

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1302

Short Title: State Health Plan/Transfer to OSBM. (Public)

Sponsors: Representatives Blust; Brown, Current, Harrison, Setzer, and Starnes.

Referred to: Insurance, if favorable, Appropriations.

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE RESPONSIBILITY FOR ADMINISTERING THE NORTH
3 CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES TO
4 THE OFFICE OF STATE BUDGET AND MANAGEMENT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The administration and management of the North Carolina State
7 Health Plan for Teachers and State Employees is transferred to the Office of State Budget and
8 Management by a Type 1 transfer as defined in G.S. 143A-6.

9 **SECTION 1.(b)** G.S. 135-43.1 and G.S. 135-43.2 are repealed.

10 **SECTION 1.(c)** G.S. 135-43.3 reads as rewritten:

11 "**§ 135-43.3. Oversight team.**

12 (a) ~~The Committee on Employee Hospital and Medical Benefits may use employees of~~
13 ~~the Legislative Services Office and may employ contractual services as approved by the~~
14 ~~Legislative Services Commission to monitor the Executive Administrator and Board of~~
15 ~~Trustees, the Claims Processor, and the Comprehensive Major Medical Plan [State Health Plan~~
16 ~~for Teachers and State Employees].~~The Director of the Budget may use employees of the
17 Office of State Budget and Management to monitor the Executive Administrator and Board of
18 Trustees, the Claims Processor, and the State Health Plan for Teachers and State Employees.
19 Employees authorized by ~~the Legislative Services Commission and the Director of the Budget~~
20 ~~to provide assistance to the Committee on Employee Hospital and Medical Benefits and to the~~
21 ~~Director of the Budget shall comprise an oversight team.~~

22 (b) The oversight team shall, jointly or individually, have access to all records of the
23 Board of Trustees, the Executive Administrator, the Claims Processor, and the Plan. The
24 oversight team shall, jointly or individually, be entitled to attend all meetings of the Board of
25 Trustees.

26 (c) ~~The oversight team shall report to the Committee on Employee Hospital and~~
27 ~~Medical Benefits when requested by the Committee."~~

28 **SECTION 1.(d)** G.S. 135-43(a) reads as rewritten:

29 "**§ 135-43. Confidentiality of information and medical records; provider contracts.**

30 (a) Any information as herein described in this section which is in the possession of the
31 Executive Administrator and the Board of Trustees of the State Health Plan for Teachers and
32 State Employees or its Claims Processor under the Plan or the Predecessor Plan shall be
33 confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or
34 any other provision requiring information and records held by State agencies to be made public
35 or accessible to the public. This section shall apply to all information concerning individuals,
36 including the fact of coverage or noncoverage, whether or not a claim has been filed, medical
37 information, whether or not a claim has been paid, and any other information or materials



1 concerning a plan participant. Provided, however, such information may be released to the
2 Office of State Budget and Management, the State Auditor, or to the Attorney General, or to
3 the persons designated under G.S. 135-43.3 in furtherance of their statutory duties and
4 responsibilities, or to such persons or organizations as may be designated and approved by the
5 Executive Administrator and Board of Trustees of the Plan, but any information so released
6 shall remain confidential as stated above and any party obtaining such information shall assume
7 the same level of responsibility for maintaining such confidentiality as that of the Executive
8 Administrator and Board of Trustees of the State Health Plan for Teachers and State
9 Employees."

