

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

SMALL EMPLOYER HEALTH BENEFITS PROGRAM

Small Employer Health Benefit Plans

Proposed Amendments: N.J.A.C. 11:21 Appendix Exhibits F, G, W and Y

Authorized By: New Jersey Small Employer Health Benefits Program Board of Directors
(Margaret Koller, Chairperson).

Authority: N.J.S.A. 17B:27A-17 through 56

Calendar Reference: See Summary below for the explanation of the inapplicability of the calendar requirement.

Proposal Number: PRN 2025 -.

As required by N.J.S.A. 17B:27A-51, interested parties may testify with respect to the standard health benefits plans, set forth at N.J.A.C. 11:21 Appendix Exhibits F, G, W and Y at a virtual **public hearing** via Zoom to be held on November 12, 2025 at 10 AM. The meeting can be accessed at:

<https://www.zoomgov.com/j/1605036369?pwd=5G6RDzudyEEltVK1kS5OROYKdKAP0R.1>

Meeting ID: 160 503 6369

Passcode: 415881

Dial by your location

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Submit comments by November 21, 2025 to:

New Jersey Small Employer Health Benefits Program Board

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Trenton, NJ 08625-0325

Fax: 609-633-2030

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The agency proposal follows:

Summary

The Small Employer Health Benefits (SEH) Program Board of Directors (SEH Board or Board) establishes the standard health benefits plans (standard plans) that may be offered in the small employer market in New Jersey, pursuant to authority of P.L. 1992, c. 162 (codified at N.J.S.A. 17B:27A-17 through 56), as subsequently amended and supplemented. The SEH Board has set forth the requirements with which carriers must comply in offering standard plans in rules at N.J.A.C. 11:21, and has set forth standard plan language for policies, contracts, certificates, and evidences of coverage in the Appendix to N.J.A.C. 11:21. Specifically, the language for the policy forms for the standard plans known as Plans B, C, D, and E are in Exhibit F of the Appendix, while the language of the certificates is contained at Exhibit W; and the language for the contract form for the HMO Plan is in Exhibit G, while the language for the HMO evidence of coverage is in Exhibit Y. In developing their policies/contracts and certificates/evidences of coverage, carriers

also refer to Exhibit K, which provides explanations about how carriers may use certain variable language in the standard plans.

The SEH Board proposes the following amendments to the standard plans in Appendix Exhibits F and G, W and Y (standard plan documents).

To comply with P.L. 2025, c.49 (Chapter 49), which requires small employer health benefits plans to provide coverage for biomarker precision medical testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a disease or condition of a covered person, the Board proposes amendments throughout the standard plan documents. A definition for “Biomarker Precision Medical Testing” that is consistent with Chapter 49 is proposed to be added to the definitions section of the standard policy form. The Board further proposes the addition of a “Biomarker Precision Medical Testing” coverage provision, which provides coverage for the cost of biomarker testing that is medically necessary for the diagnosis, treatment, management, or monitoring of a disease or condition. Reflecting Chapter 49, the proposed amendments specify that coverage shall be provided when biomarker testing is approved or cleared by the U.S. Food and Drug Administration (FDA); supported by FDA-approved drug labeling; covered under federal Centers for Medicare and Medicaid Services National Coverage Determinations or Medicare Administrative Contractor Local Coverage Determinations; or recommended by nationally recognized clinical practice guidelines. Finally, the Board proposes an exclusion for Biomarker Precision Medical Testing for asymptomatic screening purposes.

The Board proposes amendments to the “Orthotic or Prosthetic Appliances” coverage provision to comply with P.L. 2025, c.89 (Chapter 89), which expands coverage requirements relating to orthotic and prosthetic appliances. Specifically, Chapter 89 expands on the current

requirement for small employer health benefits plans to provide coverage for an orthotic or prosthetic appliance obtained through a licensed orthotist or prosthetist or a certified pedorthist to mandate coverage for one additional orthotic or prosthetic appliance if the covered person's physician determines that the additional appliance is necessary to enable the covered person to engage in physical and recreational activities, including running, bicycling, swimming, climbing, skiing, snowboarding, and team and individual sports. Chapter 89 additionally adds licensed podiatrists to the list of professionals from which covered orthotic or prosthetic appliances can be obtained. The Board proposes amendments to conform the coverage provision with the new legal requirements.

