

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1191

Short Title: State Health Plan Under State Treasurer. (Public)

Sponsors: Representative Wright.

Referred to: Health.

April 10, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE TEACHERS' AND STATE EMPLOYEES'
3 COMPREHENSIVE MAJOR MEDICAL PLAN TO THE DEPARTMENT OF
4 STATE TREASURER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Article 4 of Chapter 143A of the General Statutes is
7 amended by adding the following new section to read:

8 "**§ 143A-38.2. Teachers' and State Employees' Comprehensive Major Medical**
9 **Plan; transfer.**

10 The Teachers' and State Employees' Comprehensive Major Medical Plan and the
11 Board of Trustees, the Public Employee Health Benefit Fund and the Health Benefit
12 Reserve Fund, and the Health Insurance Program for Children, as contained in Article 3
13 of Chapter 135 of the General Statutes and the laws of this State, are hereby transferred
14 by a Type II transfer to the Department of State Treasurer."

15 **SECTION 1.(b)** In accordance with G.S. 135-39.4A, as amended by this act,
16 the State Treasurer shall, within 60 days after this section becomes effective, vacate the
17 position of Executive Administrator of the Teachers' and State Employees'
18 Comprehensive Major Medical Plan and shall appoint to the position of Executive
19 Administrator a person other than the person serving as Executive Administrator on
20 July 1, 2002.

21 **SECTION 2.(a)** G.S. 135-38, 135-39.2(a), 135-39.3, 135-39.9, 135-39.10,
22 and 35-40.12(b) are repealed.

23 **SECTION 2.(b)** G.S. 135-37 reads as rewritten:

24 "**§ 135-37. Confidentiality.**

25 Any information as herein described in this section which is in the possession of the
26 Executive Administrator and the Board of Trustees of the Teachers' and State
27 Employees' Comprehensive Major Medical Plan or its Claims Processor under the
28 Teachers' and State Employees' Comprehensive Major Medical Plan shall be
29 confidential and shall be exempt from the provisions of Chapter 132 of the General

1 Statutes or any other provision requiring information and records held by State agencies
2 to be made public or accessible to the public. This section shall apply to all information
3 concerning individuals, including the fact of coverage or noncoverage, whether or not a
4 claim has been filed, medical information, whether or not a claim has been paid, and
5 any other information or materials concerning a plan participant. Provided, however,
6 such information may be released to the State Auditor, or to the Attorney General, ~~or to~~
7 ~~the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and~~
8 ~~responsibilities,~~ or to such persons or organizations as may be designated and approved
9 by the Executive Administrator and Board of Trustees of the Teachers' and State
10 Employees' Comprehensive Major Medical Plan, but any information so released shall
11 remain confidential as stated above and any party obtaining such information shall
12 assume the same level of responsibility for maintaining such confidentiality as that of
13 the Executive Administrator and Board of Trustees of the Teachers' and State
14 Employees' Comprehensive Major Medical Plan."

15 **SECTION 2.(c)** G.S. 135-39 reads as rewritten:

16 **"§ 135-39. Board of Trustees established.**

17 (a) There is hereby established the Board of Trustees of the Teachers' and State
18 Employees' Comprehensive Major Medical Plan. The Board of Trustees shall be part of
19 the Department of State Treasurer as provided in G.S. 143A-38.2.

20 (a1) The Board of Trustees of the Teachers' and State Employees' Comprehensive
21 Major Medical Plan shall consist of nine members.

22 (a2) The State Treasurer shall be a member of the Board of Trustees established
23 by this section and shall be the Chairman of the Board of Trustees.

24 (b) Three members shall be appointed by the Governor. Of the initial members,
25 one shall serve a term to expire June 30, 1983, and two shall serve terms to expire June
26 30, 1984. Subsequent terms shall be for two years. Vacancies shall be filled by the
27 Governor. Of the members appointed by the Governor, one shall be either:

- 28 (1) An employee of a State department, agency, or institution;
- 29 (2) A teacher employed by a North Carolina public school system;
- 30 (3) A retired employee of a State department, agency, or institution; or
- 31 (4) A retired teacher from a North Carolina public school system.

