

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 546

Short Title: Accuracy/Medicaid Eligibility Determinations. (Public)

Sponsors: Senators Hise, B. Jackson, and Tucker (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO SUPPORT IMPROVEMENT IN THE ACCURACY OF MEDICAID
3 ELIGIBILITY DETERMINATIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 108A-25(b) reads as rewritten:

6 "(b) The program of medical assistance is established as a program of public assistance
7 and shall be administered by the Department of Health and Human Services in accordance with
8 G.S. 108A-54. Medicaid eligibility administration may be delegated to the county departments
9 of social services under rules adopted by the Department of Health and Human Services."

10 **SECTION 2.** No later than November 1, 2017, the Department of Health and
11 Human Services (Department) shall report to the Joint Legislative Oversight Committee on
12 Medicaid and NC Health Choice on progress made regarding the accuracy of county Medicaid
13 eligibility determinations in response to the State Auditor's January 2017 Performance Audit
14 entitled "North Carolina Medicaid Program Recipient Eligibility Determination." The
15 Department's report shall include the following information:

- 16 (1) An identification of stakeholders, including the county departments of social
17 services, the Department has engaged to address issues surrounding the
18 accuracy of Medicaid eligibility determinations by county departments of
19 social services.
20 (2) Opportunities identified by the Department and stakeholders to address
21 accuracy in Medicaid determinations.
22 (3) Any steps the Department has taken, or plans to take, to assist county
23 departments of social services with improving accuracy in Medicaid
24 eligibility determinations, including a time line for implementation of each
25 planned action.
26 (4) Any changes to legislation or needs for funding identified by the Department
27 to assist with improving accuracy in Medicaid determinations.

28 **SECTION 3.(a)** Article 2 of Chapter 108A of the General Statutes is amended by
29 adding a new Part to read:

30 "Part 11. Medicaid Eligibility Determinations Accuracy and Quality Assurance.

31 "**§ 108A-70.45. Applicability.**

32 If a federally recognized Native American tribe within the State has assumed responsibility
33 for the Medicaid program pursuant to G.S. 108A-25(e), then this Part applies to the tribe in the
34 same manner as it applies to county departments of social services.

35 "**§ 108A-70.46. Audit of county Medicaid determinations.**



1 Beginning January 1, 2019, the Department of Health and Human Services, Division of
2 Central Management and Support, shall, on an annual basis, audit all county departments of
3 social services for the compliance with the accuracy standards adopted under G.S. 108A-70.47
4 for Medicaid eligibility determinations made within a 12-month period. This annual audit shall
5 also include an evaluation of compliance with the quality assurance standards under
6 G.S. 108A-70.48 by the county department of social services. Audits shall be conducted for
7 initial Medicaid eligibility determination applications as well as Medicaid reenrollment
8 determinations.

9 **"§ 108A-70.47. Medicaid eligibility determination processing accuracy standards.**

10 (a) The Department shall require county departments of social services to comply with
11 accuracy standards set forth in rule for the processing of Medicaid eligibility determinations.
12 The Department shall set the following standards:

- 13 (1) Accuracy standards with regards to errors that caused an ineligible Medicaid
14 recipient to be approved for Medicaid benefits.
- 15 (2) Accuracy standards with regards to errors that caused the denial of benefits
16 to an applicant that should have been approved for Medicaid benefits.
- 17 (3) Accuracy standards with regards to errors made during the eligibility
18 determination process that did not change the outcome of the eligibility
19 determination.

20 (b) Standards under this section shall be developed by the Department in consultation
21 with the State Auditor.

22 **"§ 108A-70.48. Quality assurance.**

23 The Department shall require county departments of social services to comply with quality
24 assurance minimum standards set forth in rule. The quality assurance standards shall be based
25 upon best practices and shall be developed by the Department in consultation with the State
26 Auditor.

27 **"§ 108A-70.49. Corrective action.**

28 (a) If the Department's annual audit under G.S. 108A-70.46 results in a determination
29 that a county department of social services fails to meet any of the standards adopted under
30 G.S. 108A-70.47 or G.S. 108A-70.48, the Department and the county department of social
31 services shall enter into a joint corrective action plan to improve the accurate processing of
32 applications.

33 (b) A joint corrective action plan entered into pursuant to this section shall specifically
34 identify the following components:

- 35 (1) The duration of the joint corrective action plan, not to exceed 24 months. If a
36 county department of social services shows measurable progress in meeting
37 the performance requirements in the joint corrective action plan, then the
38 duration of the joint corrective action plan may be extended by six months,
39 but in no case shall a joint corrective action plan exceed 36 months.
- 40 (2) A plan for improving the accurate processing of applications that specifically
41 describes the actions to be taken by the county department of social services
42 and the Department.
- 43 (3) The performance requirements for the county department of social services
44 that constitute successful completion of the joint corrective action plan.
- 45 (4) Acknowledgment that failure to successfully complete the joint corrective
46 action plan will result in temporary assumption of Medicaid eligibility
47 administration by the Department, in accordance with G.S. 108A-70.50.

