

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 299

Pensions and Retirement and Insurance Committee Substitute Adopted 4/10/97

Short Title: Long-Term Care Benefits.

(Public)

Sponsors:

Referred to: Appropriations.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE LONG-TERM CARE BENEFITS FOR QUALIFIED EMPLOYEES, RETIRED EMPLOYEES, AND THEIR DEPENDENTS UNDER THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-38(c) reads as rewritten:

"(c) The Committee shall review programs of hospital, medical and related care provided by Part 3 of this Article and programs of long-term care benefits provided by Part 4 of this Article as recommended by the Executive Administrator and Board of Trustees of the Plan. The Executive Administrator and the Board of Trustees shall provide the Committee with any information or assistance requested by the Committee in performing its duties under this Article."

Section 2. G.S. 135-39.5(22) reads as rewritten:

"(22) ~~Providing to the Industrial Commission the schedule of allowable charges under the Plan for each participating hospital and other information deemed necessary by the Commission to fulfill its duties under G.S. 97-26.~~ Implementing and administering a program of long-term care benefits pursuant to Part 4 of this Article."

1 Section 3. G.S. 135-39.6 reads as rewritten:

2 **"§ 135-39.6. Special funds created.**

3 (a) There are hereby established two special funds, to be known as the Public
4 Employee Health Benefit Fund and the Health Benefit Reserve ~~Fund~~ Fund for the
5 payment of hospital and medical benefits.

6 All premiums, fees, charges, rebates, refunds or any other receipts including, but not
7 limited to, earnings on investments, occurring or arising in connection with health
8 benefits programs established by this Article, shall be deposited into the Public Employee
9 Health Benefit Fund. Disbursements from the Fund shall include any and all amounts
10 required to pay the benefits and administrative costs of such programs as may be
11 determined by the Executive Administrator and Board of Trustees.

12 Any unencumbered balance in excess of prepaid premiums or charges in the Public
13 Employee Health Benefit Fund at the end of each fiscal year shall be used first, to
14 provide an actuarially determined Health Benefit Reserve Fund for incurred but
15 unrepresented claims, second, to reduce the premiums required in providing the benefits of
16 the health benefits programs, and third to improve the plan, as may be provided by the
17 General Assembly. The balance in the Health Benefits Reserve Fund may be transferred
18 from time to time to the Public Employee Health Benefit Fund to provide for any
19 deficiency occurring therein.

20 The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund shall
21 be deposited with the State Treasurer and invested as provided in G.S. 147-69.2 and 147-
22 69.3.

23 (b) Disbursement from the Public Employee Health Benefit Fund may be made by
24 warrant drawn on the State Treasurer by the Executive Administrator, or the Executive
25 Administrator and Board of Trustees may by contract authorize the Claims Processor to
26 draw the warrant.

27 (c) Separate and apart from the special funds authorized by subsections (a) and (b)
28 of this section, there shall be a Public Employee Long-Term Care Benefit Fund if the
29 long-term care benefits provided by Part 4 of this Article are administered on a self-
30 insured basis."

31 Section 4. G.S. 135-39.6A reads as rewritten:

32 **"§ 135-39.6A. Premiums set.**

33 (a) The Executive Administrator and Board of Trustees shall, from time to time,
34 establish premium rates for the Comprehensive Major Medical Plan except as they may
35 be established by the General Assembly in the Current Operations Appropriations Act,
36 and establish regulations for payment of the premiums. Premium rates shall be
37 established for coverages where Medicare is the primary payer of health benefits separate
38 and apart from the rates established for coverages where Medicare is not the primary
39 payer of health benefits.

40 (b) The Executive Administrator and Board of Trustees shall establish separate
41 premium rates for the long-term care benefits provided by Part 4 of this Article if the
42 benefits are administered on a self-insured basis."

43 Section 5. G.S. 135-39.8 reads as rewritten:

1 **"§ 135-39.8. Rules and regulations.**

2 The Executive Administrator and Board of Trustees may issue rules and regulations to
3 implement Parts ~~2 and 3~~ 2, 3, and 4 of this Article. Rules and regulations of the Board of
4 Trustees shall remain in effect until amended or repealed by the Executive Administrator
5 and Board of Trustees. The Executive Administrator and Board of Trustees shall provide
6 a written description of the rules and regulations issued under this section to all
7 employing units, all health benefit representatives, the oversight team provided for in
8 G.S. 135-39.3, all relevant health care providers affected by a rule or regulation, and to
9 any other parties requesting a written description and approved by the Executive
10 Administrator and Board of Trustees to receive a description on a timely basis."

