

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1335*

Short Title: Medicaid Compliance.

(Public)

Sponsors: Senators Marshall; Forrester, Martin of Pitt, and Walker.

Referred to: Rules and Operation of the Senate.

May 25, 1994

A BILL TO BE ENTITLED

AN ACT TO AMEND STATE INSURANCE AND MEDICAID LAWS TO COMPLY WITH THE FEDERAL OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND GUARANTEE THE CONTINUED AVAILABILITY OF FEDERAL MEDICAID FUNDS FOR THE STATE; AND TO MAKE A CORRESPONDING INSURANCE LAW AMENDMENT.

The General Assembly of North Carolina enacts:

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

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

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

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

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

(b) No health insurer shall consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. § 1396a (section 1902 of the Social Security Act) when considering eligibility for coverage or making payments under its

1 health benefit plan for eligible enrollees, subscribers, policy holders, or certificate
2 holders.

3 (c) To the extent that payment for covered services has been made under G.S.
4 108A-55 for health care items or services furnished to an individual, in any case where a
5 third party has a legal liability to make payments, the Department of Human Resources
6 is considered to have acquired the rights of the individual to payment by any other party
7 for those health care items or services.

8 **"§ 58-51-120. Coverage of children.**

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

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

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

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

16 (b) If a child has health benefit plan coverage through the health insurer of a
17 noncustodial parent that health insurer shall do all of the following:

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

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

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

26 (c) If a parent is required by a court or administrative order to provide health
27 benefit plan coverage for a child, and the parent is eligible for family health benefit plan
28 coverage, the health insurer:

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

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

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

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

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

43 (d) No health insurer may impose requirements on any State agency that has been
44 assigned the rights of an individual eligible for medical assistance under Medicaid and

1 covered for health benefits from the insurer that are different from requirements
2 applicable to an agent or assignee of any other individual so covered.

3 **"§ 58-51-125. Adopted child coverage.**

4 (a) Definitions – As used in this section:

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

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

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

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

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

24 **"§ 58-51-30. Policies to cover newborn infants and adopted foster children.**

25 ~~(a) Every policy of insurance and every hospital service or medical service plan~~
26 ~~as defined in Articles 65 and 66 of this Chapter, and any health care plan operated by a~~
27 ~~health maintenance organization as defined in Article 67 of this Chapter (regardless of~~
28 ~~whether any of such policies or plans shall be defined as individual, family, group,~~
29 ~~blanket, franchise, industrial or otherwise) health benefit plan, as defined in G.S. 58-51-~~
30 ~~115(a)(1), that provides benefits on account of for any sickness, illness, or disability of~~
31 ~~any minor child or that provides benefits on account of for any medical treatment or~~
32 ~~service authorized or permitted to be furnished by a hospital under the laws of this State~~
33 ~~health care provider or institution to any minor child shall provide the benefits for those~~
34 ~~occurrences beginning with the moment of the child's birth if the birth occurs while the~~
35 ~~policy, subscriber contract, or evidence of coverage with such a plan is in force.~~
36 ~~Adoptive Foster children shall be treated the same as newborn infants and eligible for~~
37 ~~coverage on the same basis upon placement in the adoptive home, regardless of whether~~
38 ~~a final decree of adoption has been entered; provided that a petition for adoption has~~
39 ~~been duly filed and is pursued to a final decree of adoption. foster home.~~

40 (b) ~~Benefits in such insurance policies, plans, or evidence of coverage plans shall be~~
41 ~~the same for congenital defects or anomalies as are provided for most sicknesses or~~
42 ~~illnesses suffered by minor children which that are covered by the policies, plans, or~~
43 ~~evidence of coverage plans. Benefits for congenital defects or anomalies shall~~

1 specifically include, but not be limited to, all necessary treatment and care needed by
2 individuals born with cleft lip or cleft palate.

3 ~~(c) No policy or plan subscriber contract or evidence of coverage shall be~~
4 ~~approved by the Commissioner of Insurance pursuant to the provisions of this Article or~~
5 ~~the provisions of Articles 65, 66, and 67 of under this Chapter that does not comply with~~
6 ~~the provisions of this section.~~

7 ~~(d) The provisions of this section apply both~~ This section applies to insurers
8 governed by ~~the provisions of~~ Articles 1 through ~~64-63~~ of this Chapter and to
9 corporations governed by ~~the provisions of~~ Articles 65, 66, and 67 of this Chapter.

10 (e) This section and G.S. 58-51-125 shall be construed in **pari materia**.

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

13 **"§ 108A-69. Employer obligations.**

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

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

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

26 (b) If a parent is required by a court or administrative order to provide health
27 benefit plan coverage for a child, which coverage is available through that parent's
28 employer and the employer is doing business in this State, the employer:

29 (1) Must allow the parent to enroll, under family coverage, the child if the
30 child would be otherwise eligible for coverage without regard to any
31 enrollment season restrictions;

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

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

38 a. The employer is provided satisfactory written evidence that:

39 1. The court or administrative order is no longer in effect;
40 or

41 2. The child is or will be enrolled in comparable health
42 benefit plan coverage through another employer or
43 health insurer, which coverage will take effect not later
44 than the effective date of disenrollment; or

1 b. The employer has eliminated family health benefit plan
2 coverage for all of its employees.

- 3 (4) Must withhold from the employee's compensation the employee's
4 share, if any, of premiums for health benefit plan coverage, not to
5 exceed the maximum amount permitted to be withheld under section
6 303(b) of the federal Consumer Credit Protection Act, as amended;
7 and must pay this amount to the health insurer.

8 **"§ 108A-70. Recoupment of amounts spent on child medical care.**

9 The Department may garnish the wages, salary, or other employment income of, and
10 the Secretary of Revenue shall withhold amounts from State tax refunds to, any person
11 who:

- 12 (1) Is required by court or administrative order to provide health benefit
13 plan coverage for the cost of health care services to a child eligible for
14 medical assistance under Medicaid; and
15 (2) Has received payment from a third party for the costs of such services;
16 but
17 (3) Has not used such payments to reimburse, as appropriate, either the
18 other parent or guardian of the child or the provider of the services;

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

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

25 Sec. 5. This act becomes effective October 1, 1994, and applies to each
26 health benefit plan, as defined in this act, that is delivered, that is issued for delivery, or,
27 on the next anniversary date of a health benefit plan policy or contract, that is renewed
28 or continued in this State or covering persons residing in this State, on and after October
29 1, 1994.