

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 372
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Short Title: Medicaid Transformation/HIE/PrimaryCare/Funds.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFORM AND REORGANIZE NORTH CAROLINA'S MEDICAID AND
3 NC HEALTH CHOICE PROGRAMS, TO PROVIDE FUNDS FOR THE OVERSIGHT
4 AND ADMINISTRATION OF THE STATEWIDE HEALTH INFORMATION
5 EXCHANGE NETWORK, TO INCREASE MEDICAID RATES TO PRIMARY CARE
6 PHYSICIANS, AND TO DISCONTINUE MEDICAID PRIMARY CARE CASE
7 MANAGEMENT.

8 The General Assembly of North Carolina enacts:

9
10 **MEDICAID TRANSFORMATION AND REORGANIZATION**

11 **SECTION 1.(a)** Intent and Goals. – It is the intent of the General Assembly to
12 transform the State's current Medicaid program to a program that provides budget predictability
13 for the taxpayers of this State while ensuring quality care to those in need. The new Medicaid
14 program shall be designed to achieve the following goals:

- 15 (1) Ensure budget predictability through shared risk and accountability.
16 (2) Ensure balanced quality, patient satisfaction, and financial measures.
17 (3) Ensure efficient and cost-effective administrative systems and structures.
18 (4) Ensure a sustainable delivery system.

19 **SECTION 1.(b)** Structure of Delivery System. – The transformed Medicaid
20 program described in subsection (a) of this section shall be organized according to the
21 following principles and parameters:

- 22 (1) The Department of Medicaid (DOM), created in subsection (h) of this
23 section, shall have full budget and regulatory authority to manage the State's
24 Medicaid and NC Health Choice programs, except the General Assembly
25 shall determine eligibility categories and income thresholds.
26 (2) Among its initial tasks, the DOM shall:
27 a. Determine the structural and financial qualifications required for
28 Medicaid managed care organizations (MCOs), which is defined to
29 include both commercial insurers and provider-led entities (PLEs). A
30 PLE is defined as any of the following: a provider; an entity with the
31 primary purpose of owning or operating one or more providers; or a
32 business entity in which providers hold a controlling ownership



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- 1 interest. The majority of the members of a PLE's governing board
2 shall be composed of providers as defined in G.S. 108C-2 or entities
3 composed of providers.
- 4 b. Designate at least five and no more than eight regions within the
5 State. Regions must be composed of whole, contiguous counties, and
6 every county in the State must be assigned to a region.
- 7 (3) The DOM shall enter into contractual relationships with commercial insurers
8 and PLEs for the delivery of all Medicaid health care items and services. All
9 contracts shall be the result of a request for proposals (RFP) issued by the
10 DOM and the submission of competitive bids by commercial insurers and
11 PLEs. The governing principles and minimum terms and conditions of the
12 RFPs, bids, and contracts are described in subsection (d) of this section.
- 13 (4) The number and nature of the contracts required under subdivision (3) of this
14 subsection shall be as follows:
- 15 a. Three contracts between the DOM and any combination of individual
16 commercial insurers and individual PLEs. Each of these contracts
17 shall provide statewide coverage for all Medicaid health care items
18 and services (statewide contracts).
- 19 b. Up to 12 contracts between the DOM and individual PLEs for
20 coverage of specified regions (regional contracts). Regional contracts
21 shall be in addition to the three statewide contracts required under
22 sub-subdivision a. of this subdivision. Each regional contract shall
23 provide coverage throughout the entire region for all Medicaid health
24 care items and services. A PLE may bid on more than one region.
25 The DOM shall have full discretion to enter into one, two, or no
26 regional contracts in any region.
- 27 (5) As a result of the contracts entered into by the DOM under subdivision (3) of
28 this subsection, a recipient shall have at least three, but no more than five
29 enrollment choices for the provision of all Medicaid health care items and
30 services. The DOM shall provide for annual open enrollment periods and
31 shall determine the process for assigning recipients who do not select a
32 commercial insurer or PLE during the enrollment period.

33 **SECTION 1.(c)** Time Line. – The following milestones for Medicaid
34 transformation shall occur no later than the following dates:

- 35 (1) When this act becomes law. –
- 36 a. The Department of Medicaid is created pursuant to subsection (h) of
37 this section.
- 38 b. The Joint Legislative Oversight Committee on Medicaid (LOC on
39 Medicaid) is created pursuant to subsection (l) of this section to
40 oversee the Medicaid and NC Health Choice programs.
- 41 (2) December 1, 2015. – The Department of Health and Human Services
42 (DHHS) shall establish the Medicaid stabilization team pursuant to
43 subsection (g) of this section.
- 44 (3) January 1, 2016. –
- 45 a. The DOM is designated as the single State agency for the
46 administration of Medicaid and NC Health Choice.
- 47 b. The DHHS and the DOM shall enter into agreements necessary for
48 the DOM to supervise the DHHS's administration of the Medicaid
49 and NC Health Choice programs.
- 50 (4) May 1, 2016. –

1 a. The DOM shall submit requests for waivers and State Plan
2 amendments to the Centers for Medicare and Medicaid Services
3 (CMS) necessary to implement Medicaid transformation.

4 b. The DOM shall report recommended statutory changes to the North
5 Carolina General Statutes to the LOC on Medicaid.

6 (5) Twelve months after CMS approval of all necessary waivers and State Plan
7 amendments. – Capitated full-risk contracts begin.

8 **SECTION 1.(d)** Requests for Proposals; Bids; Terms and Conditions of Contracts.

9 – The following shall be components of the initial RFPs, responsive bids to the initial RFPs,
10 and the initial contracts that are required under subsection (b) of this section.

11 (1) An RFP may solicit bids for a statewide contract, a regional contract, or both
12 and may propose variable contract durations.

13 (2) RFPs must require at least all of the following:

14 a. Full-risk capitation for all Medicaid health care items and services.

15 b. Coverage for all program aid categories except the dual eligible
16 categories.

17 c. All bidders meet solvency requirements established by the
18 Department of Insurance pursuant to subsection (k1) of this section.

19 d. All bidders meet the same standards and metrics for risk, outcomes,
20 and quality.

21 e. All bidders establish appropriate networks of providers to deliver
22 services.

23 f. All bidders subcontract with existing LME/MCOs for behavioral
24 health services through the end date of the first contract entered into
25 pursuant to this subsection at a capitation rate that is no less than the
26 most recently negotiated rate for the then current scope of benefits
27 paid to LME/MCOs.

28 g. All bidders agree not to limit providers' ability to contract with other
29 commercial insurers and PLEs.

30 h. All bidders must connect to the Health Information Exchange
31 Network or any successor information technology entity or
32 architecture specified by the DOM in order to ensure effective
33 systems and connectivity to support clinical coordination of care,
34 exchange of information, and the availability of data to the DOM to
35 manage the Medicaid and NC Health Choice program for the State.

