

**REQUEST FOR FEEDBACK PURSUANT TO  
SECTION 3 OF P.L. 2021, c. 375**

On January 13, 2022, P.L. 2021, c. 375 (“the Act”), which codifies the freedom of reproductive choice, was enacted into law. The Act enshrines an individual’s right to make their own decisions concerning reproduction, including the right to contraception, the right to terminate a pregnancy, and the right to carry a pregnancy to term, without government interference or fear of prosecution in the State of New Jersey. The Department of Banking and Insurance (“Department”) is soliciting feedback pursuant to section 3 of the Act to determine whether regulations are necessary to secure comprehensive insurance coverage for reproductive care and enable the citizens of New Jersey to fully exercise their freedom of reproductive choice.<sup>1</sup> Accordingly, the Department seeks your feedback as described herein.

The Department seeks comments with respect to each of the questions listed below. Please note that responses do not need to address all questions and can contain additional information not

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<sup>1</sup> Section 3 of the Act provides: “3a. Upon concluding a study and issuing a report to the Governor and the Legislature demonstrating that such a regulation is necessary, the Department of Banking and Insurance may, through regulation adopted pursuant to the Administrative Procedure Act , P.L.1968 c.410 (C.52:14B-1 et seq.), provide that health benefit plans delivered, issued, executed, or renewed in this State, provide coverage for abortion. If the department provides for coverage pursuant to this section, then the department shall also require carriers to grant, upon request of a religious employer, an exclusion under the contract for the coverage required if the required coverage conflicts with the religious employer s bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to covered persons and prospective covered persons, and the carrier shall provide notice to the Commissioner of Banking and Insurance in such form and manner as may be determined by the commissioner. The provisions of this paragraph shall not be construed as authorizing a carrier to exclude coverage for care that is necessary to preserve the life or health of a subscriber. An exclusion from an insurance coverage mandate granted to a religious employer pursuant to this section shall not be considered a violation of section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. For the purposes of this section, religious employer means an organization that is organized and operates as a nonprofit entity and is referred to in section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986 (26 U.S.C. s.6033), as amended.”

specifically requested. Additionally, responses will be governed by the Open Public Records Act at N.J.S.A. 47:1A-1 to -13 and/or other statutes that cover confidential information.

Please provide any feedback you wish the Department to consider as described herein by e-mail to [legsregs@dobi.nj.gov](mailto:legsregs@dobi.nj.gov) or by mail to Office of Regulatory Affairs, New Jersey Department of Banking and Insurance, 20 West State Street, P.O. Box 325, Trenton, NJ 08625-0325 by May 26, 2022.

## **I. Public Health Data and Health Equity Considerations**

1. Please share relevant information regarding cost and affordability of abortion care in New Jersey.
2. Please share relevant information regarding the impact of affordability on public health and access to abortion care in New Jersey.
3. Discuss public health impact(s), if any, of exclusions prohibiting coverage for termination of pregnancy? Where possible, please comment separately with respect to medication abortion and surgical/procedural abortion, and related follow-up care.
4. What is the termination of pregnancy rate in New Jersey, i.e. terminations per 1,000 pregnancies? How many terminations of pregnancy are medical as opposed to surgical/procedural, regardless of insurance status?

## **II. Current Insurance Coverage of Abortion Care in New Jersey**

For responses to the questions below, where applicable, please indicate whether the response applies to the individual, small employer and/or large employer market(s), or to the type of plan, if known. Please also include attachments such as evidence of coverage/plan documents where applicable and available.

1. How do health benefits plans in New Jersey currently distinguish between types and circumstances of pregnancy termination?
2. Is any method or type of abortion care excluded from coverage? If so, what are the exclusions? How are such exclusions communicated (if at all) to New Jersey health insurance consumers?
3. To what extent is insurance coverage of induced termination of pregnancy currently explicitly excluded in individual, small employer and large employer health benefits plans issued in New Jersey, i.e. what percentage of health benefits plans issued in each market exclude termination of pregnancy? If the exclusion has exceptions for certain circumstances, please describe the circumstances.
4. To the extent known, why is abortion care excluded from coverage in any New Jersey health benefits plan? If exclusions from coverage for induced termination of pregnancy are reported, are such exclusions the result of preferences of the carrier (e.g. the health plan itself) or the policyholder (e.g. employer)?
5. If exclusions of coverage for induced termination of pregnancy are reported, do such exclusions contain exceptions to permit coverage in certain circumstances? If so, please describe the circumstances (for example, for life or health of the pregnant person). If exclusions on coverage for induced termination of pregnancy are reported, are such exclusions specific to medication abortion, surgical abortion, or both? If known, how is this known?
6. If abortion is covered, how do consumers locate a network provider for termination of pregnancy services? Is this information included in the provider network?
7. If abortion is covered, what is the current utilization of insurance benefits for termination of pregnancy, separated between medication abortions (prescription drug) and surgical terminations (surgical/procedural)? Responses may use CPT or other coding mechanisms if helpful.
8. In cases where abortion coverage is available, some individuals may not benefit from such coverage, either because they have not yet met their deductible, or because they fear breaches in confidentiality attributable to billing practices. How might cost sharing rules address such barriers to coverage utilization?

### **III. Pricing, Costs and Premiums**

1. What is the average cost of surgical/procedural abortion in New Jersey to persons covered by health benefits plans? (Please account for costs associated with unmet deductibles and other cost sharing when answering this question.) Please provide cost data to persons covered by health benefits plans separately for surgical/procedural abortions rendered by network providers and for surgical/procedural abortions rendered by out-of-network providers.
2. For uninsured persons, what is the average cost of surgical/procedural abortion in New Jersey?
3. Is there data related to affordability-based barriers to abortion care in New Jersey?
4. What effect would elimination of abortion coverage exclusions have on premiums in the individual, small employer and large employer markets?
5. If termination of pregnancy is required to be covered, how should cost sharing be structured to ensure timely access to medication abortion?
6. If termination of pregnancy is required to be covered, how should cost sharing be structured to ensure timely access to surgical/procedural abortion?
7. What is the per member per month cost of abortion coverage in individual, small group and large employer markets, if known? Please provide claims data or modeling detail if available.

### **IV. Provider Landscape and Access to Services**

1. How many individual providers, hospitals, abortion clinics, and/or nonspecialized clinics perform terminations of pregnancy in New Jersey? If possible, please divide responses to this question between medication abortion and surgical/procedural abortion.
2. How many of the New Jersey individual and facility providers who offer abortion care participate in carrier networks? Which ones, if known.
3. Is the number of participating providers adequate to meet demand? Do geographic barriers exist in any portion(s) of New Jersey?
4. Is there any data indicating that New Jersey residents travel out of state to obtain termination of pregnancy services? Is there data indicating that residents of other states travel to New Jersey to obtain termination of pregnancy services?
5. What impact does such out of state travel have on the health of the pregnant persons undergoing the procedures? Is follow-up care or treatment of complications less available to pregnant persons who obtain services from out of state providers as opposed to pregnant persons who obtain services from in state providers?

Thank you for your participation.

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