

S 4533 -- Redline

Introduced to Amended -- Establishes fee on certain employers that employ individuals who receive health benefits coverage through State Medicaid program.

Deletions ~~struck~~ · Insertions underlined

S4533 1R [First Reprint] SENATE, No.

CURRENT VERSION OF TEXT As ~~introduced~~, reported by the Senate Budget and Appropriations Committee on June 28, 2026, with amendments.

1.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

"Division" means the Division of Revenue and Enterprise Services in the Department of the Treasury.

"Employee" means any person suffered or permitted to work by an employer, except that an independent contractor shall not be considered an employee. For purposes of this act, the employer shall have the burden of establishing that an individual is an independent contractor, by showing that the individual and the services that the individual provides meet the test for independent contractor status set forth in R.S.43:21-19.

"Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person in this State that has at any time during the previous calendar year employed 50 or more employees who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). For the purposes of this act, the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation. In addition, any members of a partnership or limited liability company and any agents having the management of such partnership or limited liability company shall be deemed to be employers of the employees of the partnership or limited liability company.

"Dependent" means an employee's spouse, civil union partner, or domestic partner, an unmarried child of the employee who is less than 31 years of age and lives with the employee in a regular parent-child relationship, or an unmarried child of the employee who is not less than 31 years of age and is not capable of self-support.

~~b.~~ b. Except as provided in subsection d.

of this section and assessed by the division, for each employee of the employer, and each dependent of the employee, who receives health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) for the purpose of raising revenue to defray State Medicaid costs.

~~c.~~ c. The fee to be imposed on an employer shall be determined based on the number of employees, and dependents of employees, who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) on December 31 preceding the date employers are notified of their liability under this section pursuant to subsection e.

(1) for an employer with at least 50 but fewer than 250 employees who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), \$325 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits;

(2) for an employer with at least 250 but fewer than 500 employees who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), \$525 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits;

and ~~and~~ (3) for an employer with 500 or more employees who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), \$725 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits.

~~d.~~ d. Notwithstanding the provisions of subsections b.

of this section for any employee of the employer, or dependent of the employee, with a developmental disability as defined in section 3 of P.L.1985, c.145 (C.30:6D-25), an intellectual disability as defined in section 13 of P.L.1965, c.59 (C.30:4-25.1), or a permanent physical disability as defined in section 2 of P.L.1987, c.350 (C.30:4G-14). ~~e.~~ e. On or before March 1 of each year, the division, using the information provided pursuant to section 2 of this act, shall notify an employer that the employer is required to pay the fee imposed under this section and to file information to facilitate the processing and tracking of such payment. The notification provided by the division shall indicate the number of employees, and dependents of the employees, who receive health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), for which an employer is required to pay the fee. An employer required to pay the fee and provide any related filing information shall do so through an electronic method specified by the division. Payment methods may include electronic funds transfer, payment card, or any other electronic method approved by the ~~division.~~ division. Filing information shall be submitted over the Internet or through any other

electronic method approved by the division. All payments and filings shall be due on or before April 15.

Filing informationf. shallAn beemployer submittedwho overfails to pay the Internetfee for each impacted employee or throughdependent anyrequired otherunder electronicthe methodprovisions approvedof bythis section shall be subject to a penalty not to exceed \$500 per day for each day the divisionfee remains unpaid.

All paymentsg. andAn filingssemployer shallmay bedispute due the on determination or that beforethe April employer 15-is required to pay the fee established pursuant to this section by filing an appeal with the department for a review of that determination;

~~f. An employer who fails to pay the fee for each impacted employee or dependent required under the provisions of this section shall be subject to a penalty not to exceed \$500 per day for each day the fee remains unpaid.~~

~~g. An employer may dispute the determination that the employer is required to pay the fee established pursuant to this section by filing an appeal with the department for a review of that determination;~~

h. h. For purposes of administering this section, the Commissioner of Labor and Workforce Development, if the commissioner deems it necessary, may make or cause to be made an audit, examination, or investigation of the books, records, papers, accounts, and documents of any employer receiving notification from the department pursuant to subsection e.

i. i. If the commissioner determines that an employer has failed to properly classify employees to avoid paying the fee required under the provisions of this section, the commissioner shall be authorized to assess and collect penalties in accordance with section 1 of P.L.2019, c.373 (C.34:1A-1.18).

j. j. Beginning on July 1, 2027, the following employees who receive health benefits coverage through the State Medicaid program shall be excluded from the requirements of this section:

(1) an employee of the employer who has been employed by the employer for less than 90 days at the time the fee is determined pursuant to subsection c.