36 i. All bidders ensure that their contracts with providers include
37 value-based payment systems that support the achievement of overall
38 performance, quality, and outcome measures.

39 (3) All bids must respond to the requirements of subdivision (2) of this
40 subsection and must also include at least all of the following:

41 a. For statewide contracts, a description of how the commercial insurer
42 or PLE will ensure access to appropriate care throughout the State.

43 b. For regional contracts, a description of how the PLE will ensure
44 access to appropriate care throughout the region.

45 c. Proposed competitive medical loss ratios.

46 d. Proposed full-risk capitated rates based on Centers for Medicare and
47 Medicaid Services (CMS) actuarial soundness and industry standards
48 as well as risk-adjusted rate ranges using claims data from fiscal year
49 2014-2015. Actuarial calculations must include utilization
50 assumptions consistent with industry and local standards.

- 1 e. Methods to ensure program integrity against provider fraud, waste,
2 and abuse at all levels.
- 3 (4) In addition to the requirements of subdivisions (1) through (3) of this
4 subsection, each contract must provide for all of the following:
- 5 a. Negotiated full-risk capitated rates, including a portion that is at risk
6 for achievement of quality and outcome measures.
- 7 b. Negotiated competitive medical loss ratios.
- 8 c. Compliance by the commercial insurer or PLE with all CMS
9 requirements for the Medicaid and NC Health Choice programs.
- 10 d. Defined measures and goals for risk adjusted health outcomes,
11 quality of care, patient satisfaction, access, and cost. Each component
12 must be measured and monitored continually and reported at set
13 intervals as determined by the DOM. Each component shall be
14 subject to specific accountability measures, including penalties. The
15 DOM may use organizations such as National Committee for Quality
16 Assurance (NCQA), Physician Consortium for Performance
17 Improvement (PCPI), Healthcare Effectiveness Data and Information
18 Set (HEDIS), or any others necessary to develop effective measures
19 for outcomes and quality.
- 20 e. Acceptance of full responsibility by the commercial insurer or PLE
21 for all grievance and appeals.
- 22 f. Ability of the commercial insurer or PLE to exclude providers from
23 networks based on economic or quality standards. Small providers
24 shall have an equal opportunity to participate in the provider
25 networks established by commercial insurers and PLEs, and
26 commercial insurers and PLEs shall apply economic and quality
27 standards equally regardless of provider size or ownership.
- 28 g. Ability of the commercial insurer or PLE to terminate the capitation
29 rate required under sub-subdivision f. of subdivision (2) of this
30 subsection if termination of the rate is mutually agreed to by the
31 LME/MCO.
- 32 h. Agreement that covered benefits will not be reduced from the
33 covered services in effect on the date the contract is awarded except
34 in instances where the DOM reduces a covered service for all
35 recipients and for all contracts.
- 36 i. A rate floor for primary care and specialty care services set by the
37 DOM to ensure recipients have appropriate access to these services.
- 38 j. Agreement that the commercial insurer or PLE will pay LME/MCOs
39 the capitation rate required by sub-subdivision f. of subdivision (2) of
40 this subsection within 30 days after the commercial insurer or PLE
41 receives funds for the capitation from the DOM.
- 42 k. A requirement that the commercial insurer or PLE must keep the
43 cost growth for its enrollees at least two percentage (2%) points
44 below national Medicaid spending growth as documented and
45 projected in the annual report prepared for CMS by the Office of the
46 Actuary for nonexpansion states.
- 47 l. A requirement that the commercial insurer or PLE participate in the
48 existing preferred drug list program maintained by DHHS as required
49 by Section 10.66 of S.L. 2009-451 and maximize the recovery and
50 collection of drug rebates.

1 **SECTION 1.(e)** Monthly Progress Report. – Beginning February 1, 2016, and
2 monthly thereafter until January 1, 2019, the DOM shall report to the LOC on Medicaid and the
3 Fiscal Research Division on the State's progress toward completing Medicaid transformation.
4 The May 1, 2016, report shall contain proposed changes to the North Carolina General Statutes
5 that are necessary to implement Medicaid transformation.

6 **SECTION 1.(f)** Maintain Funding Mechanisms. – In developing the waivers and
7 State Plan amendments necessary to implement this section, the DOM shall work with the
8 Centers for Medicare and Medicaid Services (CMS) to attempt to preserve existing levels of
9 funding generated from Medicaid-specific funding streams, such as assessments, to the extent
10 that the levels of funding may be preserved. If such Medicaid-specific funding cannot be
11 maintained as currently implemented, then the DOM shall advise the LOC on Medicaid created
12 in subsection (l) of this section of any modifications necessary to maintain as much revenue as
13 possible within the context of Medicaid transformation. If such Medicaid-specific funding
14 streams cannot be preserved through the transformation process or if revenue would decrease, it
15 is the intent of the General Assembly to modify such funding streams so that any supplemental
16 payments to providers are more closely aligned to improving health outcomes and achieving
17 overall Medicaid goals.

18 **SECTION 1.(g)** DHHS Role in Medicaid Transformation. – During Medicaid
19 transformation, the Department of Health and Human Services, Division of Medical Assistance
20 (DMA), shall cooperate with the DOM to ensure a smooth transition of the Medicaid and NC
21 Health Choice programs and shall perform all of the following functions:

- 22 (1) The DHHS and the DOM shall enter into agreements necessary for the DOM
23 to supervise the DHHS's administration of the Medicaid and NC Health
24 Choice programs until the transformed Medicaid program is completed.
- 25 (2) The Department of Health and Human Services, Office of the Secretary,
26 (Office of the Secretary) shall organize a Medicaid stabilization team to do
27 the following:
 - 28 a. Maintain the Medicaid and NC Health Choice programs until
29 Medicaid transformation has been completed.
 - 30 b. Work with the DOM during the transition.
 - 31 c. Develop strategies to successfully complete the requirements of
32 sub-subdivisions a. and b. of this subdivision.
 - 33 d. Make recommendations to the LOC on Medicaid on any additional
34 authorization or funding necessary to successfully complete the
35 requirements of sub-subdivisions a. and b. of this subdivision.
 - 36 e. With assistance from the Office of State Human Resources, conduct
37 interviews and meetings with designated essential employees of the
38 DMA to explain the transition process, including options for the
39 employees and the bonus payment system established under this
40 subsection.
 - 41 f. No later than December 1, 2015, report to the LOC on Medicaid on
42 the plan to communicate to employees, as required by
43 sub-subdivision e. of this subdivision.
- 44 (3) The Office of the Secretary shall identify the key managers, leaders, and
45 decision makers to be part of the stabilization team and, no later than
46 December 1, 2015, shall submit a list of these people and their roles to the
47 DOM and the LOC on Medicaid.
- 48 (4) No later than December 1, 2015, the Secretary of Health and Human
49 Services (Secretary) shall identify and designate "essential positions"
50 throughout the DHHS without which the Medicaid and NC Health Choice
51 programs could not operate on a day-to-day basis. Such positions designated

1 by the Secretary may include any position, whether subject to or exempt
2 from the North Carolina Human Resources Act or whether supervisory or
3 nonsupervisory, as long as the position is essential to the operation of
4 Medicaid or NC Health Choice. Because the designation is based on the
5 functions to be performed and because of the nature of the bonuses provided
6 under this subsection, the designation of a position as essential may not be
7 revoked, and the Secretary may designate both open and filled positions.