10 **SECTION 1.(e)** G.S. 135-45(b), as amended by Section 5(f) of this act, reads as
11 rewritten:

12 "(b) Notwithstanding the provisions of this Article, the Executive Administrator and
13 Board of Trustees of the State Health Plan for Teachers and State Employees may contract with
14 providers of institutional and professional medical care and services to establish preferred
15 provider networks. The terms of a contract between the Plan and its third party administrator or
16 between the Plan and its pharmacy benefit manager are a public record except that the terms in
17 those contracts that contain trade secrets or proprietary or competitive information are not a
18 public record under Chapter 132 of the General statutes and any such proprietary or
19 competitive information and trade secrets contained in the contract shall be redacted by the
20 Plan prior to making it available to the public. This subsection shall not be construed to prevent
21 or restrict the release of any information made not a public record under this subsection to the
22 Office of State Budget and Management, the State Auditor, the Attorney General, the Director
23 of the State Budget, the Plan's Executive Administrator, ~~the Committee on Employee Hospital~~
24 ~~and Medical Benefits~~ solely and exclusively for their use in the furtherance of their duties and
25 responsibilities, and to the Department of Health and Human Services solely for the purpose of
26 implementing the transition of NC Health Choice from the Plan to the Department of Health
27 and Human Services. The design, adoption, and implementation of the preferred provider
28 contracts, networks, and optional alternative comprehensive health benefit plans, and programs
29 available under the optional alternative plans, as authorized under G.S. 135-45 are not subject
30 to the requirements of Chapter 143 of the General Statutes. The Executive Administrator and
31 Board of Trustees shall make reports as requested to the President of the Senate, the President
32 Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on
33 Employee Hospital and Medical Benefits."

34 **SECTION 1.(f)** G.S. 135-44.2 reads as rewritten:

35 "**§ 135-44.2. Executive Administrator.**

36 (a) The Plan shall have an Executive Administrator and a Deputy Executive
37 Administrator. The Executive Administrator and the Deputy Executive Administrator positions
38 are exempt from the provisions of Chapter 126 of the General Statutes as provided in
39 G.S. 126-5(c1).

40 (b) The Executive Administrator shall be appointed by the ~~State Health Plan~~
41 ~~Administrative Commission~~ Governor upon the recommendation of the Office of State Budget
42 and Management. The term of employment and salary of the Executive Administrator shall be
43 set by the ~~State Health Plan Administrative Commission upon the advice of an executive~~
44 ~~committee of the Committee on Employee Hospital and Medical Benefits~~ Governor upon the
45 recommendation of the Office of State Budget and Management. The Executive Administrator
46 may be removed from office by the ~~State Health Plan Administrative Commission, upon the~~
47 ~~advice of an executive committee of the Committee on Employee Hospital and Medical~~
48 ~~Benefits, Governor upon the advice of the Office of State Budget and Management~~, and any
49 vacancy in the office of Executive Administrator may be filled by the ~~State Health Plan~~
50 ~~Administrative Commission with the term of employment and salary set upon the advice of an~~

1 ~~executive committee of the Committee on Employee Hospital and Medical Benefits.~~Governor
2 upon the advice of the Office of State Budget and Management.

3 (c) The Executive Administrator shall appoint the Deputy Executive Administrator and
4 may employ such clerical and professional staff, and such other assistance as may be necessary
5 to assist the Executive Administrator and the Board of Trustees in carrying out their duties and
6 responsibilities under this Article. The Executive Administrator may designate managerial,
7 professional, or policy-making positions as exempt from the State Personnel Act. The
8 Executive Administrator may also negotiate, renegotiate and execute contracts with third
9 parties in the performance of the Executive Administrator's duties and responsibilities under
10 this Article; ~~provided any contract negotiations, renegotiations and execution with a Claims~~
11 ~~Processor, with an optional alternative comprehensive health benefit plan, or program~~
12 ~~thereunder, authorized under G.S. 135-45, with a preferred provider of institutional or~~
13 ~~professional hospital and medical care, or with a pharmacy benefit manager shall be done only~~
14 ~~after consultation with the Committee on Employee Hospital and Medical Benefits.~~Article.

15 (d) The Executive Administrator shall be responsible for:

- 16 (1) Cost management programs;
- 17 (2) Education and illness prevention programs;
- 18 (3) Training programs for Health Benefit Representatives;
- 19 (4) Membership functions;
- 20 (5) Long-range planning;
- 21 (6) Provider and participant relations; and
- 22 (7) Communications.

