

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1563*
Committee Substitute Favorable 6/17/94

Short Title: Medicaid Compliance.

(Public)

Sponsors:

Referred to:

May 25, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND STATE INSURANCE AND MEDICAID LAWS TO COMPLY
3 WITH THE FEDERAL OMNIBUS BUDGET RECONCILIATION ACT OF 1993
4 AND GUARANTEE THE CONTINUED AVAILABILITY OF FEDERAL
5 MEDICAID FUNDS FOR THE STATE; AND TO MAKE A CORRESPONDING
6 INSURANCE LAW AMENDMENT.

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 51 of Chapter 58 of the General Statutes is amended by
9 adding the following new sections:

10 "**§ 58-51-115. Coordination of benefits with Medicaid.**

11 (a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

12 (1) 'Health benefit plan' means any accident and health insurance policy or
13 certificate; a nonprofit hospital or medical service corporation
14 contract; a health maintenance organization subscriber contract; a plan
15 provided by a multiple employer welfare arrangement; or a plan
16 provided by another benefit arrangement.

17 (2) 'Health insurer' means any health insurance company subject to
18 Articles 1 through 63 of this Chapter, including a multiple employee
19 welfare arrangement, and any corporation subject to Articles 65 and 67
20 of this Chapter; and means a group health plan, as defined in section
21 607(1) of the Employee Retirement Income Security Act of 1974.

22 (b) No health insurer shall take into account that an individual is eligible for or is
23 provided medical assistance in this or any other state under 42 U.S.C. § 1396a (section

1 1902 of the Social Security Act) in insuring that individual or making payments under
2 its health benefit plan for benefits to that individual or on that individual's behalf.

3 **"§ 58-51-120. Coverage of children.**

4 (a) No health insurer shall deny enrollment of a child under the health benefit
5 plan of the child's parent on any of the following grounds:

6 (1) The child was born out of wedlock.

7 (2) The child is not claimed as a dependent on the parent's federal income
8 tax return.

9 (3) The child does not reside with the parent or in the insurer's service
10 area.

11 (b) If a parent is required by a court or administrative order to provide health
12 benefit plan coverage for a child, and the parent is eligible for family health benefit plan
13 coverage through a health insurer, the health insurer:

14 (1) Must allow the parent to enroll, under the family coverage, a child who
15 is otherwise eligible for the coverage without regard to any enrollment
16 season restrictions.

17 (2) Must enroll the child under family coverage upon application of the
18 child's other parent or the Department of Human Resources in
19 connection with its administration of the Medical Assistance or Child
20 Support Enforcement Program if the parent is enrolled but fails to
21 make application to obtain coverage for the child.

22 (3) May not disenroll or eliminate coverage of the child unless the health
23 insurer is provided satisfactory written evidence that:

24 a. The court or administrative order is no longer in effect; or

25 b. The child is or will be enrolled in comparable health benefit
26 plan coverage through another health insurer, which coverage
27 will take effect not later than the effective date of disenrollment.

28 (c) If a child has health benefit plan coverage through the health insurer of a
29 noncustodial parent, that health insurer shall do all of the following:

30 (1) Provide such information to the custodial parent as may be necessary
31 for the child to obtain benefits through that coverage.

32 (2) Permit the custodial parent (or the health care provider, with the
33 custodial parent's approval) to submit claims for covered services
34 without the approval of the noncustodial parent.

35 (3) Make payments on claims submitted in accordance with subdivision
36 (2) of this subsection directly to the custodial parent, the provider, or
37 the Department of Human Resources.

38 (d) No health insurer may impose requirements on any State agency that has been
39 assigned the rights of an individual eligible for medical assistance under Medicaid and
40 covered for health benefits from the insurer that are different from requirements
41 applicable to an agent or assignee of any other individual so covered.

42 **"§ 58-51-125. Adopted child coverage.**

43 (a) Definitions. – As used in this section:

1 (1) 'Child' means, in connection with any adoption or placement for
 2 adoption of the child, an individual who has not attained 18 years of
 3 age as of the date of the adoption or placement for adoption.