8 (5) In order to encourage employees to remain in their positions working on
9 Medicaid and NC Health Choice within the DHHS, employees serving in
10 positions designated as essential positions under this subsection shall be
11 eligible for the following benefits:

12 a. Effective November 1, 2015, any employee working in a designated
13 essential position within the DMA shall receive a bonus at each pay
14 period that is equal to five percent (5%) of the employee's earnings
15 for that period.

16 b. Effective November 1, 2015, any employee working in a designated
17 essential position within the DHHS, but outside of the DMA, whose
18 salary is paid with federal Medicaid funds shall also receive a five
19 percent (5%) bonus, paid in the same manner as bonuses are paid
20 under sub-subdivision a. of this subdivision. If such an employee
21 working outside of the DMA does not work full-time on Medicaid
22 issues, then the amount of the bonus shall be calculated by first
23 multiplying the employee's earnings for that period by the percentage
24 of the employee's time spent on Medicaid issues and then multiplying
25 that product by five percent (5%).

26 c. Any employee who received bonus payments under sub-subdivisions
27 a. or b. of this subdivision who is still employed within the DMA or
28 within the DHHS as of October 31, 2017, or who is employed within
29 the DOM, shall receive a final bonus payment equal to the sum of all
30 the bonus payments that the employee had received since November
31 1, 2015, under sub-subdivision a. of this subdivision. No employee
32 departing before October 31, 2017, shall be eligible to receive any
33 portion of such a final bonus payment, and no property right is
34 created by this subsection for employees that depart before October
35 31, 2017.

36 d. The bonus payments paid under this subsection are made
37 notwithstanding G.S. 126-4(2) or any other provision of law.
38 Notwithstanding G.S. 135-1(7a), bonus payments paid under this
39 subsection shall not count as "compensation" for purposes of the
40 Retirement System for Teachers and State Employees, nor shall the
41 DHHS be required to make payments to the Retirement System
42 based on the amounts paid as bonuses. Additionally, bonus payments
43 paid under this subsection shall not count as "compensation" or
44 "salary" for calculating severance payments under G.S. 126-8.5 or
45 calculating unemployment benefits.

46 (6) The DHHS shall not enter into any new contracts, or renew or extend any
47 contracts that existed prior to the effective date of this subsection, related to
48 the Medicaid or NC Health Choice programs without the express prior
49 approval of the DOM. The DHHS and the DMA shall ensure that any
50 Medicaid-related or NC Health Choice-related State contract entered into
51 after the effective date of this act contains a clause that allows the DHHS or

1 the DMA to terminate the contract without cause upon 30 days' notice. Any
2 contract signed by the DHHS or the DMA after the effective date of this act
3 that lacks such a termination clause shall, nonetheless, be deemed to include
4 such a clause and shall be cancellable without cause upon 30 days' notice.
5

6 **SECTION 1.(h)** The Department of Medicaid is established as a new executive
7 department. In accordance with the time line set out in subsection (c) of this section, the
8 Department of Medicaid shall administer and operate all functions, powers, duties, obligations,
9 and services related to the Medicaid and NC Health Choice programs. In accordance with the
10 time line set out in subsection (c) of this section, all functions, powers, duties, obligations, and
11 services vested in the Division of Medical Assistance of the Department of Health and Human
12 Services are vested in the Department of Medicaid.

13 **SECTION 1.(i)** Chapter 143B of the General Statutes is amended by adding a new
14 Article to read:

15 "Article 14.

16 "Department of Medicaid.

17 "**§ 143B-1400. Creation and organization.**

18 (a) There is hereby established the Department of Medicaid (Department) to administer
19 and operate the Medicaid and NC Health Choice programs. The head of the Department of
20 Medicaid is the Secretary of the Department of Medicaid, who shall be known as the Secretary.
21 The Department shall be the designated single State agency for the administration and
22 operation of the Medicaid and NC Health Choice programs.

23 (b) The Secretary shall be appointed by the Governor subject to confirmation by the
24 General Assembly by joint resolution, which shall originate in the House of Representatives.
25 The Secretary shall be subject to removal by the Governor. In case of death, incapacity,
26 resignation, removal by the Governor, or vacancy for any other reason while the General
27 Assembly is in session, the Governor shall submit the name of a successor Secretary to the
28 President of the Senate and the Speaker of the House of Representatives within four weeks
29 after the vacancy occurs. In case of death, incapacity, resignation, removal by the Governor, or
30 vacancy for any other reason while the General Assembly is not in session, the Governor shall
31 appoint a Secretary to serve on an interim basis pending confirmation by the General
32 Assembly.

33 (c) The powers and duties of the deputy secretaries and the divisions and directors of
34 the Department shall be subject to the direction and control of the Secretary.

35 "**§ 143B-1405. Powers and duties of the Secretary of Medicaid.**

36 (a) The Secretary of the Department of Medicaid shall have the following powers and
37 duties:

38 (1) Administer and operate the Medicaid and NC Health Choice programs.
39 None of the powers and duties enumerated in the other subdivisions of this
40 subsection shall be construed to limit the broad grant of authority to
41 administer and operate the Medicaid and NC Health Choice programs.

42 (2) Appoint all employees, including consultants and legal counsel, necessary to
43 carry out the powers and duties of the office. In hiring staff, the Secretary
44 may offer employment contracts for a term and set compensation for the
45 employees, including performance-based bonuses based on meeting budget
46 or other targets.

47 (3) Procure office space for the Department.

48 (4) Notwithstanding G.S. 143-64.20, enter into contracts for the administration
49 of the Medicaid and NC Health Choice programs, as well as manage such
50 contracts, including contracts of a consulting or advisory nature.

51 (5) Employ or contract for independent internal auditing staff.

