

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-273
SENATE BILL 694

AN ACT TO ENCOURAGE PARENT EDUCATION DURING WELL-CHILD VISITS AT SPECIFIC AGE INTERVALS REGARDING TYPE I DIABETES AND TO AMEND THE LAW PERTAINING TO PHARMACY BENEFIT MANAGERS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 7 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-221.5. Diabetes education as part of well-child care.

Each physician, physician assistant, or certified nurse practitioner who provides well-child care is encouraged to educate and discuss the warning signs of Type I diabetes and symptoms with each parent for each child under the care of the physician, physician assistant, or certified nurse practitioner at least once at the following age intervals:

- (1) Birth.
- (2) Twelve months of age.
- (3) Twenty-four months of age.
- (4) Thirty-six months of age.
- (5) Forty-eight months of age.
- (6) Sixty months of age."

SECTION 2. Article 56A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-56A-10. Civil penalties for violations; administrative procedure.

(a) Whenever the Commissioner has reason to believe that a pharmacy benefits manager has violated any of the provisions of this Article with such frequency as to indicate a general business practice, the Commissioner may, after notice and opportunity for a hearing, proceed under the appropriate subsections of this section.

(b) If, under subsection (a) of this section, the Commissioner finds a violation of this Article, the Commissioner may order the payment of a monetary penalty as provided in subsection (c) of this section or petition the Superior Court of Wake County for an order directing payment of restitution as provided in subsections (d) and (e) of this section, or both. Each day during which a violation occurs constitutes a separate violation.

(c) If the Commissioner orders the payment of a monetary penalty pursuant to subsection (b) of this section, the penalty shall not be less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) per day for each prescription drug resulting from the pharmacy benefit manager's failure to comply with G.S. 58-56A-5. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State.

(d) Upon petition of the Commissioner the court may order the pharmacy benefits manager who committed a violation specified in subsection (b) of this section to make restitution in an amount that would make whole any pharmacist harmed by the violation. The petition may be made at any time and also in any appeal of the Commissioner's order.

(e) Upon petition of the Commissioner the court may order the pharmacy benefits manager who committed a violation specified in subsection (b) of this section to make



restitution to the Department for extraordinary administrative expenses, including expenses under subsection (f) of this section, incurred in the investigation, hearing, and any appeals associated with the violation in such amount that would reimburse the agency for the expenses. The petition may be made at any time and also in any appeal of the Commissioner's order.

(f) The Commissioner may contract with consultants and other professionals with relevant expertise as necessary and appropriate to conduct investigation, hearing, and appeals activities as provided in this section. Such contracts shall not be subject to G.S. 114-2.3, G.S. 147-17, or Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules and procedures adopted under those Articles concerning procurement, contracting, and contract review.

(g) Nothing in this section prevents the Commissioner from negotiating a mutually acceptable agreement with any pharmacy benefits manager as to any civil penalty or restitution.

(h) Unless otherwise specifically provided for, all administrative proceedings under this Article are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's orders under this section shall be governed by G.S. 58-2-75."

SECTION 3. Section 1 of this act becomes effective December 1, 2015. Section 2 of this act becomes effective July 1, 2016. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of September, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:30 a.m. this 20th day of October, 2015