4 (2) 'Placement for adoption' means the assumption and retention by a
 5 person of a legal obligation for total or partial support of a child in
 6 anticipation of the adoption of the child. The child's placement with a
 7 person terminates upon the termination of such legal obligations.

8 (b) Coverage Effective Upon Placement for Adoption. – If a health benefit plan
 9 provides coverage for dependent children of persons covered by the plan, the plan shall
 10 provide benefits to dependent children placed with covered persons for adoption under
 11 the same terms and conditions that apply to the natural, dependent children of covered
 12 persons, irrespective of whether the adoption has become final.

13 (c) Restrictions Based on Preexisting Conditions at Time of Placement for
 14 Adoption Prohibited. – A health benefit plan may not restrict coverage under the plan of
 15 any dependent child adopted by a covered person, or placed with a covered person for
 16 adoption, solely on the basis of any preexisting condition of the child at the time that the
 17 child would otherwise become eligible for coverage under the plan, if the adoption or
 18 placement for adoption occurs while the covered person is eligible for coverage under
 19 the plan."

20 Sec. 2. G.S. 58-51-30 reads as rewritten:

21 **"§ 58-51-30. Policies to cover newborn infants and ~~adopted~~ foster children.**

22 (a) As used in this section:

23 (1) 'Foster child' means a minor (i) over whom a guardian has been
 24 appointed by the clerk of superior court of any county in North
 25 Carolina; or (ii) the primary or sole custody of whom has been
 26 assigned by order of a court of competent jurisdiction.

27 (2) 'Placement in the foster home' means physically residing with a person
 28 appointed as guardian or custodian of a foster child as long as that
 29 guardian or custodian has assumed the legal obligation for total or
 30 partial support of the foster child with the intent that the foster child
 31 reside with the guardian or custodian on more than a temporary or
 32 short-term basis.

33 (b) ~~Every policy of insurance and every hospital service or medical service plan~~
 34 ~~as defined in Articles 65 and 66 of this Chapter, and any health care plan operated by a~~
 35 ~~health maintenance organization as defined in Article 67 of this Chapter (regardless of~~
 36 ~~whether any of such policies or plans shall be defined as individual, family, group,~~
 37 ~~blanket, franchise, industrial or otherwise) health benefit plan, as defined in G.S. 58-51-~~
 38 ~~115(a)(1), that provides benefits on account of for any sickness, illness, or disability of~~
 39 ~~any minor child or that provides benefits on account of for any medical treatment or~~
 40 ~~service authorized or permitted to be furnished by a hospital under the laws of this State~~
 41 ~~health care provider or institution to any minor child shall provide the benefits for those~~
 42 ~~occurrences beginning with the moment of the child's birth if the birth occurs while the~~
 43 ~~policy, subscriber contract, or evidence of coverage with such a plan is in force.~~
 44 ~~Adoptive Foster children shall be treated the same as newborn infants and eligible for~~

1 coverage on the same basis upon placement in the adoptive home, regardless of whether
2 a final decree of adoption has been entered; provided that a petition for adoption has
3 been duly filed and is pursued to a final decree of adoption. foster home.

4 (c) Benefits in such ~~insurance policies, plans, or evidence of coverage plans~~ shall be
5 the same for congenital defects or anomalies as are provided for most sicknesses or
6 illnesses suffered by minor children ~~which that~~ are covered by the ~~policies, plans, or~~
7 ~~evidence of coverage plans.~~ Benefits for congenital defects or anomalies shall
8 specifically include, but not be limited to, all necessary treatment and care needed by
9 individuals born with cleft lip or cleft palate.

10 (d) No ~~policy or plan subscriber contract or evidence of coverage~~ shall be
11 approved by the Commissioner of Insurance pursuant to the provisions of this Article or
12 the provisions of Articles 65, 66, and 67 of under this Chapter that does not comply with
13 the provisions of this section.

14 (e) ~~The provisions of this section apply both~~ This section applies to insurers
15 governed by the provisions of Articles 1 through 64 ~~63~~ of this Chapter and to
16 corporations governed by the provisions of Articles 65, 66, and 67 of this Chapter.