- 1 (6) Pursuant to G.S. 108A-1, supervise the county departments of social services
2 in their administration of eligibility determinations. Pursuant to subdivision
3 (5) of this subsection, the Secretary may enter into a Memorandum of
4 Understanding with the Department of Health and Human Services or
5 contract with any other appropriate party to perform this task or a portion of
6 this task.
- 7 (7) Define and implement the following for the Medicaid and Health Choice
8 programs and any other programs administered by the Department:
- 9 a. Business policy.
- 10 b. Strategic plans, including desired health outcomes for the covered
11 populations, which shall do the following:
- 12 1. Be developed at a frequency of no less than every five years
13 with the input of stakeholders.
- 14 2. Identify key opportunities and challenges facing the
15 organization.
- 16 3. Identify the Department's strengths and weaknesses to
17 address these opportunities and challenges.
- 18 4. Identify key goals for the Department for this time period,
19 consistent with the reform goals identified by the General
20 Assembly.
- 21 5. Identify output and outcome performance measures to
22 quantify the Department's progress toward these goals.
- 23 6. Identify strategies to reach these goals.
- 24 7. Be used as a guide for units within the Department to
25 establish unit-specific operational plans at the same
26 frequency.
- 27 c. Performance management system, including quantitative indicators
28 for goals and objectives, which shall do the following:
- 29 1. Be developed and implemented within the first year of the
30 creation of the Department and updated no less than annually
31 thereafter with available data.
- 32 2. Establish quantitative performance measures focusing on the
33 quality and efficiency of service delivery and administration,
34 using a nationally recognized quality improvement effort
35 allowing comparison of North Carolina to other states as
36 those developed by, but not limited to, the federal Medicaid
37 Quality Measurement Program and the Baldrige Quality
38 Program.
- 39 3. Establish measurable objectives for each goal identified in the
40 strategic plan, and performance updated annually.
- 41 4. Establish, for each objective, benchmark activities, including
42 an estimated date of completion, the area for which efforts are
43 attempting a change, a quantitative indicator of success for
44 the area, and quarterly milestones allowing Department
45 managers and employees to monitor progress throughout the
46 year.
- 47 5. Establish mechanisms for obtaining data necessary for the
48 collection and public distribution of performance information.
- 49 d. Program and policy changes.
- 50 e. Operational budget and assumptions.

- 1 (8) Establish and adjust all program components, except for eligibility, of the
2 Medicaid and NC Health Choice programs within the appropriated and
3 allocated budget.
- 4 (9) Adopt rules related to the Medicaid and NC Health Choice programs.
- 5 (10) Develop midyear budget correction plans and strategies and then take
6 midyear budget corrective actions necessary to keep the Medicaid and NC
7 Health Choice programs within budget.
- 8 (11) Approve or disapprove and oversee all expenditures to be charged to or
9 allocated to the Medicaid and NC Health Choice programs by other State
10 departments or agencies.
- 11 (12) Develop and present to the Joint Legislative Oversight Committee on
12 Medicaid and the Office of State Budget and Management by January 1 of
13 each year, beginning in 2017, the following information for the Medicaid
14 and NC Health Choice programs:
- 15 a. A detailed four-year forecast of expected changes to enrollment
16 growth and enrollment mix.
- 17 b. What program changes will be made by the Department in order to
18 stay within the existing budget for the programs based on the next
19 fiscal year's forecasted enrollment growth and enrollment mix.
- 20 c. The cost to maintain the current level of services based on the next
21 fiscal year's forecasted enrollment growth and enrollment mix.
- 22 (13) Secure and pay for the services of the State Auditor's Office to conduct
23 annual audits of the financial accounts of the Department.
- 24 (14) Publish the Annual Medicaid Report, which shall contain, at a minimum, the
25 following:
- 26 a. Details on the Department's performance over the prior four years on
27 the following:
- 28 1. The identified quantitative measures from its strategic plan
29 and performance management system.
- 30 2. A comparison of the identified quantitative measures from its
31 strategic plan and performance management system and other
32 states participating in the quality improvement effort.
- 33 b. Annual audited financial statements.
- 34 (15) Publish in an electronic format, and update on at least a monthly basis, at
35 least the following information about the Medicaid and NC Health Choice
36 programs:
- 37 a. Enrollment by program aid category by county.
- 38 b. Per member per month spending by category of service.
- 39 c. Spending and receipts by fund along with a detailed variance
40 analysis.
- 41 d. A comparison of the above figures to the amounts forecasted and
42 budgeted for the corresponding time period.
- 43 (b) Pursuant to G.S. 108E-2-1, the General Assembly retains the authority to determine
44 the eligibility categories and income thresholds for the Medicaid and NC Health Choice
45 programs.
- 46 **§ 143B-1410. Variations from certain State laws.**
- 47 Although generally subject to the laws of this State, the following exemptions, limitations,
48 and modifications apply to the Department of Medicaid and the Secretary of the Department of
49 Medicaid, notwithstanding any other provision of law:
- 50 (1) Employees of the Department shall not be subject to the North Carolina
51 Human Resources Act, except as provided in G.S. 126-5(c1)(31).

- 1 (2) The Secretary may retain private legal counsel and is not subject to
2 G.S. 114-2.3 or G.S. 147-17(a) through (c).
- 3 (3) The Department's employment contracts offered pursuant to
4 G.S. 143B-1405(a)(2) are not subject to review and approval by the Office
5 of State Human Resources.
- 6 (4) If the Secretary establishes alternative procedures for the review and
7 approval of contracts, then the Department is exempt from State contract
8 review and approval requirements but may still choose to utilize the State
9 contract review and approval procedures for particular contracts.

10 **"§ 143B-1415. Cooling-off period for certain Department employees.**

11 (a) Ineligible Vendors. – The Secretary of the Department of Medicaid shall not
12 contract for goods or services with a vendor that employs or contracts with a person who is a
13 former Medicaid or NC Health Choice employee and uses that person in the administration of a
14 contract with the Department.

15 (b) Vendor Certification. – The Secretary shall require each vendor submitting a bid or
16 contract to certify that the vendor will not use a former Medicaid or NC Health Choice
17 employee in the administration of a contract with the Department in violation of the provisions
18 of subsection (a) of this section. Any person who submits a certification required by this
19 subsection knowing the certification to be false shall be guilty of a Class I felony.

20 (c) A violation of the provisions of this section shall void the contract.

21 (d) Definitions. – As used in this section, the following terms mean:

22 (1) Administration of a contract. – Oversight of the performance of a contract,
23 authority to make decisions regarding a contract, interpretation of a contract,
24 or participation in the development of specifications or terms of a contract or
25 in the preparation or award of a contract.

26 (2) Former Medicaid or NC Health Choice employee. – A person who, for any
27 period within the preceding six months, was employed as an employee or
28 contract employee of the Department, in the six months immediately
29 preceding termination of State employment, participated personally in either
30 the award or management of a Department contract with the vendor, or made
31 regulatory or licensing decisions that directly applied to the vendor.

32 **"§ 143B-1420. Medicaid Reserve Account.**

33 (a) The Medicaid Reserve Account is established as a nonreverting reserve in the
34 General Fund. The purpose of the Medicaid Reserve Account is to provide for unexpected
35 budgetary shortfalls within the Medicaid and NC Health Choice programs that result from
36 program expenditures in excess of the amount appropriated for the Medicaid and NC Health
37 Choice programs by the General Assembly and which continue to exist after the Health
38 Benefits Authority makes its best efforts to control costs through midyear budget corrections
39 under G.S. 143B-1410(a)(10).

