

# STATE OF NEW YORK

4267

2023-2024 Regular Sessions

## IN ASSEMBLY

February 14, 2023

Introduced by M. of A. ZEBROWSKI, BENEDETTO, THIELE, BURDICK, GUNTHER --  
read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the  
New York state public health care option program; and to amend the  
state finance law, in relation to establishing the New York state  
public health care option program fund

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Article 2 of the public health law is amended by adding a  
2 new title 3-A to read as follows:

3 TITLE III-A

4 NEW YORK STATE PUBLIC HEALTH CARE OPTION PROGRAM

5 Section 245. Definitions.

6 245-a. Public option program established.

7 245-b. Powers of the commissioner.

8 245-c. Member costs; limitations.

9 245-d. Board of trustees.

10 § 245. Definitions. As used in this title the terms shall have the  
11 following meanings:

12 1. "Board" means the board of trustees of the New York state public  
13 health care option program.

14 2. "Cost sharing expense" means deductibles, co-insurance, co-pay-  
15 ments, or any other required similar expense incurred by a member. "Cost  
16 sharing expense" shall not include premiums or any expenses related to  
17 services or providers that are out of the program's network.

18 3. "Health care provider" means any individual or entity authorized to  
19 provide medical and/or health care services to members of the program.

20 4. "Health care service" means any health care service, including care  
21 coordination, included as a benefit under the program.

22 5. "Member" means an individual who is enrolled in the program.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 6. "New York state public health care option program", "public option  
2 program", and "program" mean the New York state public health care  
3 option program created by section two hundred forty-five-a of this  
4 title.

5 7. "New York state public health care option program fund" means the  
6 New York state public health care option program fund established under  
7 section ninety-nine-r of the state finance law.

8 8. "Participating provider" means any individual or entity that is a  
9 health care provider qualified and approved by the programs to provide  
10 health care services to members under the program, or a health care  
11 organization.

12 § 245-a. Public option program established. The New York state public  
13 health care option program is hereby established. The commissioner shall  
14 establish and implement the program pursuant to this title. The program  
15 shall provide a comprehensive and affordable health care insurance  
16 option for all residents of this state who choose to enroll in the  
17 program. The commissioner shall ensure that coverage provided through  
18 the program is competitive in terms of affordability, benefits and  
19 access to quality health care providers. Every resident of the state  
20 shall be eligible and entitled to enroll as a member under the program.

21 § 245-b. Powers of the commissioner. In carrying out the provisions of  
22 this act, the commissioner shall have the power and authority to:

23 1. Establish premiums for which members are responsible and other  
24 charges for enrolling in or being a member under the program.

25 2. Ensure that the program's plans shall be available for enrollment  
26 on the Marketplace as provided in title seven of this article.

27 3. Establish criteria and standards for health care providers to be  
28 qualified for participation in the program and grounds for revocation of  
29 such participation.

30 4. Establish coverage for the program including all health care  
31 services that members would be eligible to receive and maintain an  
32 updated list of participating providers. Such coverage shall ensure that  
33 all plans meet the requirements of a qualified health plan by the  
34 Marketplace pursuant to section two hundred sixty-eight-c of this arti-  
35 cle.

36 5. Establish and maintain procedures and standards for recognizing  
37 health care providers located out of the state for purposes of providing  
38 coverage under the program for out-of-state health care services.

39 6. Develop payment methodologies and rates for health care services  
40 provided by participating providers including a methodology for reason-  
41 able and customary fees for out of network health care services incurred  
42 by members.

43 7. Create an enrollment process for employers with less than one  
44 hundred employees to participate in the program. Any participating  
45 employer shall meet standards established by the commissioner including  
46 but not limited to, establishing an annual limitation on employee  
47 contributions and provisions for compliance with applicable collective  
48 bargaining agreements. Notwithstanding any provision to the contrary,  
49 any employee of a participating employer may enroll as a member of the  
50 program regardless of whether they are a resident of the state.

51 8. Submit an implementation plan to the governor and state legislature  
52 no later than twelve months following the effective date of this section  
53 that will provide a detailed plan on timelines for enrollment, coverage,  
54 premium schedule, benefits and other relevant information related to the  
55 implementation of the program.

1 9. Seek all applicable federal waivers or other federal approvals for  
2 the operations of the program including federal approval to authorize  
3 the use of premium tax credits for applicable members for enrollment in  
4 the program.

5 10. Utilize any funds from the New York state public health care  
6 option program fund for purposes supporting the operations of the  
7 program.