The Board proposes amendments to the Mental Health Condition and Substance Use Disorder coverage provision to add that behavioral health crisis intervention services provided by New Jersey's statewide mobile behavioral health crisis response team are covered pursuant to N.J.S.A. 26:2S-40. Additionally, the Board proposes amendments to the "Treatment of Diabetes" coverage provision, to bracket the words "without the application of any deductible" indicating the variable use of the text in connection with different plan types, as the deductible does apply in HSA plans. Further, the Board proposed amendments to the Hearing Aid and Cochlear Implants coverage provision in the HMO plan and HMO evidence of coverage at N.J.A.C. 11:21, Appx. Exhibits G and Y, respectively, to remove "[Durable Medical Equipment]" to align the language with the non-HMO forms set forth at N.J.A.C. 11:21, Appx. Exhibits F and W. Finally, the Board proposes several housekeeping amendments to correct formatting, grammatical and typographical errors throughout the standard plan documents.

SEH Rulemaking Procedures

The SEH Board is proposing these amendments in accordance with the special action process established at N.J.S.A. 17B:27A-51, as an alternative to the common rulemaking process specified at N.J.S.A. 52:14B-1 et seq. Pursuant to N.J.S.A. 17B:27A-51, the SEH Board may expedite adoption of certain actions, including modification of the SEH Program's health benefits plans and policy forms, if the SEH Board provides interested parties a minimum 20-day period during which to comment on the Board's intended action following notice of it in three newspapers of general circulation, with instructions for obtaining a detailed description of the proposed action and the manner for submitting comments to the Board. Concurrently, the SEH Board must forward notice of the proposed action to the Office of Administrative Law (OAL) for publication in the New Jersey Register (note, however, that the comment period runs from the date the notice of the proposed action is submitted to the newspapers and OAL, not from the date of publication of the notice in the New Jersey Register). The SEH Board is also required to send notice of the intended action to affected trade and professional associations, carriers, and other interested persons who may request such notice. In addition, for intended modifications to the health benefits plans, the SEH Board must allow for testimony to be presented at a public hearing prior to adopting any such modifications. The date, time, and place of the public hearing for these specific proposed amendments is presented at the beginning of this notice.

Subsequently, the SEH Board may adopt its proposed action immediately upon the close of the comment period or the public hearing (whichever occurs later) by submitting the adopted action to the OAL for publication. The adopted action is effective upon the date of its submission to the OAL, or such later date as the Board may designate. The SEH Board need not respond to commenters as part of the notice of adoption, but if the Board does not, the Board will respond to

(timely submitted) comments shortly thereafter in a separately prepared report, which will be submitted to OAL for publication in the New Jersey Register.

Because expedited actions adopted by the SEH Board pursuant to N.J.S.A. 17B:27A-51 are accomplished notwithstanding the provisions of the Administrative Procedure Act, the quarterly calendar requirement established by the Administrative Procedure Act and set forth at N.J.A.C. 1:30-3.1 is not applicable when the SEH Board uses its special rulemaking procedures. Please note that the unique provisions of N.J.S.A. 17B:27A-51 may result in the publication of this rule proposal in the New Jersey Register after the comment period has concluded.

Social Impact

The SEH Board anticipates that updating the standard plan documents to implement Chapter 49 and Chapter 89 will yield a positive social impact by enhancing access to advanced medical treatment and supportive care.

