GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2010-70
HOUSE BILL 382

AN ACT TO CREATE THE HEALTH CHOICE PROGRAM REVIEW PROCESS TO CONTINUE THE CURRENT REVIEW PROCESS FOR PROGRAM APPLICANTS AND RECIPIENTS APPEALING ENROLLMENT AND ELIGIBILITY DECISIONS, AND CREATE A REVIEW PROCESS FOR PROGRAM RECIPIENTS TO APPEAL HEALTH SERVICES DECISIONS, AND TO ADD THE HEALTH SERVICES REVIEW PROCESS TO THE AGENCIES AND PROCEEDINGS CURRENTLY EXEMPTED FROM THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 8 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-70.29. Program review process.**

(a) Review of Eligibility and Enrollment Decisions. – Eligibility and enrollment decisions for Program applicants or recipients shall be reviewable pursuant to G.S. 108A-79. Program recipients shall remain enrolled during the review of a decision to terminate or suspend enrollment.

(b) Review of Health Services Decisions. – In accordance with 42 C.F.R. § 457.1130 and 42 C.F.R. § 457.1150, a Program recipient may seek review of any delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services, through a two-level review process.

(1) Internal review. – Within 30 days from the date of the decision subject to review under this subsection, a recipient may request a first-level internal review, which shall be conducted by the Clinical Medical Director of the Division of Medical Assistance or the Director's clinical designee.

(2) External review. – If the recipient is dissatisfied with the first-level review decision, then within 15 days after the internal review decision is rendered the recipient may request a second-level independent external review by the Department of Health and Human Services Hearing Office. The external review process shall comply with the provisions of 42 C.F.R. § 457.1140. The Department's Hearing Office shall assign the matter to a hearing officer who will preside over the review. The hearing may be in person at the Hearing Office in Raleigh or by telephone. Recipients may:

a. Represent themselves or have representatives of their choosing in the review process.

b. Timely review their files and other applicable information relevant to the review of the decision.

c. Fully participate in the review process, including the opportunity to present supplemental information during the review process.

(3) Time frames. – The hearing officer shall render a written decision within 90 calendar days of the date the recipient requested first-level review, as specified at 42 C.F.R. § 457.1160. If the recipient's physician or health plan determines that operating under the standard 90-day time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, then each level of review must be completed within 72 hours, except that this expedited time frame may be extended by up to 14 calendar days if the recipient requests an extension.

(4) Coverage of services during review. – When the decision is a reduction, suspension, termination, or denied request for increase of existing services, notwithstanding the request for review, the services shall be covered in accordance with the decision under review, and services which are terminated or suspended services shall not be covered, unless and until the decision is overturned on review.

(c) Review of decisions pursuant to Programmatic changes. – The Program review process set forth in this section shall not apply to instances in which the sole basis for the decision is a provision in the State plan or in Federal or State law requiring an automatic change in eligibility, enrollment, or a change in coverage under the health benefits package that affects all applicants or enrollees or a group of applicants or enrollees without regard to their individual circumstances.

(d) Notice. – A recipient shall receive timely written notice of any decision subject to review under this section in accordance with the requirements of 42 C.F.R. § 457.1180. The notice shall include the reasons for the decision, an explanation of applicable rights to review of that decision, the standard and expedited time frames for review, the manner in which a review can be requested, and the circumstances under which enrollment may continue pending review.

(e) Rule-Making authority. – The Department shall have the authority to adopt rules for the implementation and operation of the Program review process."

SECTION 2. G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(17) The Department of Health and Human Services with respect to the review of North Carolina Health Choice Program determinations regarding delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services."

SECTION 3. This act becomes effective July 1, 2010, and applies to reviews of Health Choice Program enrollment, eligibility, or health services decisions requested by Health Choice Program applicants or recipients on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:49 a.m. this 8th day of July, 2010