32 (c) Three members shall be appointed by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives in accordance with
34 G.S. 120-121. Of the initial members, two shall serve terms expiring June 30, 1983, and
35 one shall serve a term expiring June 30, 1984. Vacancies shall be filled in accordance
36 with G.S. 120-122.

37 (d) Three members shall be appointed by the General Assembly upon the
38 recommendation of the President Pro Tempore of the Senate in accordance with G.S.
39 120-121. Of the initial members, two shall serve terms expiring June 30, 1983, and one
40 shall serve a term expiring June 30, 1984. Vacancies shall be filled in accordance with
41 G.S. 120-122.

42 (d1) Repealed by Session Laws 1985, c. 732, s. 60.

1 (e) The Governor shall have the power to remove any member appointed by him
2 under subsection (b). The General Assembly may remove any member appointed under
3 ~~subsections~~ subsection (c) or (d).

4 (f) The members of the Board of Trustees shall receive one hundred dollars
5 (\$100.00) per day, except employees eligible to enroll in the Plan, whenever the full
6 Board of Trustees holds a public session, and travel allowances under G.S. 138-6 when
7 traveling to and from meetings of the Board of Trustees or hearings under G.S.
8 135-39.7, but shall not receive any subsistence allowance or per diem under G.S. 138-5,
9 except when holding a meeting or hearing where this section does not provide for
10 payment of one hundred dollars (\$100.00) per day.

11 (g) Repealed by Session Laws 2002-126, s. 28.16(a), effective October 1, 2002,
12 and applicable to appointments and reappointments made on and after that date.

13 (h) ~~No~~ Except for the State Treasurer, no member of the Board of Trustees may
14 serve more than three consecutive two-year terms.

15 (i) Meetings of the Board of Trustees may be called by the Executive
16 Administrator, the Chairman, or by any three members."

17 **SECTION 2.(d)** G.S. 135-39.4A reads as rewritten:

18 **"§ 135-39.4A. Executive Administrator.**

19 (a) The Plan shall have an Executive Administrator.

20 (b) The Executive Administrator shall be appointed by the ~~Commissioner of~~
21 ~~Insurance~~ State Treasurer. The term of employment and salary of the Executive
22 Administrator shall be set by the ~~Commissioner of Insurance upon the advice of an~~
23 ~~executive committee of the Committee on Employee Hospital and Medical~~
24 ~~Benefits~~ State Treasurer.

25 The Executive Administrator may be removed from office by the ~~Commissioner of~~
26 ~~Insurance, upon the advice of an executive committee of the Committee on Employee~~
27 ~~Hospital and Medical Benefits, and any vacancy in the office of Executive~~
28 ~~Administrator may be filled by the Commissioner of Insurance with the term of~~
29 ~~employment and salary set upon the advice of an executive committee of the Committee~~
30 ~~on Employee Hospital and Medical Benefits~~ State Treasurer.

31 (c) to (e) Repealed by Session Laws 1987, c. 857, s. 5.

32 (f) The Executive Administrator may employ such clerical and professional staff,
33 and such other assistance as may be necessary to assist the Executive Administrator and
34 the Board of Trustees in carrying out their duties and responsibilities under this Article.
35 The Executive Administrator may also negotiate, renegotiate and execute contracts with
36 third parties in the performance of his duties and responsibilities under this ~~Article;~~
37 ~~provided any contract negotiations, renegotiations and execution with a Claims~~
38 ~~Processor or with an optional prepaid hospital and medical benefit plan or with a~~
39 ~~preferred provider of institutional or professional hospital and medical care or with a~~
40 ~~pharmacy benefit manager shall be done only after consultation with the Committee on~~
41 ~~Employee Hospital and Medical Benefits~~ Article.

42 (g) The Executive Administrator shall be responsible for:

43 (1) Cost management programs;

44 (2) Education and illness prevention programs;

- 1 (3) Training programs for Health Benefit Representatives;
- 2 (4) Membership functions;
- 3 (5) Long-range planning;
- 4 (6) Provider and participant relations; and
- 5 (7) Communications.

6 Managed care practices used by the Executive Administrator in cost management
7 programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223,
8 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

9 (h) The Executive Administrator shall make reports and recommendations on the
10 Plan to the President of the Senate, the Speaker of the House of Representatives and the
11 ~~Committee on Employee Hospital and Medical Benefits.~~ Joint Legislative Health Care
12 Oversight Committee."

