

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 747

Short Title: Merge NC Health Choice & Medicaid. (Public)

Sponsors: Representatives Clemmons, Adcock, Cunningham, and von Haefen (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 3, 2021

A BILL TO BE ENTITLED

AN ACT TO MERGE THE NC HEALTH CHOICE CHILDREN'S HEALTH INSURANCE PROGRAM WITH THE NORTH CAROLINA MEDICAID PROGRAM.

Whereas, the federal Children's Health Insurance Program (CHIP) was authorized in 1997; and

Whereas, 21 states chose to merge their CHIP programs with their Medicaid program; and

Whereas, North Carolina chose to implement a separate program, known as NC Health Choice, but later chose to merge children under age six into the North Carolina Medicaid program; and

Whereas, the current NC Health Choice enrollment of 114,000 children represents less than seven percent of all children covered by both programs; and

Whereas, over time the two programs have become almost identical with regard to benefits, reimbursement rates, and other program aspects; and

Whereas, the critical difference in benefits is that children with special health care needs served by NC Health Choice do not have access to the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefits provided to Medicaid beneficiaries. This benefit provides all special therapies, prostheses, orthotics, and other services that these vulnerable children often need; and

Whereas, implementing two almost identical programs is an onerous administrative burden for the State and counties, and is confusing for providers and families alike; and

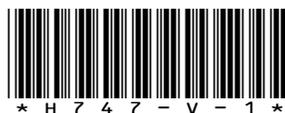
Whereas, merging the programs will facilitate the implementation of Medicaid Transformation; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. ELIMINATE NC HEALTH CHOICE AND MOVE BENEFICIARIES TO THE NORTH CAROLINA MEDICAID PROGRAM

SECTION 1.(a) The Department of Health and Human Services is directed to submit any necessary State Plan amendments to the Centers for Medicare and Medicaid Services (CMS) for the merger of the NC Health Choice program into the North Carolina Medicaid program on January 1, 2022. This merger would result in the elimination of NC Health Choice. All children currently eligible for NC Health Choice would then be eligible for Medicaid on January 1, 2022.

SECTION 1.(b) Effective July 1, 2021, there is appropriated from the General Fund to the Department of Health and Human Services, Division of Health Benefits, the sum of one



1 hundred thirty-four thousand dollars (\$134,000) in nonrecurring funds for the 2021-2022 fiscal
2 year to be used to make the necessary IT changes to the North Carolina Families Accessing
3 Services through Technology (NC FAST) system used to determine eligibility and enroll
4 beneficiaries in the North Carolina Medicaid program. These funds shall provide a State match
5 for two hundred sixty-six thousand dollars (\$266,000) in nonrecurring federal funds for the
6 2021-2022 fiscal year and those federal funds are appropriated to the Division of Health Benefits
7 to be used to make the necessary IT changes to the NC FAST system.

8 **SECTION 2.(a)** Part 8 of Article 2 of Chapter 108A of the General Statutes is
9 repealed.

10 **SECTION 2.(b)** G.S. 108A-54.3A reads as rewritten:
11 "**§ 108A-54.3A. Eligibility categories and income thresholds.**

12 The Department shall provide Medicaid coverage for individuals in accordance with federal
13 statutes and regulations and specifically shall provide coverage for the following populations:

14 ...

15 (3) Children ~~under~~ through the age of ~~6-18~~ with family incomes equal to or less
16 than two hundred ten percent (210%) of the federal poverty guidelines.

17 (4) ~~Children aged 6 through 18 with family incomes equal to or less than one~~
18 ~~hundred thirty three percent (133%) of the federal poverty guidelines.~~

19"

20 **SECTION 2.(c)** This section becomes effective January 1, 2022.

21 **PART II. TECHNICAL AND CONFORMING CHANGES**

22 **SECTION 3.(a)** G.S. 90-21.50(1) reads as rewritten:

23 "(1) "Health benefit plan" means an accident and health insurance policy or
24 certificate; a nonprofit hospital or medical service corporation contract; a
25 health maintenance organization subscriber contract; a self-insured indemnity
26 program or prepaid hospital and medical benefits plan offered under the State
27 Health Plan for Teachers and State Employees and subject to the requirements
28 of Article 3 of Chapter 135 of the General Statutes, a plan provided by a
29 multiple employer welfare arrangement; or a plan provided by another benefit
30 arrangement, to the extent permitted by the Employee Retirement Income
31 Security Act of 1974, as amended, or by any waiver of or other exception to
32 that act provided under federal law or regulation. ~~Except for the Health~~
33 ~~Insurance Program for Children established under Part 8 of Article 2 of~~
34 ~~Chapter 108A of the General Statutes,~~ "Health benefit plan" does not mean
35 any plan implemented or administered by the North Carolina or United States
36 Department of Health and Human Services, or any successor agency, or its
37 representatives. "Health benefit plan" does not mean any of the following
38 kinds of insurance:

