

§1
Note to §§2-5
§§2,3
C.52:14-17.28f
and 52:14-17.28g
§§4,5
C.52:14-17.46.5a
and
52:14-17.46.5b
§6
C.52:14-17.37b
and Note to
C.52:14-17.46.5

P.L. 2023, CHAPTER 195, *approved December 21, 2023*
Senate Committee Substitute (*Second Reprint*) for
Senate, No. 3756

1 AN ACT concerning the State Health Benefits Program and the
2 School Employees' Health Benefits Program, supplementing
3 P.L.1961, c.49 (C.52:14-17.25 et seq.) and P.L.2007, c.103
4 (C.52:14-17.46.1 et seq.), and repealing section 1 of P.L.2013,
5 c.189 (C.52:14-17.37a).
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. The Legislature finds and declares that:

11 a. The cost of health care for public employees in the State has
12 been increasing at a pace that will make our current system of
13 health care delivery unsustainable if it continues on its present
14 trajectory.

15 b. As health care costs continue to rise more quickly than the
16 average annual income, those costs displace other priorities for
17 individuals, such as saving for retirement or their children's
18 education, and even discourage people from obtaining
19 recommended health care. The litany of research in this area has
20 demonstrated that action must be taken to reduce costs.

21 c. One way to reduce costs is to increase competition among
22 the third-party administrators that contract with the State to
23 administer the State Health Benefits Program and the School
24 Employees' Health Benefits Program that cover thousands of State,
25 municipal, school district, and related public employees and their
26 dependents.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's recommendations December 11, 2023.

1 d. Permitting these employees to have greater choice in the
2 selection of third-party administrators for their respective health
3 plan will also increase accountability of the administrators and
4 overall performance, quality, and cost by encouraging competition
5 among the third-party administrators.

6 e. Many federal and State sponsored health plans embrace the
7 use of multiple administrators to ensure sufficient competition not
8 only at the time of bid awards but throughout the life of the
9 contract. For example, use of multiple administrators encourages
10 contracted administrators to compete, on an ongoing basis, for
11 membership by accelerating innovation and by delivering on key
12 measures of success, such as on the ability to manage the rate of
13 health care inflation, network breadth, member experience, and
14 programs to advance health care quality, unit cost discounts, and
15 other cost saving initiatives. Without meaningful competition, the
16 State may have limited ability to determine if best practices are met
17 in the aforementioned areas.

18 f. A more competitive procurement process also increases
19 accountability and transparency. Having multiple contract
20 administrators will enable a more accurate comparison to measure
21 relative performance on key metrics pertaining to cost, quality, and
22 experience.

23 g. For the purpose of reducing health care costs and facilitating
24 greater satisfaction, efficiency, and accountability in the
25 administration of health benefits claims to State employees, their
26 eligible family members, and participating local government and
27 school district employees and their eligible family members, the
28 State of New Jersey deems it fitting and crucial to procure more
29 than one contract administrator for each health benefits plan type
30 offered by the State Health Benefits Program and the School
31 Employees' Health Benefits Program.

32

33 2. The definitions set forth in section 2 of P.L.1961, c.49
34 (C.52:14-17.26) shall be applicable to sections 2 and 3 of this act, P.L.
35 , c. (C.) (pending before the Legislature as this bill).

36 In addition, as used in this act:

37 "Competitive range" means the group of responsive proposals to a
38 request for proposal that are among the most highly rated proposals
39 ²[within a range established by the director in consultation with the
40 commission] as determined by the evaluation committee². The
41 ²[director] commission, or its designee,² shall include an economic
42 component to the established competitive range to ensure the group of
43 responsive proposals deliver competitive pricing beneficial to the
44 ²[plan] State Health Benefits Program and the School Employees'
45 Health Benefits Program².

46 ²["Director" means the Director of the Division of Pension and
47 Benefits or the director's designee.]²

1 “Early retiree” means a retired employee of the State or
2 participating employer who is retired, under 65 years of age, and not
3 yet eligible to enroll in Medicare.

4 ²“Evaluation committee” means a group of individuals assigned,
5 pursuant to section 3 of P.L.2005, c.336 (C.52:34-10.3), to review and
6 evaluate quotes submitted in response to a request for proposal and
7 recommend a contract award.²

8 “Medicare retiree” means a retired employee of the State or
9 participating employer who is 65 years of age or older, or otherwise
10 qualified to enroll in Medicare due to health status, and is currently
11 enrolled in Medicare. Eligible retirees include those who are enrolled
12 in a self-insured Medicare Supplement plan ²or a fully-insured
13 Medicare Advantage plan².

