

(c) If an employer requests re-entry during any period other than that established by (b) above, the Commission shall consider the relevant facts accompanying the resolution, including any hardship or emergency, the impact of re-entry on the program and individual members, and whether re-entry is consistent with statutory law or judicial determinations. The Commission shall approve or disapprove the resolution for re-entry and shall so notify the employer within 30 days following receipt of the resolution. The Commission may establish an administrative charge upon the employer reasonably based upon the approximate cost to the Commission of re-enrolling the employer.

As amended, R.1971 d.21, effective February 17, 1971.

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

As amended, R.1979 d.159, effective April 23, 1979.

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

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

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

This section formerly contained rules on local employer premium and interest.

New Rule, R.2003 d.437, effective November 3, 2003.

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

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

In (a), substituted "SHBP" for "program", "rules" for "regulations", and the first occurrence of "COBRA participants" for "the Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1168 (COBRA) participants", and deleted "of Pensions and Benefits" following "Division" and "State Health Benefits" preceding "Commission" three times.

17:9-1.5 Voluntary termination of employer; notice

(a) A resolution furnished by the Division must be approved and completed by the governing body of the employers who wish to voluntarily terminate their participation in the program.

(b) When a participating employer voluntarily terminates coverage, the coverage for the employer's active and retired employees, participants under N.J.S.A. 52:14-17.29k and COBRA participants shall terminate as of the first of the month following a 60-day period beginning with the receipt of the resolution by the Commission.

(c) The employer shall notify all active employees of the date their coverage in the program has terminated.

(d) The Division shall act to notify all affected COBRA participants, participants under N.J.S.A. 52:14-17.29k, and retired members of the termination of coverage. Upon request from the employer, the Division shall forward a list of the names and addresses of terminating retirees, participants under N.J.S.A. 52:14-17.29k, and COBRA participants so that the employer may offer them an opportunity to enroll under its new group health insurance plan.

Amended by R.1970 d.147, effective December 10, 1970.

See: 2 N.J.R. 94(d), 3 N.J.R. 11(a).

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.1983 d.332, effective August 15, 1983.

See: 15 N.J.R. 793(a), 15 N.J.R. 1383(d).

List of names and addresses to be sent to terminating employer upon request.

Amended by R.1985 d.587, effective November 18, 1985.

See: 17 N.J.R. 1399(a), 17 N.J.R. 2784(b).

(b): Added text "for a period ... permitted only once."

Amended by R.1993 d.269, effective June 7, 1993.

See: 25 N.J.R. 460(a), 25 N.J.R. 2505(d).

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

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

In (a), added "and Benefits"; rewrote (b) and (d).

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

In (a) and (d), deleted "of Pensions and Benefits" following "Division"; in (a), inserted "approved and" and "the governing body of the"; in (b), inserted ", participants under N.J.S.A. 52:14-17.29k", and deleted "Health Benefits" preceding "Commission"; and in (d), deleted "the Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1168 (" preceding and a closing parenthesis following the first occurrence of "COBRA", and inserted "participants, participants under N.J.S.A. 52:14-17.29k" and "participants under N.J.S.A. 52:14-17.29k,".

Case Notes

State Health Benefits Commission cannot compel participants to remain in the State Health Benefits Program by depriving them of information necessary to make an informed decision. Board of Education of Newark v. New Jersey Department of Treasury, Division of Pensions, 145 N.J. 269, 678 A.2d 660 (1996).

17:9-1.6 Default of employer; notice

(a) A participating employer will be considered in default 31 days after the beginning of the coverage period for which charges were due. At that point, coverage may terminate for all members enrolled through the terminating employer.

(b) The Secretary of the Commission will notify the offices of the State Treasurer; the Attorney General; the Department of Community Affairs, Division of Local Government Service; and the Department of Education, if applicable. The Division will notify the employer and affected COBRA participants, participants under N.J.S.A. 52:14-17.29k and retired subscribers of the termination of coverage. The employer is responsible for notifying its active employees affected by this termination.

(c) Under the provisions of P.L. 2008 c. 24, the Division of Revenue of the Department of the Treasury will be responsible for collecting any outstanding debt. If necessary, the amount owed will be deducted from any amount that might otherwise be remitted by any State agency to the debtor.

As amended, R.1970 d.147, effective December 10, 1970.

See: 2 N.J.R. 94(d), 3 N.J.R. 11(a).

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 the phrase "his" to "his or her".

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.

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

Rewrote (b); and added (c).