13 **SECTION 2.(e)** G.S. 135-39.5 reads as rewritten:

14 **"§ 135-39.5. Powers and duties of the Executive Administrator and Board of**
15 **Trustees.**

16 The Executive Administrator and Board of Trustees of the Teachers' and State
17 Employees' Comprehensive Major Medical Plan shall have the following powers and
18 duties:

- 19 (1) Supervising and monitoring of the Claims Processor.
- 20 (2) Providing for enrollment of employees in the Plan.
- 21 (3) Communicating with employees enrolled under the Plan.
- 22 (4) Communicating with health care providers providing services under
23 the Plan.
- 24 (5) Making payments at appropriate intervals to the Claims Processor for
25 benefit costs and administrative costs.
- 26 (6) Conducting administrative reviews under G.S. 135-39.7.
- 27 (7) Annually assessing the performance of the Claims Processor.
- 28 (8) Preparing and submitting to the State Treasurer, the Governor and the
29 General Assembly cost estimates for the health benefits plan, including
30 those required by Article 15 of Chapter 120 of the General Statutes.
- 31 (9) Recommending to the State Treasurer, the Governor and the General
32 Assembly changes or additions to the health benefits program and
33 health care cost containment programs, together with statements of
34 financial and actuarial effects as required by Article 15 of Chapter 120
35 of the General Statutes.
- 36 (10) Working with State employee groups to improve health benefit
37 programs.
- 38 (11) Repealed by Session Laws 1985, c. 732, s. 9.
- 39 (12) Determining basis of payments to health care providers, including
40 payments in accordance with G.S. 58-50-56. The Plan shall comply
41 with G.S. 58-3-225.
- 42 (13) Requiring bonding of the Claims Processor in the handling of State
43 funds.
- 44 (14) Repealed by Session Laws 1985, c. 732, s. 7.

- 1 (15) In case of termination of the contract under G.S. 135-39.5A, to select a
2 new Claims Processor, after competitive bidding procedures approved
3 by the Department of Administration.
- 4 (16) Notwithstanding the provisions of Part 3 of this Article, to formulate
5 and implement cost-containment measures which are not in direct
6 conflict with that Part.
- 7 (17) Implementing pilot programs necessary to evaluate proposed cost
8 containment measures which are not in direct conflict with Part 3 of
9 this Article, and expending funds necessary for the implementation of
10 such programs.
- 11 (18) Authorizing coverage for alternative forms of care not otherwise
12 provided by the Plan in individual cases when medically necessary,
13 medically equivalent to services covered by the Plan, and when such
14 alternatives would be less costly than would have been otherwise.
- 15 (19) Establishing and operating a hospital and other provider bill audit
16 program and a fraud detection program.
- 17 (20) Determining administrative and medical policies that are not in direct
18 conflict with Part 3 of this Article upon the advice of the Claims
19 Processor and upon the advice of the Plan's consulting actuary when
20 Plan costs are involved.
- 21 (21) Supervising the payment of claims and all other disbursements under
22 this Article, including the recovery of any disbursements that are not
23 made in accordance with the provisions of this Article.
- 24 (22) Implementing and administering a program of long-term care benefits
25 pursuant to Part 4 of this Article.
- 26 (23) Implementing and administering a program of child health insurance
27 benefits pursuant to Part 5 of this Article.
- 28 (24) Implementing and administering a case management and disease
29 management program.
- 30 (25) Implementing and administering a pharmacy benefit management
31 program through a third-party contract awarded after receiving
32 competitive quotes.
- 33 (26) Increasing annually the amount of the annual deductible and annual
34 aggregate maximum deductible. The increase shall be established by
35 determining the ratio of the CPI-Medical Index to such index one year
36 earlier. If the ratio indicates an increase in the CPI-Medical Index, then
37 the amount of the annual deductible and annual aggregate maximum
38 deductible may be increased by not more than the percentage increase
39 in the CPI-Medical Index. As used in this subdivision, the term
40 "CPI-Medical Index" means the U.S. Consumer Price Index for All
41 Urban Consumers for Total Medical Care.
- 42 (27) The Executive Administrator may establish pilot programs to measure
43 potential cost savings and improvements in patient care available
44 through local, provider-driven medical management."

