

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-468
SENATE BILL 299

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."

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

"§ 135-39.6. Special funds created.

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

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

Any unencumbered balance in excess of prepaid premiums or charges in the Public Employee Health Benefit Fund at the end of each fiscal year shall be used first, to provide an actuarially determined Health Benefit Reserve Fund for incurred but unrepresented claims, second, to reduce the premiums required in providing the benefits

of the health benefits programs, and third to improve the plan, as may be provided by the General Assembly. The balance in the Health Benefits Reserve Fund may be transferred from time to time to the Public Employee Health Benefit Fund to provide for any deficiency occurring therein.

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

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

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

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

"§ 135-39.6A. Premiums set.

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

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

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

"§ 135-39.8. Rules and regulations.

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

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

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

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

"Part 4. Long-Term Care Benefits.

"§ 135-41. Undertaking.

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

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

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

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

"§ 135-41.1. Long-term care benefits.

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

- (1) Nursing Home Benefits. -- The Plan will pay a fixed amount of the reasonable and customary daily charges allowed for nursing facilities providing skilled nursing care and intermediate nursing care up to a maximum amount per day for each day after a fixed number of consecutive days for each nursing home stay. Such daily charges shall be inclusive of semiprivate room and board; skilled and semiskilled nursing services; routine laboratory tests and examinations; physical, occupational, and speech therapy; respiratory and other gas therapy; and drugs, injections, biologicals, fluids, solutions, dietary aids and

supplements, and other routine medical supplies and equipment. Readmission to a nursing home within 180 days, exclusive of hospital stays, for the same or related cause or causes shall be considered a single nursing home stay for the purposes of this section. Benefits payable under this subdivision are contingent upon compliance with the following conditions and will, in no instance, be paid under this section without compliance with each of the following conditions:

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

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

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

- a. Use of such custodial benefits is medically appropriate in a treatment plan established and certified initially and at least once every six months by an attending physician or other allied health professionals other than a proprietor, employee, or agent of one or more of the aforementioned facilities and agencies;
- b. Confinement to a nursing home would be medically appropriate without custodial care proposed to be rendered by one or more of the aforementioned facilities or agencies; and
- c. Prior to use of such custodial benefits, an attending physician or other allied health professional secures approval from the Plan for the use of the benefits.

As used in this section, an assisted living facility is a facility which (i) is operated under State law to provide residential care for the aged or disabled whose principal need is a home which provides personal care appropriate to their age or disability; or (ii) meets the requirements for licensure under Chapter 131D of the General Statutes. As used in

this section, an adult care facility is a facility which (i) is operated under State law to provide group care for the aged and disabled in a setting away from their residence on a less than 24-hour basis when such aged or disabled would otherwise be in need of full-time personal care away from their residence; or (ii) meets the requirements for certification under Chapter 131D of the General Statutes. As used in this section, a home care agency is a residential care agency which is (i) operated under State law and which is qualified as a home health care agency under Medicare; or (ii) an agency meeting the requirements for licensure as a home care agency under Chapter 131E of the General Statutes.

- (3) Other Benefits. -- Upon prior approval of the Plan, other care, services, supplies, and equipment may be used as more cost-effective alternatives to the benefits provided by this section when directed by an attending physician.
- (4) The Executive Administrator and Board of Trustees of the Plan shall establish the payment percentages, maximum daily payment rates, benefit periods, elimination periods, and maximum lifetime benefits payable for each covered individual for the nursing home and custodial benefits provided by this section. The Executive Administrator and Board of Trustees shall provide for inflationary increases in the maximum daily payment rates and the maximum lifetime benefits payable for each covered individual.
- (5) The Executive Administrator and Board of Trustees of the Plan shall provide a bed reservation benefit whenever Plan members are hospitalized during a stay in a nursing home or an assisted living facility.
- (6) The Executive Administrator and Board of Trustees of the Plan shall provide for a waiver of premiums involving minimum lengths of stay in a nursing home or an assisted living facility. In addition, the Executive Administrator and Board of Trustees shall allow coverage to be reinstated upon failure to pay premiums, provided certain grace periods are not exceeded and retroactive premium payments are made.
- (7) Limitations and Exclusions to Long-Term Care Benefits. -- The benefits provided by this section are for the purpose of meeting the requirements for assistance from the loss of functional capacity associated with a chronic illness, disease, or disabling injury for extended periods of time; and are, in no way, intended to duplicate the benefits provided for acute and other medical care provided by Medicare or Part 3 of this Article. A loss of functional capacity can occur from: (i) an illness, disease, or disabling injury resulting in a physical incapacity to perform the activities of daily living; or (ii) an irreversible organic mental impairment resulting in a mental incapacity. Activities of daily living consist of routine functions involving personal care and mobility.

"§ 135.41.2. Conversion.

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

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

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

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

In the General Assembly read three times and ratified this the 21st day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:16 p.m. this 1st day of September, 1997