17:9-1.7 Employer incentives for non-enrollment

(a) Except as allowed by N.J.S.A. 52:14-17.31a, an employer shall not offer a financial enticement of cash or any-

or civil union 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. Stepchildren and children of an eligible domestic or civil union partner must reside with the employee.

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).

Amended by R.2001 d.27, effective January 16, 2001.

See: 32 N.J.R. 3383(a), 33 N.J.R. 291(b).

Rewrote the section.

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

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

In "Children" inserted "children placed in the employee's custody pending adoption" following "legally adopted children" and in "Living with", added the sentence "Stepchildren must reside with the employee."

Amended by R.2005 d.187, effective June 20, 2005.

See: 37 N.J.R. 397(a), 37 N.J.R. 2212(b).

In "Children", substituted "pending adoption, foster children and children of an eligible domestic partner who are" for "pending adoption, foster children who are"; in "Dependents", inserted ", eligible domestic partner" following "an employee's spouse" in the introductory paragraph; in "Living with", inserted "or termination of a domestic partnership" following "divorce" and inserted "and children of an eligible domestic partner" preceding "must reside"

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

Inserted "or civil union" throughout; and in the introductory paragraph of definition "Dependents", inserted "and those not in a domestic partnership or civil union", and substituted "SHBP" for "State Health Benefits Program".

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, eligible domestic or civil union partner or child enlisting or inducted into military service shall not be considered eligible for coverage during such military service.

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

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

Added "eligible for coverage".

Amended by R.2005 d.187, effective June 20, 2005.

See: 37 N.J.R. 397(a), 37 N.J.R. 2212(b).

Inserted ", eligible domestic partner" preceding "or child".

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

Inserted "or civil union".

17:9-3.3 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 provide appropriate legal documentation for each dependent to be enrolled verifying the dependent's relationship with the subscriber. Examples of

acceptable documentation include birth certificates, sworn affidavits, marriage certificates, certificates of domestic partnership or civil union, 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. Such listing of the dependent shall constitute the required certification that at the time of enrollment such dependent is substantially dependent upon the employee for support and maintenance.

(b) A person who, although listed as an eligible dependent, is found to be ineligible shall be removed from coverage by the SHBP and the level of coverage of the employee or retiree shall be adjusted accordingly. Coverage for that person as a dependent shall be restored if acceptable documentation is provided to the Division, 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.

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).

Recodified from N.J.A.C. 17:9-3.4 and amended by R.2003 d. 437, effective November 3, 2003.

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

Former N.J.A.C. 17:9-3.3, Medicare, was repealed.

Amended by R.2005 d.187, effective June 20, 2005.

See: 37 N.J.R. 397(a), 37 N.J.R. 2212(b).

In (a), substituted "substantially" for "wholly" preceding dependent upon the employee"; in (b), substituted "level of coverage" for "contract level" preceding "of the employee or retiree" in the first sentence and inserted "certificates of domestic partnership," preceding "divorce and separation decrees" in the fourth sentence.

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

Rewrote the section.

17:9-3.4 Children with disabilities age 23 or older; determination of eligibility for continuation of coverage

(a) The determination as to the continuation of certain children with disabilities as "dependents" as defined by N.J.A.C. 17:9-3.1 shall be made by the SHBP's medical advisors. A form requesting continuance of enrollment for an eligible dependent with disabilities must be submitted to the SHBP no later than January 31 of the year following the calendar year in which the child attained the age of 23.

(b) Children with disabilities who are age 23 or older at the time their parents obtain coverage under the SHBP who are determined by the SHBP's medical advisors to be incapable of self-sustaining employment by reason of mental or physical disabilities and who meet the requirements of "dependents" as defined by N.J.A.C. 17:9-3.1, shall not be enrolled for coverage as "dependents" as defined by N.J.A.C. 17:9-3.1 unless:

1. They were covered as dependents under a public employer's group plan immediately preceding that employer's entrance into the SHBP; or

2. They were covered as dependents under a public employer's group plan immediately preceding their parents' entrance into the SHBP under the provisions of N.J.S.A. 52:14-17.32f (qualified retirees of the Teachers' Pension and Annuity Fund), 52:14-17.32f1 (qualified retirees of the Public Employees' Retirement System who retired from boards of education or county colleges), 52:14-17.32i (qualified firefighter or law enforcement retirees from the Police and Firemen's Retirement System, Public Employees' Retirement System and Consolidated Police and Firemen's Pension Fund) or the provisions of the Intergovernmental Transfer Program (established under N.J.S.A. 11A:2-11).