17 (f) This section and G.S. 58-51-125 shall be construed in **pari materia**."

18 Sec. 3. Part 6 of Article 2 of Chapter 108A of the General Statutes is
19 amended by adding the following new sections:

20 "**§ 108A-69. Employer obligations.**

21 (a) As used in this section and in G.S. 108A-70:

22 (1) 'Health benefit plan' means an accident and health insurance policy or
23 certificate; a nonprofit hospital or medical service corporation
24 contract; a health maintenance organization subscriber contract; a plan
25 provided by a multiple employer welfare arrangement; or a plan
26 provided by another benefit arrangement.

27 (2) 'Health insurer' means any health insurance company subject to
28 Articles 1 through 63 of Chapter 58 of the General Statutes, including
29 a multiple employee welfare arrangement, and any corporation subject
30 to Articles 65 and 67 of Chapter 58 of the General Statutes; and means
31 a group health plan, as defined in section 607(1) of the Employee
32 Retirement Income Security Act of 1974.

33 (b) If a parent is required by a court or administrative order to provide health
34 benefit plan coverage for a child, and the parent is eligible for family health benefit plan
35 coverage through an employer doing business in this State, the employer:

36 (1) Must allow the parent to enroll, under family coverage, the child if the
37 child would be otherwise eligible for coverage without regard to any
38 enrollment season restrictions.

39 (2) Must enroll the child under family coverage upon application of the
40 child's other parent or the Department of Human Resources in
41 connection with its administration of the Medical Assistance or Child
42 Support Enforcement Program if the parent is enrolled but fails to
43 make application to obtain coverage for the child.

44 (3) May not disenroll or eliminate coverage of the child unless:

- 1 a. The employer is provided satisfactory written evidence that:
 2 1. The court or administrative order is no longer in effect;
 3 or
 4 2. The child is or will be enrolled in comparable health
 5 benefit plan coverage that will take effect not later than
 6 the effective date of disenrollment; or
 7 b. The employer has eliminated family health benefit plan
 8 coverage for all of its employees.

- 9 (4) Must withhold from the employee's compensation the employee's
 10 share, if any, of premiums for health benefit plan coverage, not to
 11 exceed the maximum amount permitted to be withheld under section
 12 303(b) of the federal Consumer Credit Protection Act, as amended;
 13 and must pay this amount to the health insurer; subject to regulations,
 14 if any, adopted by the Secretary of the U.S. Department of Health and
 15 Human Services.

16 **"§ 108A-70. Recoupment of amounts spent on medical care.**

17 (a) The Department may garnish the wages, salary, or other employment income
 18 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
 19 person who:

- 20 (1) Is required by court or administrative order to provide health benefit
 21 plan coverage for the cost of health care services to a child eligible for
 22 medical assistance under Medicaid; and
 23 (2) Has received payment from a third party for the costs of such services;
 24 but
 25 (3) Has not used such payments to reimburse, as appropriate, either the
 26 other parent or guardian of the child or the provider of the services;

27 to the extent necessary to reimburse the Department for expenditures for such costs
 28 under this Part; provided, however, claims for current and past due child support shall
 29 take priority over any such claims for the costs of such services.

30 (b) To the extent that payment for covered services has been made under G.S.
 31 108A-55 for health care items or services furnished to an individual, in any case where a
 32 third party has a legal liability to make payments, the Department of Human Resources
 33 is considered to have acquired the rights of the individual to payment by any other party
 34 for those health care items or services."

35 Sec. 4. If any section or provision of this act is declared unconstitutional or
 36 invalid by the courts, it does not affect the validity of the act as a whole or any part
 37 other than the part so declared to be unconstitutional or invalid.

38 Sec. 5. This act becomes effective October 1, 1994, and applies to each
 39 health benefit plan, as defined in this act, that is delivered, that is issued for delivery, or,
 40 on the next anniversary date of a health benefit plan policy or contract, that is renewed
 41 or continued in this State or covering persons residing in this State, on and after October
 42 1, 1994.