8 § 245-c. Member costs; limitations. 1. The commissioner shall estab-  
9 lish a base rate for enrollment in the program. The rates for enrollment  
10 shall include a formula that adjusts premiums based on household size  
11 and income. The premium schedule and formula shall ensure that the  
12 program remains viable, but at the lowest possible cost to members. The  
13 commissioner shall establish benchmark goals for premiums that should  
14 seek to be below comparable commercially available plans.

15 2. The commissioner shall determine other deductibles, co-payments or  
16 co-insurance under the program in a manner that ensures the program  
17 remains viable but is affordable for members.

18 3. The commissioner shall establish an annual limitation for cost  
19 sharing expenses for members and annually update such limitation. Such  
20 limitation shall be based on cost growth factor established by the  
21 commissioner.

22 4. The commissioner shall ensure that eligible members can receive any  
23 applicable premium tax credits.

24 § 245-d. Board of trustees. 1. The board of the New York State public  
25 health care option program is hereby established within the department.

26 2. The board shall, at the request of the commissioner, develop and  
27 submit recommendations related to the implementation of this title. The  
28 commissioner may propose regulations under this title for consideration  
29 by the board. The board shall have power to establish and amend regu-  
30 lations to effectuate the provisions of this title which shall be  
31 subject to approval by the commissioner.

32 3. The board shall be comprised of thirteen trustees to be appointed  
33 as follows:

34 a. the commissioner of health and the superintendent of the department  
35 of financial services shall serve as ex-officio trustees;

36 b. five trustees shall be appointed by the governor;

37 c. two trustees shall be appointed by the temporary president of the  
38 senate;

39 d. two trustees shall be appointed by the speaker of the assembly;

40 e. one trustee shall be appointed by the minority leader of the  
41 senate; and

42 f. one trustee shall be appointed by the minority leader of the assem-  
43 bly.

44 4. The board shall meet at least four times each calendar year. Meet-  
45 ings shall be held upon the call of the chair and as provided by the  
46 board. A majority of the appointed trustees shall constitute a quorum of  
47 the board. Actions may be taken, and motions and resolutions adopted by  
48 the board with the affirmative vote of at least seven trustees. The  
49 board may establish an executive committee to exercise any powers or  
50 duties of the board as it may provide, and other committees to assist  
51 the board or the executive committee. The chair of the board shall chair  
52 the executive committee and shall appoint the chair and trustees of all  
53 other committees. The board may appoint one or more advisory committees.  
54 Members of advisory committees need not be trustees of the board.

1 5. The trustees of the board shall serve terms of four years. Subse-  
2 quent appointments upon the expiration of term shall be filled in the  
3 same manner as the original appointment.

4 6. The trustees of the board shall elect one of their trustees to  
5 serve as chairperson during his or her appointment term or for a period  
6 of four years, whichever is shorter.

7 7. Trustees of the board shall serve without compensation but shall be  
8 allowed their actual and necessary expenses incurred in the performance  
9 of their duties.

10 8. The board and its committees and advisory committees may request  
11 and receive the assistance of the department and any other state or  
12 local governmental entity in exercising its powers and duties.

13 9. The board, in consultation with the commissioner, may submit recom-  
14 mendations to the governor and legislature related to the provisions of  
15 this article.

16 10. Within twelve months from the enactment of this title, the board,  
17 in consultation with the commissioner, shall make a recommendation to  
18 the governor and legislature on whether any additional revenue, taxes or  
19 assessments are necessary to implement the program.

20 § 2. The state finance law is amended by adding a new section 99-r to  
21 read as follows:

22 § 99-r. New York state public health care option program fund. 1.  
23 There is hereby established in the joint custody of the comptroller and  
24 the commissioner of taxation and finance a debt service fund to be known  
25 as the "New York state public health care option program fund".

26 2. Such fund shall consist of all revenues received through premiums,  
27 co-insurance or other related fees from members enrolled in the New York  
28 state public health care option program pursuant to title three-A of  
29 article two of the public health law, any federal payments received for  
30 such purpose, state funds transferred to the fund for the purposes of  
31 support for the New York state public health care option program or any  
32 other revenue generated that is dedicated towards the purpose of  
33 supporting the New York state public health care option program. Nothing  
34 contained in this section shall prevent the state from receiving grants,  
35 gifts or bequests for the purposes of the fund as defined in this  
36 section and depositing them into the fund according to law.

37 3. The moneys in such fund shall be expended and transferred for the  
38 purposes of operating the New York state public health care option  
39 program and any reasonable expenses related thereto.

40 § 3. This act shall take effect on the one hundred eightieth day after  
41 it shall have become a law.