

[First Reprint]

SENATE, No. 943

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Establishes system for portable benefits for workers who provide services to consumers through contracting agents.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on February 13, 2020, with amendments.



1 AN ACT concerning portable benefits for certain workers and
2 supplementing Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Contracting agent” means a business, organization, corporation,
9 limited liability company, partnership, sole proprietor, or any other
10 entity that facilitates the provision of services by workers to
11 consumers seeking the services and makes payments to workers,
12 where the provision of services is taxed as an independent
13 contractor, using Form 1099.

14 “Department” means the Department of Labor and Workforce
15 Development.

16 “Principal” means a person or company engaged in the business
17 of manufacturing, who:

18 a. manufactures, produces, imports, or distributes a product for
19 wholesale;

20 b. contracts with a sales representative to solicit orders for the
21 product; and

22 c. compensates the sales representative in whole or in part by
23 commission.

24 “Qualified benefit provider” means a nonprofit benefit provider
25 that is eligible to provide benefits to workers of contracting agents
26 pursuant to this act.

27 “Worker” means a person who provides services to consumers
28 through a contracting agent. “Worker” shall not mean:

29 a. any person who contracts to solicit orders in New Jersey as
30 the sales representative of a principal;

31 b. any person subject to a collective bargaining agreement that
32 specifies wages, terms and conditions of employment;

33 c. any person engaged in the sale of financial products or
34 services; or

35 d. any person who is licensed by the New Jersey Real Estate
36 Commission pursuant to R.S.45:15-1 et seq.

37

38 2. a. Contracting agents that have facilitated the provision of
39 services by at least 50 individual workers in a consecutive 12-month
40 period shall contribute funds to qualified benefit providers ¹designated
41 by the workers¹ to provide benefits to the workers of the contracting
42 agents. The requirement to contribute funds under this act only applies
43 when the services are provided to consumers located in this State.

44 b. (1) The contribution amount shall be the lesser of 25 percent

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 SLA committee amendments adopted February 13, 2020.

1 of the total fee collected from the consumer for each transaction of
2 services provided or six dollars for every hour that the worker
3 provided services to the consumer. If determined per hour, then the
4 determination shall be prorated per minute.

5 (2) The contribution amount required under this section may be
6 added to the invoice or billing submitted to the consumer for the
7 services.

8 c. Contributions shall be made to the qualified benefit provider on
9 no less than a monthly basis and no later than 15 days after the end of
10 the month in which the services were provided.

11 d. Contributions shall indicate the assigned amount per worker
12 per transaction, according to the following:

13 (1) if a single worker provided services for a transaction, the entire
14 contribution is assigned to that worker; or

15 (2) if multiple workers provided services for a transaction, the
16 contribution is assigned proportionately to those workers.

17

18 3. a. Based on the contributions received under section 2 of this
19 act, qualified benefit providers shall ensure that benefits are provided
20 to workers as set forth in this section.

21 b. Qualified benefit providers shall provide ¹to any worker
22 entitled to benefits based on contributions made under section 2 of this
23 act¹ workers' compensation insurance ¹as required¹ pursuant to
24 chapter 15 of Title 34 of the Revised Statutes ¹[to those workers
25 entitled to benefits based on contributions made under section 2 of this
26 act], or, if the workers' compensation insurance is not required for the
27 worker, occupational accident insurance which satisfies the minimum
28 standards for that insurance established by regulations promulgated by
29 the Commissioner of Banking and Insurance¹.

30 c. In addition to workers' compensation insurance ¹or
31 occupational accident insurance¹, qualified benefit providers shall
32 provide some or all of the benefits set forth in this subsection.
33 Qualified benefit providers shall solicit input from workers on their
34 benefits, and shall allow workers to choose from available benefits or
35 allocate the contributions among the following benefits:

36 (1) health insurance, including but not limited to subsidies to
37 purchase health insurance;

38 (2) paid time off;

39 (3) retirement benefits; and

40 (4) other benefits determined by the qualified benefit providers, on
41 behalf of the workers.

42 ¹The worker may elect to not receive any of the benefits indicated
43 in paragraphs (1) through (4) of this subsection, in which case an
44 amount equal to one half of the contribution required pursuant to
45 subsection b. of section 2 of this act shall be provided as compensation
46 to the worker.¹

1 d. Qualified benefit providers may use up to five percent of the
2 contribution funds received for administration of benefits.

3

4 4. A worker entitled to benefits under this act shall select a
5 qualified benefit provider and shall be given the option to change
6 that selected qualified benefit provider once per year. Workers
7 shall be provided information regarding available qualified benefit
8 providers in a format that allows them to easily select their chosen
9 qualified benefit provider.

10

11 5. The department shall adopt rules for organizations to become
12 qualified benefit providers. At a minimum, the rules governing
13 qualified benefit providers shall require that the following criteria are
14 met:

15 a. the organization shall be a nonprofit organization, operating
16 under 26 U.S.C. s.501(c)(3) federal tax status;

17 b. at least one-half of the organization's board of directors shall
18 be comprised of workers performing work for customers of
19 contracting agents or representatives of bona fide independent
20 organizations of those workers;

21 c. the organization shall be independent from all business entities,
22 organizations, corporations, or individuals that would pursue any
23 financial interest in conflict with that of the workers;

24 d. all action of the organization regarding providing benefits shall
25 be for the sole purpose of maximizing benefits to the covered workers;

26 e. the board of directors of the organization shall hold a fiduciary
27 duty to the workers with respect to provision of the benefits; and

28 f. the organization shall demonstrate adequate viability and
29 financial sufficiency as determined by the department. At a minimum,
30 the organization shall have:

31 (1) cash reserves in a sufficient amount, as determined by the
32 department;

33 (2) liability coverage for an amount determined by the department;

34 (3) access to bonding; and

35 (4) other demonstrated competencies as determined by the
36 department.

37 ¹The department shall prepare, post on its website, and make
38 available upon request, a list of qualified benefit providers, and shall
39 update the list not less than one time each calendar year after the year
40 in which it is first prepared.¹

41

42 6. The department shall establish rules to implement and
43 administer this act, including rules for:

44 a. monitoring compliance of contracting agents;

45 b. monitoring qualified benefit providers, including the ability to
46 remove providers that are out of compliance with the criteria
47 established under this act;

1 c. establishing a fee on contracting agents to fund the
2 department's compliance efforts;

3 d. administering workers' compensation coverage for workers
4 under this act; and

5 e. providing procedures for workers to select qualified benefit
6 providers, to change their selections annually, and to receive notices of
7 the right to select different qualified benefit providers.

8 ¹The Commissioner of Banking and Insurance shall promulgate
9 regulations to implement and administer minimum standards for
10 occupational accident insurance under this act.¹

11

12 7. In addition to remedies provided by the department to a
13 worker for a contracting agent's noncompliance, a worker may
14 bring a private cause of action against a contracting agent for the
15 contracting agent's failure to comply with the contribution
16 requirements under section 2 of this act.

17

18 8. The requirements on contracting agents and the benefits
19 provided to workers under this act shall not be considered in
20 determinations of a worker's employment status or a contracting
21 agent's employment relationship to the worker under R.S.43:21-19.

22

23 9. This act shall take effect on the sixth month next following
24 enactment, except the Commissioner of Labor and Workforce
25 Development may take any anticipatory administrative action in
26 advance as shall be necessary for the implementation of this act.