

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1045

Short Title: Restore Worker's Comp. Stability. (Public)

Sponsors: Representatives Baddour; Alexander, Blue, Daughtry, Dedmon, Dockham, Fitch, Gibson, Goodwin, Hackney, McComas, Michaux, Mitchell, Pope, Smith, Thompson, Wainwright, and Weiss.

Referred to: Insurance.

April 10, 2001

A BILL TO BE ENTITLED

1 AN ACT TO RESTORE STABILITY UNDER THE WORKERS' COMPENSATION
2 ACT BY OVERTURNING THE CASE DECIDED BY THE 2000 COURT OF
3 APPEALS OF NORTH CAROLINA ENTITLED HANSEN V. CRYSTAL FORD-
4 MERCURY, INC., BY PROVIDING THAT INSURERS THAT PROVIDE
5 HEALTH BENEFIT PLANS, DISABILITY INCOME PLANS, OR ANY OTHER
6 HEALTH INSURANCE ARE NOT REAL PARTIES IN INTEREST IN ANY
7 PROCEEDING OR SETTLEMENT UNDER THE WORKERS' COMPENSATION
8 ACT AND PROHIBITING INSURERS THAT PROVIDE HEALTH BENEFIT
9 PLANS FROM OFFSETTING AGAINST PROVIDER REIMBURSEMENT ANY
10 CHARGE FOR MEDICAL SERVICES UNLESS THE SPECIFIC MEDICAL
11 CHARGES WERE FOUND TO BE COMPENSABLE ACCORDING TO A
12 FINAL ADJUDICATION UNDER THE WORKERS' COMPENSATION ACT OR
13 A SETTLEMENT AGREEMENT UNDER THE ACT APPROVED BY THE
14 NORTH CAROLINA INDUSTRIAL COMMISSION.

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** Article 1 of Chapter 97 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 97-90.1. Insurers that provide employee's health benefit plans, disability income**
19 **plans, or any other health insurance plans.**

20 An insurer that covers an employee under a health benefit plan as defined in G.S.
21 58-3-167, a disability income plan, or any other health insurance plan is not a real party
22 in interest and shall not intervene or participate in any proceeding or settlement
23 agreement under this Article to determine whether a claim is compensable under this
24 Article or to seek reimbursement for medical payments under its plan. The insurer that
25 covers an employee under a health benefit plan as defined in G.S. 58-3-167, a disability
26

1 income plan, or any other health insurance plan may seek reimbursement from an
2 employee, employer, or carrier for only health plan payments for specific medical
3 charges that have been finally adjudicated to be compensable under this Article or have
4 been found to be compensable according to an order of the Commission approving a
5 settlement agreement entered into under this Article."

6 **SECTION 2.** G.S. 97-92 reads as rewritten:

7 "(b) The records of the Commission, insofar as they refer to accidents, injuries,
8 and settlements are not public records under G.S. 132-1 and shall not be open to the
9 public, but only to the parties satisfying the Commission of their interest in such records
10 and the right to inspect them, and to State and federal agencies pursuant to G.S. 97-81."

11 **SECTION 3.** G.S. 58-51-5(a) is amended by adding a new subdivision to
12 read:

13 "(8) It contains no provision excluding from coverage claims that are
14 subject to the Workers' Compensation Act, Article 1 of Chapter 97 of
15 the General Statutes, unless the exclusion extends to only specific
16 medical charges that have been finally adjudicated to be compensable
17 under that Article or have been found to be compensable according to
18 an order of the North Carolina Industrial Commission approving a
19 settlement agreement entered into under that Article."

20 **SECTION 4.** Article 50 of Chapter 58 of the General Statutes is amended by
21 adding a new section to read:

22 "**§ 58-50-57. Offsets against provider reimbursement for workers' compensation**
23 **payments forbidden.**

24 (a) An insurer that provides a health benefit plan as defined in G.S. 58-3-167
25 shall not offset or reverse a health plan payment against a provider reimbursement for
26 other medical charges unless the health plan payment was for a specific medical charge
27 that had been finally adjudicated to be compensable under the Workers' Compensation
28 Act, Article 1 of Chapter 97 of the General Statutes, or had been found to be
29 compensable according to an order of the North Carolina Industrial Commission
30 approving a settlement agreement entered into under that Article.

31 (b) No contract between an insurer that provides a health benefit plan as defined
32 in G.S. 58-3-167 and a medical provider shall contain a provision that authorizes the
33 insurer to offset or reverse a health plan payment against a provider reimbursement for
34 other medical charges unless the health plan payment was for a specific medical charge
35 that had been finally adjudicated to be compensable under the Workers' Compensation
36 Act, Article 1 of Chapter 97 of the General Statutes, or had been found to be
37 compensable according to an order of the North Carolina Industrial Commission
38 approving a settlement agreement entered into under that Article."

39 **SECTION 5.** This act is effective when it becomes law.