 N.J.A.R.2d (TYP) 263.

Private duty nursing services not medically necessary after gallbladder surgery. *Naddeo v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 198.

Medicine used for multiple sclerosis not covered by state health plan where no medical evidence supported reasonable and necessary treatment claim. *Marashlian v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 197.

Tooth implant was prosthodontic procedure or device specifically excluded from coverage under public employee's dental plan. *Favale v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 155.

Three year delay in submitting medical reimbursement claim to insurer warranted denial of claim. *Zuckerman v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 134.

Career or vocational counseling services not covered under state health benefits plan. *Aronow v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 131.

Private duty nursing at home and in hospital not medically necessary after hysterectomy. *Holstein v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 110.

Psychotherapy services provided by licensed social worker not covered under state health plan. *Kahn v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 97.

Mental health services provided by clinical social worker not covered by state health plan. *Farmer v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 67.

Calculation of reasonable and customary fee for endometrial ablation procedure upheld. *Finegan v. State Health Benefits Commission*, 93 N.J.A.R.2d (TYP) 65.

Support hose prescribed by physician not a covered benefit under state health benefits plan. *Stanley v. State Health Benefits Commission*. 93 N.J.A.R.2d (TYP) 26.

No medical coverage available for handicapped son over age 23 where employee failed to timely present medical evidence of handicap. *Schultz, Jr. v. State Health Benefits Commission*. 93 N.J.A.R.2d (TYP) 24.

Private duty nursing services ordered by doctor not medically necessary within meaning of state health benefits plan. *Marks v. State Health Benefits Commission*. 93 N.J.A.R.2d (TYP) 23.

Major medical plan exclusion for cosmetic surgery excluded coverage for bilateral otoplasty, despite approval of basic coverage plan. *Palmer v. State Health Benefits Commission*. 93 N.J.A.R.2d (TYP) 20.

Employee not entitled to reimbursement for psychotherapy services rendered by counselor licensed as social worker rather than psychologist or medical doctor. *Goldman v. State Health Benefits Commission*. 93 N.J.A.R.2d (TYP) 18.

17:9-2.17 Chapters 384 and 386, Laws of 1987; enrollment of retirees

For the purposes of implementing Chapters 384 and 386 of the Laws of 1987, retirees of boards of education participating in the State Health Benefits Program who do not qualify for State payment of premiums for coverage and are not enrolled in the program may enroll within the one-year period from June 1, 1988 to May 31, 1989.

New Rule, R.1988 d.471, effective October 3, 1988.
See: 20 N.J.R. 1537(a), 20 N.J.R. 2467(a).

SUBCHAPTER 3. DEPENDENTS

17:9-3.1 Dependents and children defined

(a) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Children" includes stepchildren, legally adopted children and foster children who are wholly dependent upon the employee for support and maintenance. This includes children in a guardian-ward, legal relationship who are living with the employee.

"Dependents" means an employee's spouse and the employee's unmarried children through the end of the calendar year in which they reach the age of 23 years who live with the employee in a regular parent-child relationship.

"Living with" shall be defined so as to include children in the case of divorce who may not actually be living with the covered parent, but where such covered parent is required to provide for the support and maintenance of such children, and the parent's application for dependent coverage is documented by a copy of an appropriate court order.

(b) The determination as to the continuation of certain mentally retarded or physically handicapped children will be made before they attain age 23 rather than before they attain age 19, as given in the general statute.

As amended, R.1969 d.33, eff. December 19, 1969.
See: 1 N.J.R. 10(b), 2 N.J.R. 8(a).
As amended, R.1972 d.200, eff. October 4, 1972.
See: 4 N.J.R. 168(b), 4 N.J.R. 283(c).
As amended, R.1976 d.313, eff. October 8, 1976.
See: 8 N.J.R. 443(c), 8 N.J.R. 539(a).

Case Notes

Denial of health benefits to domestic partners of university employees did not violate anti-discrimination statute. Rutgers Council of

AAUP Chapters v. Rutgers, The State University, 298 N.J.Super. 442, 689 A.2d 828 (A.D.1997).

17:9-3.2 Military service

A spouse or child enlisting or inducted into military service shall not be considered during such military service.