39"

40 **SECTION 3.(b)** G.S. 90-21.50(7) reads as rewritten:

41 "(7) "Managed care entity" means an insurer that:

- 42 a. Delivers, administers, or undertakes to provide for, arrange for, or
43 reimburse for health care services or assumes the risk for the delivery
44 of health care services; and
45 b. Has a system or technique to control or influence the quality,
46 accessibility, utilization, or costs and prices of health care services
47 delivered or to be delivered to a defined enrollee population.

48 Except for the State Health Plan for Teachers and State ~~Employees and the~~
49 ~~Health Insurance Program for Children, Employees,~~ "managed care entity"
50 does not include: (i) an employer purchasing coverage or acting on behalf of
51

1 its employees or the employees of one or more subsidiaries or affiliated
2 corporations of the employer, or (ii) a health care provider."

3 **SECTION 4.** G.S. 105-164.13(13d) reads as rewritten:

4 "(13d) Sales of diapers or incontinence underpads on prescription by an enrolled
5 State ~~Medicaid/Health Choice~~ Medicaid provider for use by beneficiaries of
6 the State Medicaid program when the provider is reimbursed by the State
7 Medicaid program or a Medicaid managed care organization, as defined in 42
8 U.S.C. § 1396b(m)."

9 **SECTION 5.** G.S. 108A-24(3e) reads as rewritten:

10 "(3e) "Fee-for-service program" means a payment model for the Medicaid ~~and NC~~
11 ~~Health Choice programs~~ program operated by the Department of Health and
12 Human Services pursuant to its authority under Part 6 ~~and Part 8~~ of Article 2
13 of Chapter 108A of the General Statutes in which the Department pays
14 enrolled providers for services provided to Medicaid ~~and NC Health Choice~~
15 recipients rather than contracting for the coverage of services through a
16 capitated payment arrangement."

17 **SECTION 6.** G.S. 108A-54.1B(a) reads as rewritten:

18 "(a) The Department is expressly authorized to adopt temporary and permanent rules to
19 implement ~~or define the federal laws and regulations,~~ regulations related to Medicaid and the
20 North Carolina Medicaid State Plan of Medical Assistance, and the North Carolina State Plan of
21 the Health Insurance Program for Children, the terms and conditions of eligibility for applicants
22 and recipients of the Medical Assistance Program and the Health Insurance Program for Children,
23 audits and program integrity, the services, goods, supplies, or merchandise made available to
24 recipients of the Medical Assistance Program and the Health Insurance Program for Children,
25 and reimbursement for the services, goods, supplies, or merchandise made available to recipients
26 of the Medical Assistance Program and the Health Insurance Program for Children.Plan."

27 **SECTION 7.** G.S. 108A-57(c) is repealed.

28 **SECTION 8.** G.S. 108A-142(c)(4) reads as rewritten:

29 "(4) Any changes as determined by the Department in (i) reimbursement under the
30 Medicaid State ~~Plan,~~ Plan and (ii) managed care payments authorized under
31 42 C.F.R. § 438.6 for which the nonfederal share is not funded by General
32 Fund ~~appropriations, and (iii) reimbursement under the NC Health Choice~~
33 ~~program appropriations."~~

34 **SECTION 9.** G.S. 108C-2 reads as rewritten:

35 **"§ 108C-2. Definitions.**

36 The following definitions apply in this Chapter:

37 ...

38 (2) Applicant. – An individual, partnership, group, association, corporation,
39 institution, or entity that applies to the Department for enrollment as a provider
40 in the North Carolina ~~Medical Assistance Program or the North Carolina~~
41 ~~Health Insurance Program for Children.~~ Medicaid program.

42 (3) Department. – The North Carolina Department of Health and Human
43 Services, its legally authorized agents, contractors, or vendors who acting
44 within the scope of their authorized activities, assess, authorize, manage,
45 review, audit, monitor, or provide services pursuant to Title XIX or XXI of
46 the Social Security Act, the North Carolina State Plan of Medical Assistance,
47 ~~the North Carolina State Plan of the Health Insurance Program for Children,~~
48 or any waivers of the federal Medicaid Act granted by the United States
49 Department of Health and Human Services.

50 ...