48 **"§ 108A-70.50. Temporary assumption of Medicaid eligibility administration.**

49 (a) If a county department of social services fails to successfully complete its joint
50 corrective action plan, the Department shall give the county department of social services, the
51 county manager, and the board of social services or the consolidated human services board,

1 created pursuant to G.S. 153A-77(b), at least 90 days' notice that the Department intends to
2 temporarily assume Medicaid eligibility administration, in accordance with subsection (b) of
3 this section. The notice shall include the following information:

- 4 (1) The date on which the Department intends to temporarily assume
5 administration of Medicaid eligibility determinations.
- 6 (2) The performance requirements in the joint corrective action plan that the
7 county department of social services failed to meet.
- 8 (3) Notice of the county department of social services' right to appeal the
9 decision to the Office of Administrative Hearings, pursuant to Article 3 of
10 Chapter 150B of the General Statutes.

11 (b) Notwithstanding any provision of law to the contrary, if a county department of
12 social services fails to successfully complete its joint corrective action plan, the Department
13 shall temporarily assume Medicaid eligibility administration for the county upon giving notice
14 as required by subsection (a) of this section. During a period of temporary assumption of
15 Medicaid eligibility administration, the following shall occur:

- 16 (1) The Department shall administer the Medicaid eligibility function in the
17 county. Administration by the Department may include direct operation by
18 the Department, including supervision of county Medicaid eligibility
19 workers, or contracts for operation to the extent permitted by federal law and
20 regulations.
- 21 (2) The county department of social services is divested of the authority to
22 administer Medicaid eligibility determinations.
- 23 (3) The Department shall direct and oversee the expenditure of all funding for
24 the administration of Medicaid eligibility in the county.
- 25 (4) The county shall continue to pay the nonfederal share of the cost of
26 Medicaid eligibility administration and shall not withdraw funds previously
27 obligated or appropriated for Medicaid eligibility administration.
- 28 (5) The county shall pay the nonfederal share of additional costs incurred to
29 ensure compliance with the accuracy and quality assurance standards
30 required by this Part.
- 31 (6) The Department shall work with the county department of social services to
32 develop a plan for the county department of social services to resume
33 Medicaid eligibility administration and perform Medicaid eligibility
34 determinations more accurately.
- 35 (7) The Department shall inform the county board of commissioners, the county
36 manager, the county director of social services, and the board of social
37 services or the consolidated human services board, created pursuant to
38 G.S. 153A-77(b), of key activities and any ongoing concerns during the
39 temporary assumption of Medicaid eligibility administration.

40 (c) Upon the Department's determination that Medicaid eligibility determinations can
41 be performed accurately and with proper quality assurance by the county department of social
42 services based on the standards adopted under G.S. 108A-70.47 and G.S. 108A-70.48, the
43 Department shall notify the county department of social services, the county manager, and the
44 board of social services or the consolidated human services board, created pursuant to
45 G.S. 153A-77(b), that temporary assumption of Medicaid eligibility administration will be
46 terminated and the effective date of termination. Upon termination, the county department of
47 social services resumes its full authority to administer Medicaid eligibility determinations.

48 **"§ 108A-70.51. Reporting.**

49 Beginning with the calendar year 2020, no later than March 1 of each year, the Department
50 shall submit a report to the Joint Legislative Committee on Medicaid and NC Health Choice,

1 the Fiscal Research Division, and the State Auditor that contains the following information
2 about the prior calendar year:

- 3 (1) The annual statewide percentage of county departments of social services
4 that met the accuracy standards adopted under G.S. 108A-70.47 in the prior
5 fiscal year.
- 6 (2) The annual statewide percentage of county departments of social services
7 that met the quality assurance standards adopted under G.S. 108A-70.48 in
8 the prior fiscal year.
- 9 (3) The annual audit result for each standard adopted under G.S. 108A-70.47 for
10 each county of department services.
- 11 (4) The number of years in the preceding five-year period that each county
12 department of social services failed to meet the standards in
13 G.S. 108A-70.47 or G.S. 108A-70.48.
- 14 (5) A description of all corrective action activities conducted by the Department
15 and county departments of social services in accordance with
16 G.S. 108A-70.49.
- 17 (6) For every county in which the performance metrics for processing Medicaid
18 applications in an accurate manner do not show significant improvement
19 compared to the previous fiscal year, a description of how the Department
20 plans to assist county departments of social services in accuracy and quality
21 assurance standards for Medicaid applications."

