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New Jersey Governor Phil Murphy signed two bills into law in response to the repeal of the federal Individual Shared Responsibility Mandate under the Affordable Care Act (effective January 1, 2019). The bills are intended to stabilize the state's individual health insurance market.

This legislation will directly impact residents of NJ and indirectly affect employers with employees residing in the state.

State Individual Mandate

The New Jersey Health Insurance Market Preservation Act will require all New Jersey residents to have Minimum Essential Coverage (MEC) beginning January 1, 2019, or pay a penalty.

NJ's mandate is scheduled to take effect on January 1, 2019, making NJ the second state, after Massachusetts, to enact an individual mandate. The mandate includes an annual penalty of 2.5% of a household's income or \$695 per adult and \$347 per child – whichever is higher. The maximum penalty is based on household income and will not exceed the average yearly premium of a bronze plan.

A "hardship exemption" will be available for individuals who cannot afford coverage, determined by the State Treasurer. NJ expects to collect between \$90 million and \$100 million in penalties. This money, along with additional federal funding, will be used on a reinsurance program, which Murphy also signed into law.

Reinsurance Program

The New Jersey Health Insurance Premium Security Act authorizes NJ to apply for, accept, and receive federal funds to implement and sustain market stabilization programs, by applying for a federal waiver (Section 1332 waiver). Contingent on federal approval, NJ will establish a program to provide funding for health carriers to make claims payments that exceed a certain threshold. If approved, the program intends to reimburse health insurance carriers in the individual market for some of the cost associated with high-cost enrollees and is expected to reduce premiums by 10-20%.

It appears that if NJ does not receive approval from the federal government for funding of this program, the state may consider relief from the individual mandate for NJ residents.

Employer Action

While these bills do not directly affect employer sponsored plans, the individual mandate requirement for NJ residents will likely require education for employees. As residents in NJ will now be required to obtain health coverage to avoid a state income tax penalty, employers may see an increase in plan enrollment. Unlike Massachusetts which requires specific coverage components, the NJ law only requires that coverage be MEC. Thus, most traditional employer-sponsored group health plans should meet this definition. However, coverage for only dental benefits, certain medical indemnity policies and vision benefits are likely not sufficient for purposes of avoiding the state tax. For now, employers with employees who reside in New Jersey may wish to educate employees at Open Enrollment that by January 1, 2019 health coverage will be required for NJ residents to avoid a penalty.

Another issue to watch for is whether NJ will provide relief for residents who do not have coverage as of January 1, 2019, but have access to employer-sponsored coverage that runs on a non-calendar year, and enroll in that coverage when available (e.g., for a February 1 plan year, enroll February 1, 2019).