17:9-3.3 Medicare

Any person who is otherwise eligible for benefits as a dependent of any active or retired employee, but who, although he is eligible to enroll in the Federal Medicare program, is not covered by the complete Federal program, would not be covered as a dependent.

As amended, R.1973 d.285, eff. October 2, 1973.
See: 5 N.J.R. 243(a), 5 N.J.R. 393(a).

17:9-3.4 Certification of dependency

(a) An employee who elects to enroll an eligible dependent for any coverage shall report such dependent's relationship or status on the enrollment form and such listing of the dependent shall constitute the required certification that at the time of enrollment such dependent is wholly dependent upon the employee for support and maintenance.

(b) A person who, although listed as an eligible dependent, is found to be ineligible or whose eligibility cannot be verified subsequent to enrollment shall be removed from coverage by the State Health Benefits Program and the contract level of the employee or retiree shall be adjusted accordingly. Coverage for that person as a dependent shall be restored retroactively to the date of eligibility if acceptable documentation is provided to the Division of Pensions and Benefits, by the employee or retiree, within 60 days of written notification of the dependent's termination. If acceptable documentation is received after 60 days, the dependent shall not be restored retroactively and can only be added at the next permissible enrollment opportunity. Examples of acceptable documentation include birth certificates, sworn affidavits, marriage certificates, divorce and separation decrees, custody agreements and court orders. This list is not meant to be all inclusive and does not imply acceptance of any of the above without proper authentication.

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.1984 d.560, eff. December 17, 1984.
See: 16 N.J.R. 2422(b), 16 N.J.R. 3479(b).

Deleted text "and such certification . . . same sex and age".
Amended by R.1997 d.285, effective July 7, 1997.
See: 29 N.J.R. 1485(a), 29 N.J.R. 2844(a).

Designated existing text as (a) and added (b).

17:9-3.5 Additional dependents

If, after having enrolled his or her dependent for coverage under family or parent-child coverage, an employee acquires one or more additional dependent children through birth or legal adoption and guardianship, such additional children shall be enrolled as dependents, if they are otherwise eligible.

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.1973 d.313, eff. October 8, 1976.
See: 8 N.J.R. 443(c), 8 N.J.R. 539(a).

17:9-3.6 Basic benefits; ineligible dependents

(a) The basic benefits coverage of a dependent who, at the time his or her coverage would otherwise become effective, is confined in an institution for care and treatment, shall become effective as indicated below:

1. Hospital benefit shall be payable for confinements commencing on and after the effective date of coverage only; and

2. Medical/Surgical benefits shall be payable for services rendered on and after the effective date of coverage only.

17:9-3.7 Major Medical; ineligible dependents

The Major Medical benefits coverage for any dependent (except a newborn child) who, at the time his or her coverage would become effective, is confined in a medical facility primarily for medical care or treatment on the date that the Major Medical coverage would otherwise become effective with respect to that dependent, the coverage for that dependent will be deferred until his or her final medical release from all such confinement. See N.J.A.C. 17:9-2.8.

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.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

State health benefits program, coverage changes, see N.J.A.C. 17:9-2.4.

17:9-3.8 (Reserved)

As amended, R.1973 d.8, eff. January 4, 1973.
See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

17:9-3.9 Multiple coverage; employee and spouse

An employee who is the spouse of another employee may elect to forego coverage as an employee and to be enrolled for coverage as a dependent, in which event no coverage shall be provided for such spouse as an employee while covered as a dependent.

Amended by R.1973 d.8, effective January 4, 1973.
See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

17:9-3.10 (Reserved)

Amended by R.1976 d.313, effective October 8, 1976.
See: 8 N.J.R. 443(c), 8 N.J.R. 539(a).

SUBCHAPTER 4. EMPLOYEES**17:9-4.1 State employee defined**

(a) For purposes of State coverage, "employee" shall mean an appointive or elective officer or full-time employee of the State including employees of:

1. Rutgers, the State University of New Jersey;
2. Delaware River Joint Toll Bridge Commission (Free Bridges);
3. Palisades Interstate Park Commission;
4. University of Medicine and Dentistry of New Jersey;

5. Agencies or special projects which are supported from or whose employees are paid from sources of revenue, other than general funds, which other funds shall bear the cost of benefits under this Act.