22 **SECTION 3.(b)** G.S. 150B-23(a5) is reads as rewritten:

23 "(a5) A county that appeals a decision of the Department of Health and Human Services
24 to temporarily assume Medicaid eligibility administration in accordance with
25 ~~G.S. 108A-70.37~~G.S. 108A-70.42 or G.S. 108A-70.50 may commence a contested case under
26 this Article in the same manner as any other petitioner. The case shall be conducted in the same
27 manner as other contested cases under this Article."

28 **SECTION 3.(c)** The Department of Health and Human Services, Division of
29 Central Management and Support (Department), shall collaborate with the State Auditor to
30 develop a plan of implementation of the annual audits under this section. The plan must include
31 the following information:

- 32 (1) Accuracy standards and quality assurance standards to be implemented.
- 33 (2) The audit schedule that includes all counties.
- 34 (3) The audit methodology to be utilized, including any information that may
35 vary based upon county size or other factors.
- 36 (4) Details illustrating that the audit methodology is statistically sound,
37 including the statistically significant number of cases to be reviewed in each
38 county.
- 39 (5) Anticipated costs of implementing the plan.
- 40 (6) A certification from the State Auditor that the Department's plan for the
41 annual audits has the approval of the State Auditor.

42 No later than March 1, 2018, the Department shall submit a copy of the plan to the
43 Joint Legislative Oversight Committee on Medicaid and NC Health Choice with any proposed
44 recommendations, suggested legislation, or funding requests.

45 **SECTION 3.(d)** The Department of Health and Human Services may adopt and
46 amend rules to implement this section.

47 **SECTION 4.(a)** Article 2 of Chapter 108A of the General Statutes is amended by
48 adding a new section to read:

49 **"§ 108A-25.1A. Responsibility for errors.**

50 (a) A county department of social services shall be financially responsible for the
51 erroneous issuance of Medicaid benefits and Medicaid claims payments resulting when the

1 county department of social services takes any action that requires payment of Medicaid claims
2 for an ineligible individual, for ineligible dates, or in an amount that includes a recipient's
3 liability and for which the State cannot claim federal participation.

4 (b) Notwithstanding subsection (a) of this section, a county department of social
5 services shall not be financially responsible for the erroneous issuance of Medicaid benefits and
6 Medicaid claims payments resulting from a failure or error attributable solely to the State.

7 (c) The amounts to be charged back to a county department of social services for
8 erroneous payments of claims shall be the State and federal shares of all erroneous payments,
9 not to exceed the lesser of the amount of actual error or claims payment."

10 **SECTION 4.(b)** The Department of Health and Human Services may adopt and
11 amend rules to implement this section.

12 **SECTION 4.(c)** This section is effective when it becomes law and applies to errors
13 identified on or after that date.

14 **SECTION 5.(a)** The Department of Health and Human Services (Department)
15 shall design and implement a training and certification program for caseworkers utilizing North
16 Carolina Families Accessing Services Through Technology (NC FAST). The training and
17 certification program shall be available on a statewide basis, and the Department shall provide
18 training to caseworkers at county departments of social services at a location within reasonable
19 travel distance from the county departments of social services multiples times per year. No later
20 than 18 months after the Department has implemented the training and certification program,
21 the Department shall require all caseworkers inputting data or making determinations for
22 eligibility for State programs through NC FAST to be certified. A certification may last no
23 longer than three years before an individual is required to be recertified. The Department may
24 adopt and amend rules to implement this training and certification program.

25 **SECTION 5.(b)** No later than 18 months after the Department has implemented
26 the training and certification program under this section, the Department shall include in its
27 audits required under G.S. 108A-70.46 a verification that all county departments of social
28 services are in compliance with regards to the certification program for individuals involved in
29 the Medicaid eligibility determination process.

30 **SECTION 5.(c)** No later than March 1, 2018, the Department shall submit to the
31 Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative
32 Oversight Committee on Medicaid and NC Health Choice, and the Fiscal Research Division a
33 report on the implementation of the training and certification program required under this
34 section. The report shall include the following:

- 35 (1) A detailed outline of what the training and certification program will entail,
36 including how many hours of training will be required for certification, how
37 frequently recertification will be required, and how often training will be
38 provided by the Department to the county departments of social services.
- 39 (2) A plan of implementation of the training and certification program,
40 including a specific time line of implementation.
- 41 (3) Anticipated costs to the Department, as well as any costs to the county
42 department of social services, of implementing the training and certification
43 program. This should include an identification of any additional resources
44 required by the Department or a county department of social services in
45 order to implement the training and certification program.
- 46 (4) Any other information the Department is able to provide regarding the
47 training and certification program development.

48 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
49 law.