- 1 (6) ~~Health Choice. — The Health Insurance Program for Children authorized by~~
2 ~~G.S. 108A-70.25 and as set forth in the North Carolina State Plan of the Health~~
3 ~~Insurance Program for Children.~~
- 4 (7) Managing employee. – As defined in 42 C.F.R. § 455.101.
- 5 ...
- 6 (10) Provider. – An individual, partnership, group, association, corporation,
7 institution, or entity required to enroll in the North Carolina Medical
8 Assistance Program ~~or the North Carolina Health Insurance Program for~~
9 ~~Children~~ to provide services, goods, supplies, or merchandise to a Medicaid
10 ~~or Health Choice~~ recipient.
- 11 (11) Revalidation. – The reenrollment of a provider in the Medicaid ~~or Health~~
12 ~~Choice programs program~~ as required under federal law.

13 "

14 **SECTION 10.** G.S. 108C-13 reads as rewritten:

15 "**§ 108C-13. Certain waivers of Medicaid and Health Choice co-payments copayments**
16 **prohibited.**

17 (a) No provider that has obtained a permit pursuant to G.S. 90-85.21 or G.S. 90-85-21A
18 shall waive the collection of ~~co-payments copayments~~ owed by Medicaid recipients ~~of Medicaid~~
19 ~~and Health Choice~~, as required by the respective program, with the intent to induce recipients to
20 purchase, lease, or order items or services from the permitted provider. For enforcement
21 purposes, a permitted provider that waives a ~~co-payment copayment~~ owed by a Medicaid
22 recipient ~~of Medicaid or Health Choice~~ is in violation of this subsection regardless of the
23 monetary amount that is waived by the permitted provider. A permitted provider shall not be in
24 violation of this subsection if the provider waives a ~~co-payment copayment~~ owed by a Medicaid
25 recipient ~~of Medicaid or Health Choice~~ for any of the following reasons:

- 26 (1) The waiver is authorized under the ~~Medical Assistance Program or the North~~
27 ~~Carolina Health Insurance Program for Children.~~ North Carolina Medicaid
28 program.

29 ...

30 (b) A violation of this section shall result in suspension or termination by the Department
31 of a permitted provider's participation in the North Carolina Medicaid and Health Choice
32 program in accordance with administrative sanctions and remedial measures established by the
33 Department for violations of this section."

34 **SECTION 11.(a)** G.S. 108D-1(1) reads as rewritten:

35 "(1) Adverse benefit determination. – As defined in 42 C.F.R. § 438.400(b). ~~In~~
36 ~~accordance with 42 C.F.R. § 457.1260, this definition applies to NC Health~~
37 ~~Choice beneficiaries in the same manner as it applies to Medicaid~~
38 ~~beneficiaries."~~

39 **SECTION 11.(b)** G.S. 108D-1(5) reads as rewritten:

40 "(5) Beneficiary. – A person to whom or on whose behalf medical assistance ~~or~~
41 ~~assistance through the North Carolina Health Choice for Children program~~ is
42 granted under Article 2 of Chapter 108A of the General Statutes."

43 **SECTION 11.(c)** G.S. 108D-1(16) reads as rewritten:

44 "(16) Fee-for-service program. – A payment model for the Medicaid ~~and NC Health~~
45 ~~Choice programs program~~ operated by the Department of Health and Human
46 Services pursuant to its authority under Part 6 ~~and Part 8~~ of Article 2 of
47 Chapter 108A of the General Statutes in which the Department pays enrolled
48 providers for services provided to Medicaid ~~and NC Health Choice~~
49 beneficiaries rather than contracting for the coverage of services through a
50 capitated payment arrangement."

51 **SECTION 12.** G.S. 108D-2 reads as rewritten:

1 **"§ 108D-2. Scope; applicability of this Chapter.**

2 This Chapter applies to every managed care entity, applicant, enrollee, provider of emergency
3 services, and network provider of a managed care entity. This Chapter does not apply to Medicaid
4 ~~or NC Health Choice~~ services delivered through the fee-for-service program. ~~Nothing in this~~
5 ~~Chapter shall be construed to grant a NC Health Choice beneficiary benefits in excess of what is~~
6 ~~required by G.S. 108A-70.21."~~

7 **SECTION 13.(a)** G.S. 108D-13(c) reads as rewritten:

8 "(c) Continuation of Benefits. – A managed care entity shall continue the benefits of a
9 Medicaid enrollee during the pendency of a managed care entity level appeal to the same extent
10 required under 42 C.F.R. § 438.420. ~~In accordance with 42 C.F.R. § 457.1260, NC Health Choice~~
11 ~~enrollees shall not be entitled to continuation of benefits."~~

12 **SECTION 13.(b)** G.S. 108D-14(c) reads as rewritten:

