

New Jersey Becomes Second State with an Individual Healthcare Mandate

Joining Massachusetts, New Jersey Governor Phil Murphy has signed legislation that requires New Jersey residents to have healthcare coverage or be subject to a state tax penalty effective January 1, 2019. In response to the elimination of the individual mandate penalty under the federal Affordable Care Act (“ACA”), New Jersey has enacted this statewide individual mandate to help ensure the stability of the individual marketplace established under the ACA. The New Jersey individual mandate will generally mimic the provisions in the ACA and will be the greater of 2.5% of New Jersey income or a flat dollar amount (currently \$695 per adult; family maximum of \$2,085), but not greater than the average bronze-level premium for plans offered in New Jersey. The following are some key provisions of the *New Jersey Health Insurance Marketplace Preservation Act*:

- Acceptable health coverage (“Minimum Essential Coverage” or “MEC”) is generally the same as under the federal ACA and includes coverage under the New Jersey Individual Health Coverage program. However; coverage under an association trust or multiple employer arrangement will not be considered MEC unless it satisfies certain requirements relevant to individual, small employer or large employer plans.
- Exemptions will be available for New Jersey residents that cannot afford coverage. The threshold to qualify for an exemption will be the lesser of the cost to the individual for an eligible employer-sponsored plan or a qualified individual health plan. Other exemptions, such as for hardship, may also apply.
- Funds collected from the individual mandate will be deposited into the *New Jersey Health Insurance Premium Security Fund* (“the Fund”) that has been created under parallel “reinsurance” legislation to help stabilize premium costs in the individual marketplace.
- Insurance carriers writing business in New Jersey as well as **third-party administrators (“TPAs”)**¹ will be assessed a fee (to be determined) “in proportion to the claims paid by the carrier or processed by the third-party administrator for **covered persons** in this State” to fund the reinsurance program. It appears that New Jersey employers (as well as out-of-state employers with New Jersey covered persons) could see costs for health insurance or administrative services increase to implement the funding for the New Jersey individual mandate. Additional guidance would be helpful.
- The New Jersey Legislature believes that a reporting requirement is necessary to implement and administer the mandate and therefore, the State Treasurer will be responsible to develop reporting forms and procedures.

While the ACA individual mandate penalty will be set to zero beginning in 2019, the ACA reporting requirements (Forms 1094 and 1095) have not been repealed or suspended. New Jersey employers with self-funded plans could potentially find themselves subject to individual mandate reporting on both the state and federal level (i.e. ACA Form 1095-C Part III) unless the federal individual mandate reporting requirements are subsequently repealed or suspended. All Applicable Large Employers (50 or more full-time and full-time equivalent employees in a prior calendar year) will continue to be subject to the ACA employer mandate and its reporting requirements (Forms 1094 and 1095) for 2019.

Lawmakers in other states such as California, Connecticut, Hawaii, Maryland, Minnesota, Rhode Island, Vermont and Washington, as well as the District of Columbia, are considering implementing some form of individual mandate, as well.

¹ “Third party administrator means a person or entity that: processes claims and pays claims on behalf of a benefits payer without the assumption of financial risk for the payment of health or dental benefits. Third party administrator shall include: (1) an entity not licensed as an insurer that is not an affiliate or subsidiary of an insurer, that processes claims on behalf of a benefits payer; (2) an entity that is a subsidiary or affiliate of an insurer that processes claims on behalf of benefits payers other than insurers. Third party administrator shall not include an employee, affiliate or subsidiary of a benefits payer formed for the purpose of processing and paying claims solely on behalf of the benefits payer, nor shall it include a collection agency or bureau or pharmacy benefits manager, collection agency or bureau or pharmacy benefits manager.”
Source: 2013 New Jersey Revised Statutes Title 17B – INSURANCE Section 17B:27B-1 - Definitions relative to third party administrators, billing services.

ADDITIONAL INFORMATION

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