40 (b) The Medicaid Reserve Account shall have the following minimum and maximum
41 target balances:

42 (1) Minimum target. – Five percent (5%) of a given fiscal year's General Fund
43 appropriations for capitation payments for both the Medicaid and NC Health
44 Choice programs.

45 (2) Maximum target. – Twelve percent (12%) of a given fiscal year's General
46 Fund appropriations for capitation payments for both the Medicaid and NC
47 Health Choice programs.

48 (c) Notwithstanding G.S. 143C-1-2(b), any funds appropriated to the Department for
49 the Medicaid or NC Health Choice programs and that remain unencumbered at the end of a
50 fiscal year shall, rather than revert to the General Fund, be credited to the Medicaid Reserve
51 Account. Any funds to be deposited in the Medicaid Reserve Account that would cause the

1 fund balance to exceed the maximum target balance for the Medicaid Reserve Account shall
 2 instead be credited to the General Fund.

3 (d) Medicaid Reserve Account funds may be disbursed by the Secretary to manage
 4 budgetary shortfalls in the Medicaid and NC Health Choice programs only after all of the
 5 following occur:

6 (1) The Secretary certifies that there is a projected Medicaid shortfall in the
 7 current fiscal year.

8 (2) The Secretary has already made midyear budget corrections under
 9 G.S. 143B-1410(a)(10), but those midyear budget corrections have not
 10 achieved the projected budget savings.

11 (3) The Secretary reports to the Joint Legislative Commission on Governmental
 12 Operations on its intent to disburse Medicaid Reserve Account funds. The
 13 report shall include a detailed analysis of receipts, payments, claims, and
 14 transfers, including an identification of and explanation of the recurring and
 15 nonrecurring components of the shortfall.

16 (e) Medicaid Reserve Account funds may be disbursed in accordance with subsection
 17 (d) of this section even if it results in the fund balance falling below the minimum target
 18 balance for the Medicaid Reserve Account."

19 **SECTION 1.(i1)** G.S. 20-79.5 reads as rewritten:

20 **"§ 20-79.5. Special registration plates for elected and appointed State government**
 21 **officials.**

22 (a) Plates. – The State government officials listed in this section are eligible for a
 23 special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the
 24 following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
...	
<u>Secretary of Medicaid</u>	<u>22</u>
Governor's Staff	<u>22-23-29</u>
...."	

32 **SECTION 1.(i2)** G.S. 126-5(d)(1) is amended by adding a new sub-subdivision to

33 read:

34 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 35 Chapter, which is known as the North Carolina Human Resources Act, the
 36 Governor may designate a total of 1,500 exempt positions throughout the
 37 following departments and offices:

38 ...
 39 n. Department of Medicaid."

40 **SECTION 1.(i3)** G.S. 143B-2 reads as rewritten:

41 **"§ 143B-2. Interim applicability of the Executive Organization Act of 1973.**

42 The Executive Organization Act of 1973 shall be applicable only to the following named
 43 departments:

44 ...
 45 (11) Department of Medicaid."

46 **SECTION 1.(i4)** G.S. 143B-6 is amended by adding a new subdivision to read:

47 **"§ 143B-6. Principal departments.**

48 In addition to the principal departments enumerated in the Executive Organization Act of
 49 1971, all executive and administrative powers, duties, and functions not including those of the
 50 General Assembly and its agencies, the General Court of Justice and the administrative
 51 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher

1 education previously vested by law in the several State agencies, are vested in the following
2 principal departments:

3 ...
4 (12) Department of Medicaid."

5 **SECTION 1.(j)** Transfer of Rules. – Effective January 1, 2016, all rules and
6 policies exempted from rule making related to the Medicaid and NC Health Choice programs
7 shall transfer to the Department of Medicaid. In its May 1, 2016, report to the Joint Legislative
8 Oversight Committee on Medicaid, the Department shall include recommendations for
9 additional exemptions from the rule-making requirements and contested case provisions in
10 Chapter 150B of the General Statutes.

11 **SECTION 1.(k)** Legal Actions. – For any legal action involving the Medicaid or
12 NC Health Choice programs in which the Division of Medical Assistance or the Department of
13 Health and Human Services is named as a party, the Department of Medicaid may be joined as
14 a party by reason of transfer of interest upon motion of any party pursuant to Rule 25(d) of the
15 North Carolina Rules of Civil Procedure. This subsection shall not be construed to limit any
16 other opportunities for joinder or intervention that are otherwise allowed under the North
17 Carolina Rules of Civil Procedure or elsewhere under law.

18 **SECTION 1.(k1)** The Commissioner of Insurance shall establish solvency
19 requirements for MCOs and PLEs that contract with the Department pursuant to this section.
20 The same requirements shall apply to and may be based on existing requirements for similarly
21 situated regulated entities. The Commissioner shall consult with the Secretary of the
22 Department of Medicaid in developing the requirements. The Commissioner shall make
23 recommendations, including any statutory changes, to the Joint Legislative Oversight
24 Committee on Medicaid by May 1, 2016.

25 **SECTION 1.(l)** Legislative Oversight of Medicaid. – Chapter 120 of the General
26 Statutes is amended by adding the following new Article:

27 "Article 23B.

28 "Joint Legislative Oversight Committee on Medicaid.

29 **"§ 120-209. Creation and membership of Joint Legislative Oversight Committee on**
30 **Medicaid.**

31 (a) The Joint Legislative Oversight Committee on Medicaid is established. The
32 Committee consists of 14 members as follows:

33 (1) Seven members of the Senate appointed by the President Pro Tempore of the
34 Senate, at least two of whom are members of the minority party.

35 (2) Seven members of the House of Representatives appointed by the Speaker of
36 the House of Representatives, at least two of whom are members of the
37 minority party.

38 (b) Terms on the Committee are for two years and begin on the convening of the
39 General Assembly in each odd-numbered year except initial appointments begin on the date of
40 appointment. Members may complete a term of service on the Committee even if they do not
41 seek reelection or are not reelected to the General Assembly, but resignation or removal from
42 service in the General Assembly constitutes resignation or removal from service on the
43 Committee.

44 (c) A member continues to serve until a successor is appointed. A vacancy shall be
45 filled within 30 days by the officer who made the original appointment.

46 **"§ 120-209.1. Purpose and powers of Committee.**

47 (a) The Joint Legislative Oversight Committee on Medicaid shall examine budgeting,
48 financing, administrative, and operational issues related to the Medicaid and NC Health Choice
49 programs and to the Department of Medicaid.

50 (b) The Committee may make periodic reports to the General Assembly on matters for
51 which it may report to a regular session of the General Assembly.

1 **"§ 120-209.2. Organization of Committee.**

2 (a) The President Pro Tempore of the Senate and the Speaker of the House of
3 Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on
4 Medicaid. The Committee shall meet upon the joint call of the cochairs.

5 (b) A quorum of the Committee is eight members. No action may be taken except by a
6 majority vote at a meeting at which a quorum is present.