23 Managed care practices used by the Executive Administrator in cost management programs
24 are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240,
25 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

26 (e) The Executive Administrator shall make reports and recommendations on the Plan
27 to the Governor, the Office of State Budget and Management, the President of the Senate, the
28 Speaker of the House of Representatives and the Committee on Employee Hospital and
29 Medical Benefits."

30 **SECTION 1.(g)** G.S. 135-44.4(8) and (9) read as rewritten:

31 **"§ 135-44.4. Powers and duties of the Executive Administrator and Board of Trustees.**

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

34 ...

35 (8) Preparing and submitting to the ~~Governor~~Governor, the Office of State
36 Budget and Management, and the General Assembly cost estimates for the
37 Plan, including those required by Article 15 of Chapter 120 of the General
38 Statutes.

39 (9) Recommending to the ~~Governor~~Governor, the Office of State Budget and
40 Management, and the General Assembly changes or additions to the health
41 benefits programs and health care cost containment programs offered under
42 the Plan, together with statements of financial and actuarial effects as
43 required by Article 15 of Chapter 120 of the General Statutes.

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45 **SECTION 1.(h)** G.S. 135-45.11 reads as rewritten:

46 **"§ 135-45.11. Cost-savings initiatives and incentive programs authorized.**

47 (a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The
48 Executive Administrator and Board of Trustees may authorize coverage for over-the-counter
49 medications as recommended by the Plan's pharmacy and therapeutics committee. In approving
50 for coverage one or more over-the-counter medications, the Executive Administrator and Board
51 of Trustees shall ensure that each recommended over-the-counter medication has been analyzed

1 to ensure medical effectiveness and Plan member safety. The analysis shall also address the
2 financial impact on the Plan. The Executive Administrator and Board of Trustees may impose a
3 co-payment to be paid by each covered individual for each packaged over-the-counter
4 medication. The Executive Administrator and Board of Trustees may adopt policies
5 establishing limits on the amount of coverage available for over-the-counter medications for
6 each covered individual over a 12-month period. Prior to implementing policy and co-payment
7 changes authorized under this section, the Executive Administrator and Board of Trustees shall
8 submit the proposed policies and co-payments to the ~~Committee on Employee Hospital and~~
9 ~~Medical Benefits for its review.~~Office of State Budget and Management for review.

10 (b) Incentive Programs. – For the purposes of helping Plan members to achieve and
11 maintain a healthy lifestyle without impairing patient care, and to increase cost effectiveness in
12 Plan coverage, the Executive Administrator and Board of Trustees may adopt programs
13 offering incentives to Plan members to encourage changes in member behavior or lifestyle
14 designed to improve member health and promote cost-efficiency in the Plan. Participation in
15 one or more incentive programs is voluntary on the part of the Plan member. Before adopting
16 an incentive program, the Executive Administrator and Board of Trustees shall conduct an
17 impact analysis on the proposed incentive program to determine (i) whether the program is
18 likely to result in significant member satisfaction, (ii) that it will not adversely affect quality of
19 care, and (iii) whether it is likely to result in significant cost savings to the Plan. The impact
20 analysis may be conducted by a committee of the Plan, in conjunction with the Plan's
21 consulting actuary, provided that the Plan's medical director participates in the analysis. An
22 approved incentive plan may provide for a waiver of deductibles, co-payments, and
23 coinsurance required under this Article in order to determine the effectiveness of the incentive
24 program in promoting the health of members and increasing cost-effectiveness to the Plan. The
25 Executive Administrator and Board of Trustees shall, before implementing incentive programs
26 authorized under this section, submit the proposed programs to the ~~Committee on Employee~~
27 ~~Hospital and Medical Benefits for review.~~Office of State Budget and Management for review."

28 **SECTION 2.** This act becomes effective July 1, 2010.