14 “Plan type” means preferred provider organization (PPO), health
15 maintenance organization (HMO), tiered network plan, high-
16 deductible health plan, ²and² Medicare supplemental PPO and HMO
17 ²or a Medicare Advantage plan² plans² as those terms may be
18 defined in law.

19 “Request for proposal” refers to all documents, whether attached or
20 incorporated by reference, used for a publicly advertised procurement
21 process that solicits proposals or offers to provide the goods or
22 services specified therein.

23 “Responsive proposal” refers to a proposal that is deemed to have
24 adequately addressed all material provisions of a request for proposal's
25 terms and conditions, specifications, and other requirements.

26 “Third-party administrator” means a vendor that conducts claims
27 administration, network management, claims processing, or other
28 related services for an organization contracted by the State to provide
29 health care services and benefits. ²For purposes of Medicare
30 Advantage plans, the term third-party administrator shall include
31 carriers contracted by the State to offer Medicare Advantage plans to
32 eligible retirees.²

33
34 3. a. For each plan type offered to eligible employees, early
35 retirees, and ²certain² Medicare retirees, and their dependents, the
36 State Health Benefits Commission ², or its designee,² shall select at
37 least two third-party administrators from among those vendors who
38 submit responsive proposals that are most advantageous to the State,
39 ²price and other factors considered,² provided that, if fewer than two
40 ²qualified² vendors submit responsive proposals within a
41 competitive range established by the ²director in consultation with
42 the commission² evaluation committee², the commission ², or its
43 designee,² shall ¹either: (1)¹ select ¹the¹ one qualified vendor ¹;¹ or
44 ¹a solicitation for the plan type may be reissued¹ (2) reissue the
45 solicitation for the plan type in its entirety in an effort to secure at least
46 two third-party administrators¹.

1 b. Unless otherwise limited through the terms of a collective
2 bargaining agreement, State or federal statute, or regulation, an eligible
3 employee, early retiree, and Medicare ²~~retiree~~ retirees not eligible
4 for or enrolled in Medicare Advantage plans² shall have the
5 opportunity, on an annual basis, during the open enrollment period or
6 other applicable enrollment period, to choose a plan from among the
7 plan types the commission has selected.

8 c. The commission ², or its designee,² shall award the contracts for
9 each plan type under subsection a. of this section on the basis of the
10 bid ²~~response~~ responses² that ²~~is~~ are² the most advantageous to
11 the State, which shall consider price, network breadth, member
12 experience, the ability to engage in innovative approaches designed to
13 slow the growth of health care costs, and any other factors that the
14 commission or ²~~their~~ its² designee may deem relevant.

15 d. The commission ², or its designee,² is authorized to award a
16 contract to the vendor with the bid that is most advantageous to the
17 State ², price and other factors considered,² based upon the evaluation
18 factors in subsection c. of this section, and to thereafter award another
19 contract to one or more vendors with bids within the competitive range
20 that can provide a comparable bid price and factors of the first
21 awarded contract.

22 ²~~e.~~ After five years following the effective date of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), the director
24 shall conduct a study on the impact of this section and shall include a
25 recommendation to maintain, modify, or otherwise terminate this
26 section. The director shall provide a copy of the study to the
27 Legislature upon completion pursuant to section 2 of P.L.1991, c.164
28 (C.52:14-19.1).]²

29
30 4. The definitions set forth in section 32 of P.L.2007, c.103
31 (C.52:14-17.46.2) shall be applicable to sections 4 and 5 of this act,
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33 In addition, as used in this act:

34 “Competitive range” means the group of responsive proposals to a
35 request for proposal that are among the most highly rated proposals
36 ²~~within a range established by the director in consultation with the~~
37 ~~commission~~ as determined by the evaluation committee². The
38 ²~~director~~ commission, or its designee,² shall include an economic
39 component to the established competitive range to ensure the group of
40 responsive proposals deliver competitive pricing beneficial to the
41 ²~~plan~~ State Health Benefits Program and the School Employees’
42 Health Benefits Program².

43 ²~~“Director”~~ means the Director of the Division of Pension and
44 Benefits or the director’s designee.]²

1 “Early retiree” means a retired employee of the State or
2 participating employer who is retired, under 65 years of age, and not
3 yet eligible to enroll in Medicare.