7 (c) Members of the Committee receive subsistence and travel expenses, as provided in
8 G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance
9 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
10 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
11 of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate
12 and of the House of Representatives shall assign clerical staff to the Committee. The expenses
13 for clerical employees shall be borne by the Committee.

14 (d) The Committee cochairs may establish subcommittees for the purpose of examining
15 issues relating to its Committee charge.

16 **"§ 120-209.3. Additional powers.**

17 The Joint Legislative Oversight Committee on Medicaid, while in discharge of official
18 duties, shall have access to any paper or document and may compel the attendance of any State
19 official or employee before the Committee or secure any evidence under G.S. 120-19. In
20 addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee
21 as if it were a joint committee of the General Assembly.

22 **"§ 120-209.4. Reports to Committee.**

23 Whenever the Department of Medicaid is required by law to report to the General
24 Assembly or to any of its permanent, study, or oversight committees or subcommittees, the
25 Department shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight
26 Committee on Medicaid."

27 **SECTION 1.(m)** G.S. 120-208.1(a)(2)b. is repealed.

28 **SECTION 1.(n)** Recodification; Technical and Conforming Changes. – The
29 Revisor of Statutes shall recodify existing law related to Medicaid and NC Health Choice,
30 including Parts 6, 6A, 7, and 8 of Article 2, Article 5, and Article 7 of Chapter 108A of the
31 General Statutes, as well as Chapters 108C and 108D of the General Statutes, into a new
32 Chapter 108E of the General Statutes to be entitled "Medicaid and NC Health Choice Health
33 Benefit Programs" and to have the following structure:

34 Article 1. Administration of the Medicaid and NC Health Choice Programs

35 Part 1. Establishment of the Medicaid Program

36 Part 2. Establishment of the NC Health Choice Program

37 Part 3. Administration by County Departments of Social Services

38 Article 2. Medicaid and NC Health Choice Eligibility

39 Part 1. In General

40 Part 2. Eligibility for Medicaid

41 Part 3. Eligibility for NC Health Choice

42 Article 3. Medicaid and NC Health Choice Benefits and Cost-Sharing

43 Part 1. In General

44 Part 2. Medicaid Benefits and Cost-Sharing

45 Part 3. NC Health Choice Benefits and Cost-Sharing

46 Article 4. Medicaid and NC Health Choice Provider Requirements

47 Part 1. Provider Enrollment

48 Part 2. Provider Reimbursement and Recovery

49 Part 3. Hospital Assessment Act

50 Part 4. Other

51 Article 5. Third-Party Liability

1	Part 1. In General
2	Part 2. Subrogation
3	Part 3. Insurance
4	Part 4. Estate Recovery
5	Article 6. Fraud and Criminal Activity
6	Article 7. Appeals
7	Part 1. Eligibility Appeals for Medicaid and NC Health Choice
8	Part 2. Benefit Appeals for Medicaid
9	Subpart 1. Generally
10	Subpart 2. Medicaid Managed Care for Behavioral Health Services
11	Appeals
12	Part 3. Benefit Reviews for NC Health Choice
13	Part 4. Provider Appeals

When recodifying, the Revisor is authorized to change all references to the North Carolina Department of Health and Human Services or to the Division of Medical Assistance to instead be references to the Department of Medicaid and references to the Secretary of the Department of Health and Human Services to the Secretary of the Department of Medicaid. The Revisor may separate subsections of existing statutory sections into new sections and, when necessary to organize relevant law into its proper place in the above structure, may rearrange sentences that currently appear within subsections. The Revisor may modify statutory citations throughout the General Statutes, as appropriate, and may modify any references to statutory Divisions, such as "Chapter," "Article," "Part," "section," or "subsection." Within Articles 4 and 5 of Chapter 108A of the General Statutes, the Revisor of Statutes shall append to each reference to the North Carolina Department of Health and Human Services or to the Secretary of the Department the language "and, with respect to Medicaid and NC Health Choice, the Department of Medicaid." The Revisor of Statutes may conform names and titles changed by this subsection, and may correct statutory references as required by this subsection, throughout the General Statutes. In making the changes authorized by this subsection, the Revisor may also adjust subject and verb agreement and the placement of conjunctions. The Revisor shall consult with the Department of Health and Human Services and the Department of Medicaid on this recodification.

SECTION 1.(o) G.S. 108A-1 reads as rewritten:

"§ 108A-1. Creation.

Every county shall have a board of social services or a consolidated human services board created pursuant to G.S. 153A-77(b) which shall establish county policies for the programs established by this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Health and Human Services. Provided, however, county policies for the program of medical assistance shall be established in conformity with the rules and regulations of the ~~Department of Health and Human Services~~ Department of Medicaid"

SECTION 1.(p) G.S. 108A-54.1A reads as rewritten:

"§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.

(a) ~~No provision in the Medicaid State Plan or in a Medicaid Waiver may expand or otherwise alter the scope or purpose of the Medicaid program from that authorized by law enacted by the General Assembly. For purposes of this section, the term "amendments to the State Plan" includes State Plan amendments, Waivers, and Waiver amendments. The Department of Medicaid is expressly authorized and required to take any and all necessary action to amend the State Plan and waivers in order to keep the program within the certified budget.~~

(b) ~~The Department may submit amendments to the State Plan only as required under any of the following circumstances:~~

- 1 (1) ~~A law enacted by the General Assembly directs the Department to submit an~~
2 ~~amendment to the State Plan.~~
- 3 (2) ~~A law enacted by the General Assembly makes a change to the Medicaid~~
4 ~~Program that requires approval by the federal government.~~
- 5 (3) ~~A change in federal law, including regulatory law, or a change in the~~
6 ~~interpretation of federal law by the federal government requires an~~
7 ~~amendment to the State Plan.~~
- 8 (4) ~~A change made by the Department to the Medicaid Program requires an~~
9 ~~amendment to the State Plan, if the change was within the authority granted~~
10 ~~to the Department by State law.~~
- 11 (5) ~~An amendment to the State Plan is required in response to an order of a court~~
12 ~~of competent jurisdiction.~~
- 13 (6) ~~An amendment to the State Plan is required to ensure continued federal~~
14 ~~financial participation.~~
- 15 (e) ~~Amendments to the State Plan submitted to the federal government for approval~~
16 ~~shall contain only those changes that are allowed by the authority for submitting an amendment~~
17 ~~to the State Plan in subsection (b) of this section.~~
- 18 (d) No fewer than 10 days prior to submitting an amendment to the State Plan to the
19 federal government, the Department shall post the amendment on its Web site and notify the
20 members of the Joint Legislative Oversight Committee on the Health Benefits Authority and
21 the Fiscal Research Division that the amendment has been posted. This requirement shall not
22 apply to draft or proposed amendments submitted to the federal government for comments but
23 not submitted for approval. ~~The amendment shall remain posted on the Department's Web site~~
24 ~~at least until the plan has been approved, rejected, or withdrawn. If the authority for submitting~~
25 ~~the amendment to the State Plan is pursuant to subdivision (3), (4), (5), or (6) of subsection (b)~~
26 ~~of this section, then, prior to submitting an amendment to the federal government, the~~
27 ~~Department shall submit to the General Assembly members receiving notice under this~~
28 ~~subsection and to the Fiscal Research Division an explanation of the amendment, the need for~~
29 ~~the amendment, and the federal time limits required for implementation of the amendment.~~
- 30 (e) ~~The Department shall submit an amendment to the State Plan to the federal~~
31 ~~government by a date sufficient to provide the federal government adequate time to review and~~
32 ~~approve the amendment so the amendment may be effective by the date required by the~~
33 ~~directing authority in subsection (b) of this section. Additionally, if a change is made to the~~
34 ~~Medicaid program by the General Assembly and that change requires an amendment to the~~
35 ~~State Plan, then the amendment shall be submitted at least 90 days prior to the effective date of~~
36 ~~the change as provided in the legislation.~~
- 37 (f) Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other
38 posting requirements under federal law, be posted on the Department's Web site. Upon posting
39 such a public notice, the Department shall notify the members of the Joint Legislative
40 Oversight Committee on the Health Benefits Authority and the Fiscal Research Division that
41 the public notice has been posted. Public notices shall remain posted on the Department's Web
42 site."