11 Section 6. G.S. 135-40.7 is amended by adding a new subdivision to read:

12 "(19) Charges for services covered by the long-term care benefit provisions of
13 Part 4 of this Article."

14 Section 7. Article 3 of Chapter 135 of the General Statutes is amended by
15 adding a new Part to read:

16 **"PART 4. LONG-TERM CARE BENEFITS.**

17 **"§ 135-41. Undertaking.**

18 (a) The State of North Carolina undertakes to make available an optional program
19 of long-term care benefits for the benefit of its qualified employees, retired employees,
20 and their dependents which will pay benefits in accordance with the terms hereof.
21 Retired employees of the Local Governmental Employees' Retirement System pursuant
22 to Article 3 of Chapter 128 of the General Statutes and their dependents are also eligible
23 to be qualified for the benefits provided by this Part.

24 (b) The long-term care benefits provided by this Part shall be made available
25 through the Teachers' and State Employees' Comprehensive Major Medical Plan pursuant
26 to Articles 2 and 3 of this Chapter (hereinafter called the 'Plan') and administered by the
27 Plan's Executive Administrator and Board of Trustees. In administering the benefits
28 provided by this Part, the Executive Administrator and Board of Trustees shall have the
29 same type of powers and duties that are provided under Part 3 of this Article for hospital
30 and medical benefits. The benefits provided by this Part may be offered by the Plan on a
31 self-insured basis, in which case a third-party claims processor shall be chosen through
32 competitive bids in accordance with State law, or through a contract of insurance, in
33 which case a carrier licensed to do business in North Carolina shall be selected on a
34 competitive bid basis in accordance with State law.

35 (c) The benefits authorized by this Part are available only to qualified employees
36 and retired employees who voluntarily elect to provide such benefits for themselves and
37 their qualified dependents. Payroll deductions shall be available from employee salary
38 and disability benefit payments and from retired employee retirement benefit payments
39 for fully contributory premium amounts.

40 (d) The Executive Administrator and Board of Trustees of the Plan shall insure
41 insofar as possible that the long-term care benefits provided by this Part shall be tax-
42 qualified under federal law.

43 **"§ 135-41.1. Long-term care benefits.**

1 Long-term care benefits provided by this Part are subject to elimination periods,
2 coinsurance provisions, and other limitations separate and apart from those provided for
3 in Part 3 of this Article. No limitation on out-of-pocket expenses are provided for the
4 benefits covered by this section. Long-term care benefits are as follows:

5 (1) Nursing Home Benefits. – The Plan will pay a fixed amount of the
6 reasonable and customary daily charges allowed for nursing facilities
7 providing skilled nursing care and intermediate nursing care up to a
8 maximum amount per day for each day after a fixed number of
9 consecutive days for each nursing home stay. Such daily charges shall
10 be inclusive of semiprivate room and board; skilled and semiskilled
11 nursing services; routine laboratory tests and examinations; physical,
12 occupational, and speech therapy; respiratory and other gas therapy; and
13 drugs, injections, biologicals, fluids, solutions, dietary aids and
14 supplements, and other routine medical supplies and equipment.
15 Readmission to a nursing home within 180 days, exclusive of hospital
16 stays, for the same or related cause or causes shall be considered a
17 single nursing home stay for the purposes of this section. Benefits
18 payable under this subdivision are contingent upon compliance with the
19 following conditions and will, in no instance, be paid under this section
20 without compliance with each of the following conditions:

- 21 a. Confinement to a nursing home is medically appropriate due to
22 an illness, disease, or injury upon recommendation of an
23 admitting physician other than a proprietor, employee, or agent
24 of the nursing home;
25 b. Confinement to a nursing home is for any overnight stay for
26 which a charge for a day's stay is due and payable; and
27 c. Prior to confinement, the admitting physician secures approval
28 certification from the Plan for confinement.

29 As used in this section, a nursing home is a facility or a part of a facility which is (i)
30 operated under State law and which is qualified as a skilled nursing or intermediate
31 nursing facility under Medicare; or is (ii) a facility meeting the requirements for licensure
32 under Chapter 131E of the General Statutes.

