ASSEMBLY, No. 4705

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED MARCH 20, 2017

Sponsored by:
Assemblyman 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 introduced.
AN ACT concerning portable benefits for certain workers and
supplementing Title 34 of the Revised Statutes.

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

1. As used in this act:

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

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

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

“Worker” means a person who provides services to consumers
through a contracting agent.

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

b. (1) The contribution amount shall be the lesser of 25 percent
of the total fee collected from the consumer for each transaction of
services provided or six dollars for every hour that the worker
provided services to the consumer. If determined per hour, then the
determination shall be prorated per minute.

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

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

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

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

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

3. a. Based on the contributions received under section 2 of
this act, qualified benefit providers shall ensure that benefits are
provided to workers as set forth in this section.
b. Qualified benefit providers shall provide workers’
compensation insurance pursuant to chapter 15 of Title 34 of the
Revised Statutes to those workers entitled to benefits based on
contributions made under section 2 of this act.

c. In addition to workers’ compensation insurance, qualified
benefit providers shall provide some or all of the benefits set forth
in this subsection. Qualified benefit providers shall solicit input
from workers on their benefits, and shall allow workers to choose
from available benefits or allocate the contributions among the
following benefits:
   (1) health insurance, including but not limited to subsidies to
      purchase health insurance;
   (2) paid time off;
   (3) retirement benefits; and
   (4) other benefits determined by the qualified benefit providers,
      on behalf of the workers.

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

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

5. The department shall adopt rules for organizations to
become qualified benefit providers. At a minimum, the rules
governing qualified benefit providers shall require that the
following criteria are met:
   a. the organization shall be a nonprofit organization, operating
      under 26 U.S.C. s.501(c)(3) federal tax status;
   b. at least one-half of the organization’s board of directors shall
      be comprised of workers performing work for customers of
      contracting agents or representatives of bona fide independent
      organizations of those workers;
   c. the organization shall be independent from all business
      entities, organizations, corporations, or individuals that would
      pursue any financial interest in conflict with that of the workers;
   d. all action of the organization regarding providing benefits
      shall be for the sole purpose of maximizing benefits to the covered
      workers;
   e. the board of directors of the organization shall hold a
      fiduciary duty to the workers with respect to provision of the
      benefits; and
   f. the organization shall demonstrate adequate viability and
      financial sufficiency as determined by the department. At a
      minimum, the organization shall have:
(1) cash reserves in a sufficient amount, as determined by the
department;
(2) liability coverage for an amount determined by the
department;
(3) access to bonding; and
(4) other demonstrated competencies as determined by the
department.

6. The department shall establish rules to implement and
administer this act, including rules for:
   a. monitoring compliance of contracting agents;
   b. monitoring qualified benefit providers, including the ability
to remove providers that are out of compliance with the criteria
   established under this act;
   c. establishing a fee on contracting agents to fund the
department’s compliance efforts;
   d. administering workers’ compensation coverage for workers
under this act; and
   e. providing procedures for workers to select qualified benefit
providers, to change their selections annually, and to receive notices
of the right to select different qualified benefit providers.

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

8. The requirements on contracting agents and the benefits
provided to workers under this act shall not be considered in
determinations of a worker’s employment status or a contracting

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

STATEMENT

This bill establishes a system for the provision of portable
benefits to workers who provide services to consumers through
contracting agents. Pursuant to the bill, a contracting agent is a
business entity that facilitates the provision of services by workers
to consumers seeking the services and makes payments to workers,
and the provision of services is taxed as an independent contractor.
The bill requires contracting agents that have facilitated the provision of services by at least 50 individual workers in a consecutive 12-month period to contribute funds to qualified benefit providers to provide benefits to the workers of the contracting agents. The requirement to contribute funds only applies when the services are provided to consumers located in this State.

The contribution amount must be the lesser of 25 percent of the total fee collected from the consumer for each transaction of services provided or six dollars for every hour that the worker provided services to the consumer. If determined per hour, then the determination must be prorated per minute. The contribution amount required under this bill may be added to the invoice or billing submitted to the consumer for the services.

The bill requires contributions to be made to the qualified benefit provider on no less than a monthly basis and no later than 15 days after the end of the month in which the services were provided. Contributions must indicate the assigned amount per worker per transaction.

Based on the contributions received, qualified benefit providers are to ensure that benefits are provided to workers as set forth in the bill. Qualified benefit providers must provide workers’ compensation insurance to those workers entitled to benefits based on contributions.

In addition to workers’ compensation insurance, qualified benefit providers must provide some or all of other, optional benefits. Qualified benefit providers must solicit input from workers on their benefits, and allow workers to choose from available benefits or allocate the contributions among the following benefits:

1. health insurance, including but not limited to subsidies to purchase health insurance;
2. paid time off;
3. retirement benefits; and
4. other benefits determined by the qualified benefit providers, on behalf of the workers.

The bill provides that qualified benefit providers may use up to five percent of the contribution funds received for administration of benefits.

A worker entitled to benefits under the bill must select a qualified benefit provider and must be given the option to change that selected qualified benefit provider once per year. Workers are to be provided information regarding available qualified benefit providers in a format that allows them to easily select their chosen qualified benefit provider.

The bill requires the Department of Labor and Workforce Development to adopt rules for organizations to become qualified benefit providers. At a minimum, the rules governing qualified benefit providers must require that the following criteria are met:
(1) the organization must be a nonprofit organization, operating under 26 U.S.C. s.501(c)(3) federal tax status;
(2) at least one-half of the organization’s board of directors must be comprised of workers performing work for customers of contracting agents or representatives of bona fide independent organizations of those workers;
(3) the organization must be independent from all business entities, organizations, corporations, or individuals that would pursue any financial interest in conflict with that of the workers;
(4) all action of the organization regarding providing benefits must be for the sole purpose of maximizing benefits to the covered workers;
(5) the board of directors of the organization must hold a fiduciary duty to the workers with respect to provision of the benefits; and
(6) the organization must demonstrate adequate viability and financial sufficiency as determined by the department. At a minimum, the organization must have cash reserves, liability coverage, access to bonding, and any other demonstrated competencies as determined by the department.

The bill requires the Department of Labor and Workforce Development to establish rules to implement and administer this act, including rules for monitoring contracting agents and qualified benefit providers, establishing fees on contracting agents to fund compliance efforts, administering workers’ compensation coverage for workers, and providing procedures for workers to select and change qualified benefit providers.

In addition to remedies provided by the department to a worker for a contracting agent’s noncompliance, a worker may bring a private cause of action against a contracting agent for the contracting agent’s failure to comply with the bill’s contribution requirements.

The bill also provides that the requirements on contracting agents and the benefits provided to workers are not be considered in determinations of a worker’s employment status or a contracting agent’s employment relationship to the worker under the State unemployment law.