43 **SECTION 1.(q)** G.S. 108A-54.2(d) is repealed.

44 **SECTION 1.(r)** Part 1 of Article 2 of Chapter 108E of the General Statutes,
45 created by the recodification process described in subsection (n) of this section, shall include
46 the following two new sections:

47 "**§ 108E-2-1. General Assembly sets eligibility categories.**

48 Eligibility categories and income thresholds are set by the General Assembly, and the
49 Department of Medicaid shall not alter the eligibility categories and income thresholds from
50 those authorized by the General Assembly. The Department is expressly authorized to adopt

1 temporary and permanent rules regarding eligibility requirements and determinations, to the
2 extent that they do not conflict with parameters set by the General Assembly.

3 **"§ 108E-2-2. Counties determine eligibility.**

4 Counties determine eligibility in accordance with Chapter 108A of the General Statutes."

5 SECTION 1.(s) G.S. 126-5(c1) is amended by adding a new subdivision to read:

6 **"§ 126-5. Employees subject to Chapter; exemptions.**

7 ...
8 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
9 Chapter shall not apply to:

10 ...
11 (31) Employees of the Department of Medicaid."

12 SECTION 1.(t) G.S. 143B-153 reads as rewritten:

13 **"§ 143B-153. Social Services Commission – creation, powers and duties.**

14 There is hereby created the Social Services Commission of the Department of Health and
15 Human Services with the power and duty to adopt rules and regulations to be followed in the
16 conduct of the State's social service programs with the power and duty to adopt, amend, and
17 rescind rules and regulations under and not inconsistent with the laws of the State necessary to
18 carry out the provisions and purposes of this Article. Provided, however, the ~~Department of~~
19 ~~Health and Human Services~~Department of Medicaid shall have the power and duty to adopt
20 rules and regulations to be followed in the conduct of the State's medical assistance program.

21"
22 SECTION 1.(u) G.S. 150B-1 reads as rewritten:

23 **"§ 150B-1. Policy and scope.**

24 ...
25 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
26 following:

27 ...
28 (9) ~~The Department of Health and Human Services~~Department of Medicaid in
29 adopting new or amending existing medical coverage policies for the State
30 Medicaid and NC Health Choice programs pursuant to G.S. 108A-54.2.

31 ...
32 (20) ~~The Department of Health and Human Services~~Department of Medicaid in
33 implementing, operating, or overseeing new 1915(b)/(c) Medicaid Waiver
34 programs or amendments to existing 1915(b)/(c) Medicaid Waiver
35 programs.

36 ...
37 (22) ~~The Department of Health and Human Services~~Department of Medicaid
38 with respect to the content of State Plans, State Plan Amendments, and
39 Waivers approved by the Centers for Medicare and Medicaid Services
40 (CMS) for the North Carolina Medicaid Program and the NC Health Choice
41 program.

42 ...
43 (e) Exemptions From Contested Case Provisions. – The contested case provisions of
44 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
45 The contested case provisions of this Chapter do not apply to the following:

46 ...
47 (17) ~~The Department of Health and Human Services~~Department of Medicaid
48 with respect to the review of North Carolina Health Choice Program
49 determinations regarding delay, denial, reduction, suspension, or termination
50 of health services, in whole or in part, including a determination about the
51 type or level of services.

...."

SECTION 1.(v) Appropriation. – The sum of five million dollars (\$5,000,000) in recurring funds for the 2015-2016 and the 2016-2017 fiscal years are appropriated from the General Fund to the Department of Health and Human Services, Division of Medical Assistance, to accomplish the Medicaid transformation required by this section. These funds shall provide a State match for an estimated five million dollars (\$5,000,000) in federal funds beginning in the 2015-2016 fiscal year. Upon request of the Department of Medicaid, but no later than January 1, 2016, the Department shall transfer these funds to the Department of Medicaid to be used for Medicaid transformation.

SECTION 1.(w) Effective Date. – Subsections (n) through (u) of this section become effective January 1, 2016. The remainder of this section is effective when this act becomes law.

FUNDS FOR OVERSIGHT AND ADMINISTRATION OF STATEWIDE HEALTH INFORMATION EXCHANGE NETWORK

SECTION 2.(a) It is the intent of the General Assembly to do all of the following with respect to health information exchange:

- (1) Establish a successor HIE Network to which (i) all Medicaid providers shall be connected by October 1, 2017, and (ii) all other entities that receive State funds for the provision of health services shall be connected by January 1, 2018.
- (2) Establish (i) a State-controlled Health Information Exchange Authority to oversee and administer the successor HIE Network and (ii) a Health Information Exchange Advisory Board to provide consultation to the Authority on matters pertaining to administration and operation of the HIE Network and on statewide health information exchange, generally.
- (3) Have the successor HIE Network gradually become and remain one hundred percent (100%) receipt-supported by establishing reasonable participation fees approved by the General Assembly and by drawing down available matching funds whenever possible.