4 ²“Evaluation committee” means a group of individuals assigned,
5 pursuant to section 3 of P.L.2005, c.336 (C.52:34-10.3), to review and
6 evaluate quotes submitted in response to a request for proposal and
7 recommend a contract award.²

8 “Medicare retiree” means a retired employee of the State or
9 participating employer who is 65 years of age or older, or otherwise
10 qualified to enroll in Medicare due to health status, and is currently
11 enrolled in Medicare. Eligible retirees include those who are enrolled
12 in a self-insured Medicare Supplement plan ²or a fully-insured
13 Medicare Advantage plan².

14 “Plan type” means preferred provider organization (PPO), health
15 maintenance organization (HMO), tiered network plan, high-
16 deductible health plan, ²and² Medicare supplemental PPO and HMO
17 ²or a Medicare Advantage plan² plans² as those terms may be
18 defined in law.

19 “Request for proposal” refers to all documents, whether attached or
20 incorporated by reference, used for a publicly advertised procurement
21 process that solicits proposals or offers to provide the goods or
22 services specified therein.

23 “Responsive proposal” refers to a proposal that is deemed to have
24 adequately addressed all material provisions of a request for proposal's
25 terms and conditions, specifications, and other requirements.

26 “Third-party administrator” means a vendor that conducts claims
27 administration, network management, claims processing, or other
28 related services for an organization contracted by the State to provide
29 health care services and benefits. ²For purposes of Medicare
30 Advantage plans, the term third-party administrator shall include
31 carriers contracted by the State to offer Medicare Advantage plans to
32 eligible retirees.²

33
34 5. a. For each plan type offered to eligible employees, early
35 retirees, and ²certain² Medicare retirees, and their dependents, the
36 School Employees’ Health Benefits Commission ², or its designee,²
37 shall select at least two third-party administrators from among those
38 vendors who submit responsive proposals that are most advantageous
39 to the State, ²price and other factors considered,² provided that, if
40 fewer than two ²qualified² vendors submit responsive proposals
41 within a competitive range established by the ²director in
42 consultation with the commission² evaluation committee², the
43 commission ², or its designee,² shall ¹either: (1)¹ select ¹the¹ one
44 qualified vendor ¹;¹ or ¹or ¹a solicitation for the plan type may be
45 reissued¹ (2) reissue the solicitation for the plan type in its entirety in
46 an effort to secure at least two third-party administrators¹.

1 b. Unless otherwise limited through the terms of a collective
2 bargaining agreement, State or federal statute, or regulation, an eligible
3 employee, early retiree, and Medicare ²~~retiree~~ retirees not eligible
4 for or enrolled in Medicare Advantage plans² shall have the
5 opportunity, on an annual basis, during the open enrollment period or
6 other applicable enrollment period, to choose a plan from among the
7 plan types the commission has selected.

8 c. The commission ², or its designee,² shall award the contracts for
9 each plan type under subsection a. of this section on the basis of the
10 bid ²~~response~~ responses² that ²~~is~~ are² the most advantageous to
11 the State, which shall consider price, network breadth, member
12 experience, the ability to engage in innovative approaches designed to
13 slow the growth of health care costs, and any other factors that the
14 commission or ²~~their~~ its² designee may deem relevant.

15 d. The commission ², or its designee,² is authorized to award a
16 contract to the vendor with the bid that is most advantageous to the
17 State ², price and other factors considered,² based upon the evaluation
18 factors in subsection c. of this section, and to thereafter award another
19 contract to one or more vendors with bids within the competitive range
20 that can provide a comparable bid price and factors of the first
21 awarded contract.

22 ²~~e.~~ After five years following the effective date of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), the director
24 shall conduct a study on the impact of this section and shall include a
25 recommendation to maintain, modify, or otherwise terminate this
26 section. The director shall provide a copy of the study to the
27 Legislature upon completion pursuant to section 2 of P.L.1991, c.164
28 (C.52:14-19.1).]²