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

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

New Rule, R.2001 d.27, effective January 16, 2001.

See: 32 N.J.R. 3383(a), 33 N.J.R. 291(b).

Recodified from N.J.A.C. 17:9-3.8, R.2003 d. 437, effective November 3, 2003.

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

Former N.J.A.C. 17:9-3.4, Certification of, recodified to N.J.A.C. 17:9-3.3.

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

Substituted "SHBP" for "State Health Benefits Program" throughout; in (a) and the introductory paragraph of (b), substituted "SHBP's" for "State Health Benefits Program's" and "advisors" for "advisor"; and in (b)2, deleted "N.J.S.A." preceding "52:14-17.32f1" and "52:14-17.32i".

17:9-3.5 Multiple coverage; employee and spouse

(a) In any plan offered other than an HMO, an employee who is the spouse or eligible domestic or civil union partner 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 or eligible partner as an employee while covered as a dependent. The employee of an employer other than the State, who has enrolled such spouse or eligible partner, and who is required to pay the full cost of dependent coverage, may receive a refund from the Division equivalent in amount to the employer's cost for single coverage pursuant to N.J.S.A. 52:14-17.31. When both spouses or eligible partners are covered as employees, only one may enroll their children as dependents.

(b) A similar refund shall be authorized in the case of an employee of a local participating employer who is paying the full cost of dependent coverage for a spouse or eligible partner who is an employee of the State and eligible for coverage.

(c) If spouses or eligible partners are both eligible for coverage under the program as employees:

1. Each may elect coverage as an employee and for their qualified dependents, including the spouse or eligible partner, under any plan offered other than an HMO, but only one may elect coverage for the employee and for their

qualified dependents, including the spouse or eligible partner, in a participating health maintenance organization; and

2. Each may elect single coverage in any participating health maintenance organization, provided that the employee is not covered under a participating health maintenance organization as a dependent of a spouse or eligible partner.

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

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

Recodified from N.J.A.C. 17:9-3.9 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. 17:9-3.5, Eligible dependents, was repealed.

Amended by R.2005 d.187, effective June 20, 2005.

See: 37 N.J.R. 397(a), 37 N.J.R. 2212(b).

In the last sentence of (a) and in the introductory paragraph of (c), substituted "spouses or eligible domestic partners" for "husband and wife"; inserted "or eligible domestic partner" following "spouse" throughout.

Amended by R.2009 d.150, effective May 4, 2009.

See: 41 N.J.R. 101(a), 41 N.J.R. 2037(a).

In (a), substituted "In any plan offered other than an HMO" for "For Traditional Plan coverage", inserted "or civil union", deleted "domestic" preceding the second and third occurrences of "partner", "of Pension and Benefits" following "Division" and "domestic" preceding "partners"; in (b), (c)1 and (c)2, deleted "domestic" preceding "partner" throughout; in the introductory paragraph of (c), deleted "domestic" preceding "partners"; in (c)1, substituted "any plan offered other than an HMO" for "the Traditional Plan or NJ PLUS"; and in (c)2, inserted "a" preceding "participating".

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. Palisades Interstate Park Commission;
3. University of Medicine and Dentistry of New Jersey;
4. New Jersey Institute of Technology;
5. The State colleges and universities as designated by their boards of trustees; and
6. Agencies or special projects which are supported from or whose employees are paid from sources of revenue, other than general funds, which other funds will 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.

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

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

In (a), deleted 2, recodified former 3 and 4 as 2 and 3, added new 4 and 5, recodified former 5 as 6.

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 N.J.A.C. 17:9-4.4;
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; and
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.

(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).

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

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

In (a), added N.J.A.C. reference in 4; and deleted 7.

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 suspended from work without pay for more than one full coverage period as the result of disciplinary action for the period of suspension.

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).

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

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

In (a), rewrote 9.

Case Notes

Continuation of health benefits to school psychologist after reduction in work week to 18 hours denied; board of education’s policy limiting health benefits to full time employees, that is, to those working more than 20 hours per week, held reasonable in view of State health program rules. *Janus v. Maywood Bd. of Educ., Bergen Cty.*, 4 N.J.A.R. 105 (1982).

17:9-4.4 State; ineligible employees defined

(a) For purposes of State coverage, “employee” shall not mean any person who is paid:

1. An hourly rate (payroll compensation code 7) except that a full-time employee with a Civil Service title assigned an hourly salary range is eligible;