13 "(c) Continuation of Benefits. – A managed care entity shall continue the benefits of a
14 Medicaid enrollee during the pendency of an expedited managed care entity level appeal to the
15 extent required under 42 C.F.R. § 438.420. ~~In accordance with 42 C.F.R. § 457.1260, NC Health~~
16 ~~Choice enrollees shall not be entitled to continuation of benefits."~~

17 **SECTION 13.(c)** G.S. 108D-15(g) reads as rewritten:

18 "(g) Continuation of Benefits. – A managed care entity shall continue the benefits of a
19 Medicaid enrollee during the pendency of an appeal to the same extent required under 42 C.F.R.
20 § 438.420. ~~In accordance with 42 C.F.R. § 457.1260, NC Health Choice enrollees shall not be~~
21 ~~entitled to continuation of benefits.~~ Notwithstanding any other provision of State law, the
22 administrative law judge does not have the power to order and shall not order a managed care
23 entity to continue benefits in excess of what is required by 42 C.F.R. § 438.420."

24 **SECTION 14.** G.S. 108D-35 reads as rewritten:

25 **"§ 108D-35. Services covered by PHPs.**

26 Capitated PHP contracts shall cover all Medicaid ~~and NC Health Choice~~ services, including
27 ~~physical health services, prescription drugs, long term services and supports, and behavioral~~
28 ~~health services for NC Health Choice recipients, services~~ except as otherwise provided in this
29 section. The capitated contracts required by this section shall not ~~ever~~ cover any of the
30 following:

31"

32 **SECTION 15.** G.S. 143-682(a) reads as rewritten:

33 "(a) There is established the Commission on Children With Special Health Care Needs.
34 The Department of Health and Human Services shall provide staff services and space for
35 Commission meetings. The purpose of the Commission is to monitor and evaluate the availability
36 and provision of health services to special needs children in this State, ~~and to monitor and~~
37 ~~evaluate services provided to special needs children under the Health Insurance Program for~~
38 ~~Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.~~State."

39 **SECTION 16.** G.S. 150B-1(e)(17) is repealed.

40 **SECTION 17.** As a result of the repeal of Part 8 of Article 2 of Chapter 108A of the
41 General Statutes under Section 2(a) of this act, the Revisor of Statutes shall eliminate the
42 following phrases from wherever they appear in the General Statutes:

- 43 (1) Health Choice.
- 44 (2) NC Health Choice.
- 45 (3) NC Health Choice program.
- 46 (4) North Carolina Health Choice.
- 47 (5) North Carolina Health Insurance Program for Children.

48 When eliminating these phrases, the Revisor of Statutes may adjust subject and verb
49 agreement and the placement of conjunctions and may eliminate extraneous conjunctions.

50 **SECTION 18.(a)** Article 23B of Chapter 120 of the General Statutes reads as
51 rewritten:

"Article 23B.

"Joint Legislative Oversight Committee on ~~Medicaid and NC Health Choice~~.Medicaid.

"§ 120-209. Creation and membership of Joint Legislative Oversight Committee on ~~Medicaid and NC Health Choice~~.Medicaid.

(a) The Joint Legislative Oversight Committee on Medicaid ~~and NC Health Choice~~ is established. The Committee consists of 14 members as follows:

- (1) Seven members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party.
- (2) Seven members of the House of Representatives appointed by the Speaker of the House of Representatives, at least two of whom are members of the minority party.

...

"§ 120-209.1. Purpose and powers of Committee.

(a) The Joint Legislative Oversight Committee on Medicaid ~~and NC Health Choice~~ shall examine budgeting, financing, administrative, and operational issues related to the Medicaid ~~and NC Health Choice programs~~ program administered by the Department of Health and Human Services.

(b) The Committee may make periodic reports, including recommendations, to a regular session of the General Assembly on issues related to ~~Medicaid and NC Health Choice programs~~.Medicaid.

...

"§ 120-209.3. Additional powers.

The Joint Legislative Oversight Committee on ~~Medicaid and NC Health Choice~~.Medicaid. while in discharge of official duties, shall have access to any paper or document and may compel the attendance of any State official or employee before the Committee or secure any evidence under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly.

"§ 120-209.4. Reports to Committee.

Whenever the Department of Health and Human Services, or any division within the Department, is required by law to report to the General Assembly or to any of its permanent, study, or oversight committees or subcommittees on matters relating to the Medicaid ~~and NC Health Choice programs~~ program, the Department shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on ~~Medicaid and NC Health Choice~~.Medicaid."

SECTION 18.(b) The Revisor of Statutes shall change all references to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice wherever it appears in the General Statutes to instead be references to the Joint Legislative Oversight Committee on Medicaid.

SECTION 19. This Part becomes effective January 1, 2022.

PART III. EFFECTIVE DATE

SECTION 20. Except as otherwise provided, this act is effective when it becomes law.