29
30 6. a. (1) As soon as is practicable, but not later than 180 days
31 from the effective date of P.L. , c. (C.) (pending before the
32 Legislature as this bill), the Department of the Treasury shall provide,
33 upon request, but not more frequently than ²~~twice~~ once² in a ²~~plan~~
34 year 24-month period², to a participating employer in the State
35 Health Benefits Program or the School Employees Health Benefits
36 Program, a standard report which contains the requesting employer's
37 de-identified aggregate data relating to the use of benefits by their
38 employees ²~~,~~ and² early retirees, ²~~and Medicare retirees,~~²
39 and their dependents, covered under each plan in the program. The report
40 shall include premiums paid by month for each month covered in the
41 report ²~~and~~ . If the participating employer has more than 300
42 employees in the plan, then the report shall include² paid claims by
43 month for the following categories of services: (a) inpatient hospital;
44 (b) outpatient hospital; (c) in network medical; (d) out of network
45 medical; (e) prescription drugs; (f) ²~~medical drugs;~~ ²~~(g)~~
46 room services; and ²~~(h)~~ (g)² behavioral health, each reported

1 separately. The report shall cover both health and prescription
2 benefits.

3 The report shall also provide for a listing of de-identified claims
4 within each plan of both the State Health Benefits Program and the
5 School Employees Health Benefits Program, without reference to a
6 specific employer participating in the programs, in excess of \$50,000
7 that were paid in any of the months covered by the report. The report
8 shall cover both health and prescription benefits.

9 (2) The Department of the Treasury shall provide the reports to a
10 requesting participating employer within ²[30] ²60² days of receipt of
11 such request. ²[For a request submitted on or after April 1st, the
12 report shall contain data from the January 1st through December 31st
13 of the prior year. For a request submitted on or after September 1st,
14 the report shall contain data from June 1st of the prior year through
15 May 31st of the current year. The department shall also provide such
16 reports to a majority representative of public employees for collective
17 negotiations purposes, but only for employers specifically identified as
18 having employees, early retirees, or Medicare retirees, and their
19 dependents, represented by the majority representative.]²

20 b. As soon as practicable, ²[but not later than December 1st of
21 each year,]² the Department of the Treasury shall collect and analyze
22 claims data within the State Health Benefits Program and the School
23 Employees Health Benefits Program to develop, and make publicly
24 available, a claims trend report for each program in the following
25 categories: (1) inpatient hospital; (2) outpatient hospital; (3) in
26 network medical; (4) out of network medical ; (5) prescription drugs;
27 (6) medical drugs; (7) emergency room services; and (8) behavioral
28 health. The claims trend report shall provide the information in
29 segments including active, early retiree, and Medicare retiree for each
30 plan in the State Health Benefits Program, and in the School
31 Employees Health Benefits Program, and in the aggregate for each
32 plan in both programs. The ²[department shall also make the]² report
33 ²shall be made publicly² available ²[on or before December 31st of
34 each year to all majority representatives of public employees for
35 collective negotiations purposes with which the State negotiates. The
36 report shall be posted]² on the Department of the Treasury's website
37 in a prominent and accessible location ²[not later than January 1st of
38 the following calendar year]².

39 ²[Each] The² claims trend report shall be submitted to the
40 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
41 each member of the State Health Benefits Plan Design Committee and
42 of the School Employees' Health Benefits Plan Design Committee,
43 each member of the State Health Benefits Commission and of the
44 School Employees' Health Benefits Commission, and the Governor's
45 Office of Employee Relations.

46 c. No later than 12 months from the effective date of P.L. ,

1 c. (C.) (pending before the Legislature as this bill), the Department
2 of the Treasury shall provide the State Health Benefits Plan Design
3 Committee and the School Employees Health Benefits Plan Design
4 Committee with a feasibility study of strategies to lower the cost of
5 health care service for the participants of the programs. ²【The study
6 shall incorporate opportunities identified in previous management
7 consultant studies, including, but not limited to, changes to the benefit
8 design, spousal surcharges, value based care initiatives, reference-
9 based pricing, out-of-network reimbursements, and prescription drug
10 formulary changes.】² There shall be a review of short-term savings
11 achievable within 3 to 12 months, medium-term savings achievable
12 within 12 to 24 months, and long-term savings achievable after 24
13 months.

14

15 7. Section 1 of P.L.2013, c.189 (C.52:14-17.37a) is repealed.

16

17 8. This act shall take effect immediately.

18

19

20

21

22 Permits SHBP and SEHBP to award contracts for more claims
23 administrators for each program plan; requires claims data and trend
24 reports to be provided to certain persons.

EXPLANATION – Matter enclosed in bold-faced brackets 【thus】 in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 26, 2023.

² Senate amendments adopted in accordance with Governor's recommendations December 11, 2023.