The proposed amendments implementing Chapter 49 provide coverage for biomarker precision medical testing, which supports individualized treatment strategies based on a covered person's unique biological profile and helps guide more effective clinical decisions. The proposed amendments implementing Chapter 89 expand coverage for prosthetic and orthotic appliances, allowing a covered person to obtain an additional prosthetic or orthotic appliance when necessary to engage in physical and recreational activities. The Board anticipates that together, these changes will serve to improve health outcomes, promote patient independence, and strengthen the quality of care available through the standard plans.

For these reasons, the proposed amendments to the standard plan documents will have a positive social impact.

Economic Impact

The SEH Board expects that the proposed amendments will have a positive economic impact for covered persons by expanding access to medical treatment covered by the standard plans, as described above. The Board anticipates a modest economic impact on insurance carriers, in that the implementation of Chapter 49 and Chapter 89 may increase costs associated with providing coverage for biomarker precision medical testing and for additional orthotic and prosthetic appliances. These costs are expected to be limited, however, as utilization of such benefits is anticipated to be relatively low within the covered population. Moreover, improved health outcomes, more effective treatment strategies and expanded access to orthotic and prosthetic appliances may offset costs over time by reducing complications and avoiding additional unnecessary medical intervention. Overall, while carriers may incur some incremental claims expenses, the economic impact is not expected to be significant relative to the benefits of enhanced coverage.

The proposed amendments will not result in any additional administrative, enforcement or oversight cost for the Board.

For the foregoing reasons, the Board expects that the benefits achieved by the proposed amendments far outweigh any modest costs that may be imposed.

Federal Standards Analysis

As discussed in the Summary above, the proposed amendments are intended to comply with newly enacted State law, and are not being proposed under the authority of, or in order to implement, comply with or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements as set forth at N.J.A.C. 1:30-5.1(c)4. Accordingly, no Federal standards analysis is required.

Jobs Impact

The SEH Board does not anticipate that any jobs will be generated or lost as a result of the proposed amendments, as the amendments relate to the terms of standard plan documents issued by carriers offering small employer health benefits plans in this State. Commenters may submit data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of the notice of proposal.

Agriculture Industry Impact

The SEH Board does not believe the proposed amendments will have any impact on the agriculture industry in New Jersey as the proposed amendments relate to the terms of standard plan documents issued by carriers offering small employer health benefits plans in this State.

Regulatory Flexibility Analysis

The SEH Board does not believe the proposed amendments apply to “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 to -21, but acknowledges the possibility that one or more carriers might meet that definition. The proposed amendments do not establish new or additional reporting or recordkeeping requirements, but may have the effect of establishing new compliance requirements, as described in the Summary above.

No differentiation in compliance requirements is provided based on business size. The requirements of, and the goals to be achieved by, the Federal and State laws in question do not vary based on business size of a carrier, and the SEH Board would not be at liberty to make such a distinction, even if the SEH Board were to consider such a distinction warranted. Accordingly, the proposed amendments provide no differentiation in compliance requirements based on business size. No additional professional services would have to be employed in order to comply with the proposed amendments.

The SEH Board notes that compliance with the new mandates, and thus, implementation of the proposed amendments, can be achieved using current technology.

Housing Affordability Impact Analysis

The SEH Board does not believe the proposed amendments will have an impact on housing affordability in this State or evoke a change in the average costs of housing in this State in that the proposed amendments relate to the terms of standard health benefits plans offered in New Jersey.

Smart Growth Development Impact Analysis

The SEH Board does not believe the proposed amendments will have an impact on smart growth in the State, or that the proposed amendments will have an effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to the terms of standard health benefits plans offered in New Jersey.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The SEH Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows:

OFFICE OF ADMINISTRATIVE LAW NOTE: The New Jersey Small Employer Health Benefits Program Board is proposing amendments to N.J.A.C. 11:21 Appendix Exhibits F, G, W and Y. Pursuant to N.J.S.A. 52:14B-7(c) and N.J.A.C. 1:30-5.2(a)2, the Exhibits as proposed are not published herein, but may be reviewed by contacting:

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