§ 135-48.16. Fraud detection and audit programs.

(a) Access to Persons and Records. – In the course of conducting an investigation or an audit under G.S. 135-48.30(a)(9), the Plan, or authorized representatives who are assisting the State Health Plan Division staff, shall have ready access to the following:

(1) Persons, books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any employing unit. The Plan shall have the authority to examine and make copies of the information described in this subdivision only insofar as it directly relates to a specific investigation or audit. The review of State tax returns shall be limited to matters of official business, and the Plan's report shall not violate the confidentiality provisions of the tax laws. A confidentiality agreement may be put in place with an agency providing documentation to the Plan.

(2) Persons, records, papers, reports, vouchers, correspondence, books, and any other documentation that is in the possession of any individual, private corporation, institution, association, board, or other organization that pertain to any benefits received, disbursed, or otherwise handled pursuant to a grant or contract from the federal government that is administered by the State Health Plan, the State, or its political subdivisions. Providers of social and medical services to a beneficiary shall make copies of records they maintain for services provided to the beneficiary.

Authorized representatives who are assisting the State Health Plan Division staff must have a HIPAA business associate agreement with the State Health Plan and enter into a HIPAA data sharing agreement with any vendor whose records they are copying.

(b) Records of Providers of Social and Medical Services. – Providers of social and medical services who provide ready access to the Plan under subdivision (2) of subsection (a) of this section shall make copies of records they maintain for services provided to a beneficiary available to the Plan or to the authorized representatives who are assisting the State Health Plan Division staff. The Plan, or authorized representatives who are assisting the State Health Plan Division staff, shall request records in writing by providing the name of each beneficiary from whom records are sought, the purpose of the request, the authority for the request, and a reasonable period of time for the production of record copies by the provider. A provider may charge and the Plan, or authorized representatives who are assisting the State Health Plan Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for copies of the records provided.

(c) Fraud Detection and Audit Reports and Work Papers. – The Plan shall maintain for 10 years a complete file of all compliance investigative reports, fraud investigative reports, and reports of other examinations, investigations, surveys, and reviews issued under the Plan's authority under G.S. 135-48.30(a)(9). Fraud or compliance investigation work papers and other evidence or related supportive material directly pertaining to the work of the State Health Plan Division of the Department of State Treasurer shall be retained according to an agreement between the Plan and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel policies to the contrary, pertinent work papers and other supportive material relating to issued fraud or compliance investigation reports may be, at the discretion of the Executive Administrator of the Plan, and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to, and inspection of, such records in connection with some matter officially before them, including criminal investigations. Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, fraud investigation work papers and related

supportive material shall be kept confidential, including any information developed as a part of the investigation. (2017-135, s. 6.)