(2) an employee who works part-time, on a per diem basis, or who is a temporary employee;

or (3) a seasonal employee.

If, prior to July 1, 2027, an employer is charged a fee pursuant to this section for an employee who would be excluded under this subsection beginning on July 1, 2027, the employer shall be entitled to a credit against any liability for the provisions of this section, or if there is no liability, a refund in the following year for any fee paid by the employer concerning that employee. The employer shall bear the burden to demonstrate to the satisfaction of the commissioner that the employer paid a fee for an employee who meets the criteria for an exclusion in paragraph (1), (2), or (3) of this subsection, in a form and manner as determined by the commissioner.
~~2. Notwithstanding the provisions of any law or regulation to the contrary, the Departments of Human Services, Labor and Workforce Development, and the Treasury shall enter into a memorandum of understanding to share any data and other resources necessary to implement the provisions of this act to the extent allowed under federal law.~~

1k. 3-(1) An employer shall not rely upon, use, or consider information disclosing whether a job applicant or employee receives health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) as a basis for denying to the applicant or employee the opportunity to obtain or maintain employment, or to advance in position in their job.

(2) The substantive right established by paragraph (1) of this subsection may be enforced pursuant to P.L.2004, c.143 (C.10:6-1 et seq.).

l. Notwithstanding the provisions of any other law to the contrary, individually identifiable information about an employee or a dependent who receives health benefits coverage through the State Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) contained in data prepared for the purposes of implementing the provisions of this act shall be confidential and privileged. The commissioner, the Director of the Division of Revenue and Enterprise Services, or any employee engaged in the administration thereof or charged with the custody of any such data shall not divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the data. Individually identifiable information about an employee or a dependent shall be exempt from disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act.
2. Notwithstanding the provisions of any law or regulation to the contrary, the Departments of Human Services, Labor and Workforce Development, and the Treasury shall enter into a memorandum of understanding to share any data and other resources necessary to implement the provisions of this act to the extent allowed under federal law.

3.

4. This act shall take effect immediately and remain inoperative until July 1, 2026.

~~STATEMENT This bill requires employers to pay a fee for employees, or dependents of employees, who receive health benefits coverage through the State Medicaid program. Under the bill, for each~~

~~employee or dependent of an employee who receives those benefits, an employer will be assessed a fee as follows:~~

~~(1) for an employer with at least 50 but fewer than 250 employees who receive health benefits coverage through the State Medicaid program, \$325 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits;~~

~~(2) for an employer with at least 250 but fewer than 500 employees who receive health benefits coverage through the State Medicaid program, \$525 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits;~~

~~and (3) for an employer with 500 or more employees who receive health benefits coverage through the State Medicaid program, \$725 for each employee, and for each of the employee's dependents, who receives State Medicaid benefits.~~

~~The bill provides that an employer is not liable for the fee for an employee, or dependent of the employee, who receives health benefits coverage through the State Medicaid program and has a developmental disability, intellectual disability, or a permanent physical disability. Beginning on July 1, 2027, the bill would exclude an employer's lack of coverage for the following persons from the requirements of its provisions:~~

~~(1) an employee of the employer who has been employed by the employer for less than 90 days at the time the fee is determined pursuant to the bill;~~

~~(2) an employee who works part-time, on a per diem basis, or who is a temporary employee;~~

~~or (3) a seasonal employee. If, prior to July 1, 2027, an employer is charged a fee pursuant to the bill's provisions for an employee who would be excluded under the bill beginning on July 1, 2027, the employer will be entitled to a credit against any liability for the provisions of the bill, or if there is no liability, a refund in the following year for any fee paid by the employer concerning that employee. The employer will bear the burden to demonstrate to the satisfaction of the commissioner that the employer paid a fee for an employee who meets the criteria for an exclusion under the bill, in a form and manner as determined by the commissioner.~~

~~The bill imposes fines for employers that fail to comply, and an appeal process for employers that dispute an assessment of a fee under the bill's provisions.~~

~~The Governor's Fiscal Year budget recommendations include the enactment of legislation to impose an employer healthcare assistance contribution on certain employers that have 50 or more employees receiving State Medicaid benefits, for example NJ FamilyCare. The bill is intended to defray the healthcare costs of employees covered by those benefits. The Department of the Treasury estimates that the average State cost for covering this population is \$1,700 per person per year, and the department expects the fees will increase State revenues by about \$145 million annually.~~