1 **SECTION 2.(f)** G.S. 135-40.10(d) reads as rewritten:

2 "(d) Notwithstanding the foregoing provisions of this section or any other
3 provisions of the Plan, the Executive Administrator and Board of Trustees may enter
4 into negotiations with the Health Care Financing Administration, U.S. Department of
5 Health and Human Services, in order to secure a more favorable coordination of the
6 Plan's benefits with those provided by Medicare, including but not limited to, measures
7 by which the Plan would provide Medicare benefits for all of its Medicare-eligible
8 members in return for adequate payments from the federal government in providing
9 such benefits. Should such negotiations result in an agreement favorable to the Plan and
10 its Medicare-eligible members, the Executive Administrator and Board of Trustees ~~may,~~
11 ~~after consultation with the Committee on Employee Hospital and Medical Benefits,~~ may
12 implement such an agreement which shall supersede all other provisions of the Plan to
13 the contrary related to its payment of claims for Medicare-eligible members."

14 **SECTION 2.(g)** G.S. 135-39.8 reads as rewritten:

15 "**§ 135-39.8. Rules and regulations.**

16 The Executive Administrator and Board of Trustees may issue rules and regulations
17 to implement Parts 2, 3, 4, and 5 of this Article. The Executive Administrator and Board
18 of Trustees shall provide to all employing units, all health benefit representatives, the
19 oversight team provided for in G.S. 135-39.3, all relevant health care providers affected
20 by a rule or regulation, and to any other persons requesting a written description and
21 approved by the Executive Administrator and Board of Trustees written notice and an
22 opportunity to comment not later than 30 days prior to adopting, amending, or
23 rescinding a rule or regulation, unless immediate adoption of the rule or regulation
24 without notice is necessary in order to fully effectuate the purpose of the rule or
25 regulation. Rules and regulations of the Board of Trustees shall remain in effect until
26 amended or repealed by the Executive Administrator and Board of Trustees. The
27 Executive Administrator and Board of Trustees shall provide a written description of the
28 rules and regulations issued under this section to all employing units, all health benefit
29 representatives, ~~the oversight team provided for in G.S. 135-39.3,~~ all relevant health
30 care providers affected by a rule or regulation, and to any other persons requesting a
31 written description and approved by the Executive Administrator and Board of Trustees
32 on a timely basis."

33 **SECTION 2.(h)** G.S. 135-39.7(a) reads as rewritten:

34 "(a) If, after exhaustion of internal appeal handling as outlined in the contract with
35 the Claims Processor any person is aggrieved, the Claims Processor shall bring the
36 matter to the attention of the Executive Administrator and Board of Trustees, which
37 shall promptly decide whether the subject matter of the appeal is a determination subject
38 to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes. The
39 Executive Administrator and Board of Trustees shall inform the aggrieved person and
40 the aggrieved person's provider of the decision and shall provide the aggrieved person
41 notice of the aggrieved person's right to appeal that decision as provided in this
42 subsection. If the Executive Administrator and Board of Trustees decide that the subject
43 matter of the appeal is not a determination subject to external review, then the Executive
44 Administrator and Board of Trustees may make a binding decision on the matter in

1 accordance with procedures established by the Executive Administrator and Board of
2 Trustees. The Executive Administrator and Board of Trustees shall provide a written
3 summary of the decisions made pursuant to this section to all employing units, all health
4 benefit representatives, ~~the oversight team provided for in G.S. 135-39.3,~~ all relevant
5 health care providers affected by a decision, and to any other parties requesting a
6 written summary and approved by the Executive Administrator and Board of Trustees to
7 receive a summary immediately following the issuance of a decision. A decision by the
8 Executive Administrator and Board of Trustees that a matter raised on internal appeal is
9 a determination subject to external review as provided in subsection (b) of this section
10 may be contested by the aggrieved person under Chapter 150B of the General Statutes.
11 The person contesting the decision may proceed with external review pending a
12 decision in the contested case under Chapter 150B of the General Statutes."

13 **SECTION 3.** Sections 1 and 2 of this act become effective December 1,
14 2003. The remainder of this act is effective when it becomes law.