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NJ Adopts Individual Health Insurance Mandate

The [New Jersey Health Insurance Market Preservation Act](#) was signed into law by Governor Phil Murphy enacting a state-level individual health insurance mandate to be effective January 1, 2019. Under the law, all New Jersey residents will be obligated to maintain some level of health insurance or pay a tax. Revenue collected from the new individual mandate penalty—expected to be \$90 to \$100 million annually—will help fund a state-based reinsurance program established under another new law recently passed by Governor Murphy called the [New Jersey Health Insurance Premium Security Act](#). This separate law is designed to shore-up New Jersey's individual marketplace.

New Jersey Individual Mandate. New Jersey's individual mandate closely mirrors the federal Affordable Care Act (ACA) mandate in terms of the amount of the penalty, the MEC standard (with some exceptions), and the administration of the penalty via the tax system. Under the new law, New Jersey taxpayers who are subject to the individual mandate (and their dependents) must have minimum essential coverage (MEC) during each month of the year beginning January 1, 2019. Those without MEC may be subject to a penalty that is equal to the amount they would have paid if the ACA's mandate had not been repealed: \$695 for adults (\$347.50 per child) or 2.5 percent of a taxpayer's income, whichever is greater (as adjusted). The hope is that the state-level mandate will incentivize coverage among healthy individuals who might not otherwise purchase insurance following repeal of the federal ACA individual mandate penalty. The law defines MEC to exclude certain multiple employer welfare arrangements (MEWAs) that do not meet state standards. This MEC exclusion for MEWAs will likely disincentivize the offering of and enrollment in these products, and because these products do not qualify as MEC, New Jersey residents that enroll in them may have to pay the state penalty.

The reintroduction of the individual mandate at the state level will not likely have much if any impact on employer provided health plans. However, certain entities, such as employers that offer employer-based health coverage, insurers, and the New Jersey Department of Human Services, will have to submit a return to the state treasurer to include data on individuals covered under MEC such as names, Social Security numbers, dates of coverage, and other information requested by the treasurer. Also, between November 1-30, 2018, the treasurer must notify each taxpayer who files a gross income tax return whether the taxpayer and their dependents are enrolled in MEC for purposes of the state mandate, and will include information on how to obtain coverage through the marketplace. The treasurer will also establish a program to determine whether an individual qualifies for an exemption from the mandate based on a hardship or religious belief, and will determine the threshold at which MEC is considered "unaffordable," to be largely consistent

with how affordability is determined under the ACA.

Funding For Reinsurance. The revenue collected from penalties under the new individual mandate is intended to be used to fund a state-based reinsurance program known as the New Jersey Health Insurance Premium Security Fund. The Fund will be administered by the board of directors of the New Jersey Individual Health Coverage Program, in coordination with the commissioner. However, the reinsurance program will not go into effect unless and until the state secures federal approval of a Section 1332 waiver. A Section 1332 allows states to waive the ACA's single risk pool requirement and receive pass-through funding from the federal government. The pass-through funding reflects the amount that the federal government is saving in premium tax credits (because of the reinsurance program) relative to what it would have paid in the absence of the reinsurance program. Although the federal government contributes a sizable portion of reinsurance funds through a federal pass-through rate, states must contribute some level of funding towards a reinsurance program. If New Jersey does not establish a reinsurance program, the revenue collected from the individual mandate penalty will be used to support the Children's Health Insurance Program.

New Jersey's individual mandate appears to be the first to be effective post the Trump administration's repeal of the ACA individual mandate. Vermont recently enacted a mandate set to begin in 2020 and a few other states are also said to be considering re-introducing an individual mandate in their states as well. We will continue to monitor the approaches states may be taking up to address healthcare and health insurance reform state by state since federal efforts seem stalled for the near-term. We will continue to provide updates as further information becomes available. Contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220 should you have any questions. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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