May 27, 2008

S 2008. MEDICAID APPEALS CHANGE. Filed 5/27/08. *TO IMPROVE THE APPEALS PROCESS FOR MEDICAID RECIPIENTS AND PROVIDERS APPEALING DEPARTMENT OF HEALTH AND HUMAN SERVICES DECISIONS PERTAINING TO ELIGIBILITY AND SERVICES UNDER THE MEDICAID PROGRAM*.

Effective October 1, 2008, eliminates the current informal settlement process used by the Department of Health and Human Services (DHHS) to resolve appeals by Medicaid recipients and designates all such appeals as contested cases under the Administrative Procedure Act, to be heard by the Office of Administrative Hearings. On that same date, transfers authority to hear appeals from Medicaid providers from the Office of Administrative Hearings to DHHS and requires all such cases to be transferred within 30 days. Establishes detailed procedures and transition provisions for both changes in procedure as well as for appealing DHHS's decision. Appropriates $5 million for 2008-09 from the General Fund to the Department of Health and Human Services, Division of Medical Assistance, to pay for additional hearing officers in DHHS and to assist legal services organizations assisting recipients who appeal. Makes conforming changes. Effective October 1, 2008.

Intro. by Nesbitt. GS 108A, APPROP

July 9, 2008

S 2008. MEDICAID APPEALS CHANGE. Filed 5/27/08. Senate committee substitute makes the following changes to 1st edition. Previous edition eliminated the current informal settlement process used by the Department of Health and Human Services (DHHS) to resolve appeals by Medicaid recipients and designated all such appeals as "contested cases" under the Administrative Procedure Act (APA), to be heard by the Office of Administrative Hearings (OAH). Required that DHHS file a petition with the OAH to determine the Medicaid applicant's or recipient's rights, duties, or privileges at the same time as sending a notice to an aggrieved applicant or recipient.

Instead, committee substitute establishes, in proposed new GS 108A-79.1, an appeals process for an adverse determination by DHHS by requiring the applicant or recipient to request a hearing within 30 days of the mailing of a notice sent by DHHS regarding the adverse determination. Provides for the content of the notice, which must be sent by DHHS at least 30 days before the effective date of the adverse determination, and includes an appeal request form created by DHHS. Provides for the contents of the appeal request form. Requires the appeal request form be sent to OAH and DHHS to initiate a hearing before an administrative law judge. Provides that the administrative law judge's decision and the individual's record be returned to DHHS, in accordance with GS 150B-31.2. Requires DHHS to make a final decision within 20 days of the receipt of that decision, with a prompt notification to the applicant or recipient and notification of the right to judicial review under Article 4 of GS Chapter 150B.

Enacts a new GS 150B-31.2, which applies only to contested Medicaid cases commenced by Medicaid applicants or recipients under GS 108A-79.1. Authorizes the chief administrative law judge to limit and simplify procedures that apply to Medicaid cases in order to expedite their completion. Requires, to the extent possible, that the Hearings Decision schedule and hear contested Medicaid cases within 45 days of a submission of a request for appeal. Provides procedural guidelines for hearings. Requires the chief administrative law judge, upon receipt of an appeal request, to immediately notify the Mediation Network of North Carolina, who must contact the petitioner within five days to offer mediation services. Requires mediation be completed within 25 days of the request for appeal and if the dispute is not resolved then the case proceeds to a hearing. Clarifies burden of proof standards set forth in previous edition. Requires notification of the administrative law judge's decision in writing and return of the record within 20 days of the conclusion of the hearing.

Deletes conforming amendment to GS 150B-1(e) and proposed new GS 108A-79.2, which set forth Medicaid provider appeals for a DHHS level decision. Deletes $5 million appropriation to DHHS, Division of Medical Assistance (DMA), for 2008-09 to be used to increase the number of hearing officers for provider appeals and to pay for legal and mediation assistance to Medicaid applicants or recipients filing a petition with OAH.

Instead, effective July 1, 2008, appropriates $3 million from the General Fund to OAH for 2008-09 to be used as follows: (1) $1.5 million for mediation services; (2) $400,000 for legal services organizations to assist individuals with appeals of adverse determinations; and (3) $1.1 million to increase the number of administrative law judges and other staff to implement the act. Appropriates $787,000 from the General Fund to DMA for administering the new appeals process.

Effective October 1, 2008, requires DHHS to suspend its informal appeals process and provides that pending appeals for which a hearing has not been held to be discontinued and the applicant or recipient will be offered an opportunity to appeal to OAH.

Adds Whereas clauses. Makes conforming change to title.