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

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

Amended by R.1983 d.330, effective August 15, 1983.

See: 15 N.J.R. 792(b), 15 N.J.R. 1383(c).

Change name to University of Medicine and Dentistry of New Jersey.

17:9-4.2 State; full-time defined

(a) For purposes of State coverage, "full-time" shall mean:

1. The normal full-time weekly schedule for the particular class title, and in any case not less than 35 hours per week;
2. Employment for 12 months, except in the case of those employees engaged in activities where the regular and normal work schedule is ten months;
3. Sabbaticals where the compensation paid is 50 percent or more of the salary granted just prior to the leave and the period of eligibility terminates with the end of the fiscal year;
4. Public defenders who are paid on the basis of an average 30-hour work week schedule, notwithstanding Section 4 of this Subchapter;
5. Employees of the University of Medicine and Dentistry of New Jersey who are paid for a minimum of 20 hours per week, notwithstanding N.J.A.C. 17:9-4.4;
6. Teaching assistants and graduate assistants at Rutgers, the State University, who are paid for a minimum of 15 hours, notwithstanding N.J.A.C. 17:9-4.4;
7. Deputy attorneys general in the Office of the Attorney General and the Divisions of Criminal Justice, Gaming and Law in the Department of Law and Public Safety, who are paid for a minimum of 20 hours per week, notwithstanding the provisions of N.J.A.C. 17:9-4.4, until June 30, 1994.

(b) Where the otherwise eligible employee elects a voluntary furlough, as authorized by P.L. 1993, c.297, coverage shall continue with the employer paying the costs as if the member were an active employee, provided that the employee remits in advance to the employer the amount required, if any, as the employee's contribution for coverage.

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

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

Amended by R.1975 d.68, effective March 14, 1975.

See: 7 N.J.R. 76(a), 7 N.J.R. 181(a).

Amended by R.1983 d.330, effective August 15, 1983.

See: 15 N.J.R. 792(b), 15 N.J.R. 1383(c).

Change name to University of Medicine and Dentistry of New Jersey.

Amended by R.1988 d.442, effective October 17, 1988.

See: 20 N.J.R. 741(a), 20 N.J.R. 2590(b).

Added (a)7.

Amended by R.1990 d.480, effective October 1, 1990.

See: 22 N.J.R. 1903(a), 22 N.J.R. 3158(b).

Deleted text from (a)7 and inserted new.

Amended by R.1993 d.57, effective April 5, 1993.

See: 24 N.J.R. 2345(a), 25 N.J.R. 1518(a).

Revised (a)7.

Amended by R.1995 d.3, effective January 3, 1995.

See: 26 N.J.R. 2202(a), 27 N.J.R. 128(a).

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).

17:9-4.3 Ineligible employees defined

(a) For purposes of State and local coverage, "employee" shall not mean:

1. Any person with less than two months of continuous service;
2. Any person whose compensation is limited to reimbursement of necessary expenses actually incurred in the discharge of his official duties;
3. Any person compensated on a fee basis (see N.J.A.C. 17:9-4.5);
4. Any person who is employed on short-term, seasonal, intermittent or emergency basis such as a person whose compensation is in the nature of a "retainer", or is for occasional services or whose service is for brief periods at intervals, such as substitute teachers;
5. Any person whose compensation is paid or payable by voucher;
6. Any person whose services are not full-time;
7. Any person granted a sabbatical where the compensation paid is less than 50 percent of the salary granted just prior to the leave;
8. Any person who is an aide or patient employee in a State, county or municipal institution;
9. Any person, active or retired, who is otherwise eligible for benefits but who, although he is eligible to enroll in the Federal Medicare Program, is not covered by the complete Federal program.

Amended by R.1971 d.21, effective February 17, 1971.

See: 3 N.J.R. 10(a), 3 N.J.R. 52(c).

Amended by R.1973 d.285, effective October 2, 1973.

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

Amended by R.1978 d.441, effective December 26, 1978.

See: 10 N.J.R. 517(b), 11 N.J.R. 105(a).