33 (2) Custodial Benefits. – The Plan will pay a fixed percentage of the fixed
34 amount of reasonable and customary daily charges allowed by the Plan
35 in subdivision (1) of this section for assisted living facilities, for adult
36 day care facilities, and for home care agencies up to a maximum amount
37 per day for each day after a fixed number of consecutive days that such
38 custodial care is provided. Benefits payable under this subdivision are
39 contingent upon compliance with the following conditions and will, in
40 no instance, be paid under this subdivision without compliance with
41 each of the following conditions:

- 42 a. Use of such custodial benefits is medically appropriate in a
43 treatment plan established and certified initially and at least once

1 every six months by an attending physician or other allied health
2 professionals other than a proprietor, employee, or agent of one
3 or more of the aforementioned facilities and agencies;

4 b. Confinement to a nursing home would be medically appropriate
5 without custodial care proposed to be rendered by one or more of
6 the aforementioned facilities or agencies; and

7 c. Prior to use of such custodial benefits, an attending physician or
8 other allied health professional secures approval from the Plan
9 for the use of the benefits.

10 As used in this section, an assisted living facility is a facility which (i) is operated under
11 State law to provide residential care for the aged or disabled whose principal need is a
12 home which provides personal care appropriate to their age or disability; or (ii) meets the
13 requirements for licensure under Chapter 131D of the General Statutes. As used in this
14 section, an adult care facility is a facility which (i) is operated under State law to provide
15 group care for the aged and disabled in a setting away from their residence on a less than
16 24-hour basis when such aged or disabled would otherwise be in need of full-time
17 personal care away from their residence; or (ii) meets the requirements for certification
18 under Chapter 131D of the General Statutes. As used in this section, a home care agency
19 is a residential care agency which is (i) operated under State law and which is qualified as
20 a home health care agency under Medicare; or (ii) an agency meeting the requirements
21 for licensure as a home care agency under Chapter 131E of the General Statutes.

22 (3) Other Benefits. – Upon prior approval of the Plan, other care, services,
23 supplies, and equipment may be used as more cost-effective alternatives
24 to the benefits provided by this section when directed by an attending
25 physician.

26 (4) The Executive Administrator and Board of Trustees of the Plan shall
27 establish the payment percentages, maximum daily payment rates,
28 benefit periods, elimination periods, and maximum lifetime benefits
29 payable for each covered individual for the nursing home and custodial
30 benefits provided by this section. The Executive Administrator and
31 Board of Trustees shall provide for inflationary increases in the
32 maximum daily payment rates and the maximum lifetime benefits
33 payable for each covered individual.

34 (5) The Executive Administrator and Board of Trustees of the Plan shall
35 provide a bed reservation benefit whenever Plan members are
36 hospitalized during a stay in a nursing home or an assisted living
37 facility.

38 (6) The Executive Administrator and Board of Trustees of the Plan shall
39 provide for a waiver of premiums involving minimum lengths of stay in
40 a nursing home or an assisted living facility. In addition, the Executive
41 Administrator and Board of Trustees shall allow coverage to be
42 reinstated upon failure to pay premiums, provided certain grace periods
43 are not exceeded and retroactive premium payments are made.

1 (7) Limitations and Exclusions to Long-Term Care Benefits. – The benefits
2 provided by this section are for the purpose of meeting the requirements
3 for assistance from the loss of functional capacity associated with a
4 chronic illness, disease, or disabling injury for extended periods of time;
5 and are, in no way, intended to duplicate the benefits provided for acute
6 and other medical care provided by Medicare or Part 3 of this Article.
7 A loss of functional capacity can occur from: (i) an illness, disease, or
8 disabling injury resulting in a physical incapacity to perform the
9 activities of daily living; or (ii) an irreversible organic mental
10 impairment resulting in a mental incapacity. Activities of daily living
11 consist of routine functions involving personal care and mobility.

12 **"§ 135.41.2. Conversion.**

13 Upon cessation of group coverage under this Part, an employee, retired employee, or
14 dependent shall be entitled to a conversion to a nongroup plan of long-term care benefits.
15 The Executive Administrator and Board of Trustees of the Plan shall determine how the
16 conversion rights authorized by this Part shall be administered.

17 **"§ 135.41.3. Right to alter, amend, or repeal.**

18 The General Assembly reserves the right to alter, amend, or repeal this Part."

19 Section 8. This act becomes effective January 1, 1998.