SECTION 2.(b) In order to achieve the objectives described in subsection (a) of this section, the sum of eight million dollars (\$8,000,000) in recurring funds is appropriated to the Department of Health and Human Services, Division of Central Management and Support, for the 2015-2016 fiscal year and for the 2016-2017 fiscal year to continue efforts toward the implementation of a statewide health information exchange network. These funds shall be transferred to the Office of Information Technology Services. By 30 days after the effective date of this section, the Secretary of the Department of Health and Human Services and the State Chief Information Officer (State CIO) shall enter into a written memorandum of understanding pursuant to which the State CIO will have sole authority to direct the expenditure of these funds until (i) the North Carolina Health Information Exchange Authority (Authority) is established and the State CIO has appointed an Authority Director and (ii) the North Carolina Health Information Exchange Advisory Board (Advisory Board) is established with members appointed pursuant to Article 29B of Chapter 90 of the General Statutes, as enacted by subsection (d) of this section. The State CIO shall use these transferred funds to accomplish the following:

- (1) Beginning immediately upon receipt of the transferred funds, facilitate the following:
 - a. Establishment of the successor HIE Network described in subsection (a) of this section.
 - b. Termination or assignment to the Authority by December 31, 2015, of any contracts pertaining to the HIE Network established under

1 Article 29A of Chapter 90 of the General Statutes (i) between the
2 State and the NC HIE and (ii) between the NC HIE and any third
3 parties.

- 4 (2) Fund the monthly operational expenses incurred or encumbered by the NC
5 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
6 provision of law to the contrary, the total amount of monthly operating
7 expenses paid for with these funds shall not exceed one hundred
8 seventy-seven thousand dollars (\$177,000) per month or a total of one
9 million sixty-two thousand dollars (\$1,062,000) for the six-month period
10 commencing July 1, 2015, and ending December 31, 2015. The State CIO
11 shall terminate payments for these monthly operational expenses upon the
12 earlier of December 31, 2015, or upon the termination or assignment to the
13 Authority of all contracts pertaining to the HIE Network established under
14 Article 29A of Chapter 90 of the General Statutes (i) between the State and
15 the NC HIE and (ii) between the NC HIE and any third parties.

16 The State CIO is encouraged to explore all available opportunities for the State to
17 receive federal grant funds and federal matching funds for health information exchange.

18 **SECTION 2.(c)** Once the Authority Director has been hired and the Advisory
19 Board has been established with members appointed pursuant to Article 29B of Chapter 90 of
20 the General Statutes, as enacted by subsection (d) of this section, the Authority shall use these
21 funds to do the following:

- 22 (1) Fund the operational expenses of the Authority and the Advisory Board.
23 (2) Establish, oversee, administer, and provide ongoing support of a successor
24 HIE Network to the HIE Network established under Article 29A of Chapter
25 90 of the General Statutes.
26 (3) Enter into any contracts necessary for the establishment, administration, and
27 operation of the successor HIE Network.
28 (4) Facilitate the termination or assignment to the Authority by December 31,
29 2015, of any contracts pertaining to the HIE Network established under
30 Article 29A of Chapter 90 of the General Statutes (i) between the State and
31 the NC HIE and (ii) between the NC HIE and any third parties.
32 (5) Fund the monthly operational expenses incurred or encumbered by the NC
33 HIE from July 1, 2015, until December 31, 2015. Notwithstanding any other
34 provision of law to the contrary, the total amount of monthly operating
35 expenses paid for with these funds shall not exceed one hundred
36 seventy-seven thousand dollars (\$177,000) per month or a total of one
37 million sixty-two thousand dollars (\$1,062,000) for the six-month period
38 commencing July 1, 2015, and ending December 31, 2015. The Authority
39 shall terminate payments for these monthly operational expenses upon the
40 earlier of December 31, 2015, or upon the termination or assignment to the
41 Authority of all contracts pertaining to the HIE Network established under
42 Article 29A of Chapter 90 of the General Statutes (i) between the State and
43 the NC HIE and (ii) between the NC HIE and any third parties.

44 The Authority is encouraged to explore all available opportunities for the State to
45 receive federal grant funds and federal matching funds for health information exchange.

46 **SECTION 2.(d)** Chapter 90 of the General Statutes is amended by adding a new
47 Article to read:

48 "Article 29B.

49 "Statewide Health Information Exchange Act.

50 "§ 90-414.1. Title.

1 This act shall be known and may be cited as the "Statewide Health Information Exchange
2 Act."

3 **"§ 90-414.2. Purpose.**

4 This Article is intended to improve the quality of health care delivery within this State by
5 facilitating and regulating the use of a voluntary, statewide health information exchange
6 network for the secure electronic transmission of individually identifiable health information
7 among health care providers, health plans, and health care clearinghouses in a manner that is
8 consistent with the Health Insurance Portability and Accountability Act, Privacy Rule and
9 Security Rule, 45 C.F.R. §§ 160, 164.

10 **"§ 90-414.3. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Business associate. – As defined in 45 C.F.R. § 160.103.
- 13 (2) Business associate contract. – The documentation required by 45 C.F.R. §
14 164.502(e)(2) that meets the applicable requirements of 45 C.F.R. §
15 164.504(e).
- 16 (3) Covered entity. – Any entity described in 45 C.F.R. § 160.103 or any other
17 facility or practitioner licensed by the State to provide health care services.
- 18 (4) Disclose or disclosure. – The release, transfer, provision of access to, or
19 divulging in any other manner an individual's protected health information
20 through the HIE Network.
- 21 (5) Emergency medical condition. – A medical condition manifesting itself by
22 acute symptoms of sufficient severity, including severe pain, such that the
23 absence of immediate medical attention could reasonably be expected to
24 result in (i) placing an individual's health in serious jeopardy, (ii) serious
25 impairment of an individual's bodily functions, or (iii) serious dysfunction of
26 any bodily organ or part of an individual.
- 27 (6) GDAC. – The North Carolina Government Data Analytics Center.
- 28 (7) Health Benefits Authority. – The Authority established under Article 14 of
29 Chapter 143B of the General Statutes to operate the Medicaid and NC
30 Health Choice programs.
- 31 (8) HIE Network. – The voluntary, statewide health information exchange
32 network overseen and administered by the Authority.
- 33 (9) HIPAA. – The Health Insurance Portability and Accountability Act of 1996,
34 P.L. 104-191, as amended.
- 35 (10) Individual. – As defined in 45 C.F.R. § 160.103.
- 36 (11) North Carolina Health Information Exchange Advisory Board or Advisory
37 Board. – The Advisory Board established under G.S. 90-414.6.
- 38 (12) North Carolina Health Information Exchange Authority or Authority. – The
39 entity established pursuant to G.S. 90-414.5.
- 40 (13) Opt out. – An individual's affirmative decision to disallow his or her
41 protected health information maintained by or on behalf of one or more
42 specific covered entities from being disclosed to other covered entities
43 through the HIE Network.
- 44 (14) Protected health information. – As defined in 45 C.F.R. § 160.103.
- 45 (15) Public health purposes. – The public health activities and purposes described
46 in 45 C.F.R. § 164.512(b).
- 47 (16) Qualified organization. – An entity designated by the Authority to contract
48 with covered entities on behalf of the Authority to facilitate the participation
49 of such covered entities in the HIE Network.
- 50 (17) Research purposes. – Research that meets the standard described in 45
51 C.F.R. § 164.512(i).

1 (18) State CIO. – The State Chief Information Officer.

2 **"§ 90-414.4. Required participation in HIE Network for some providers.**

3 (a) The General Assembly makes the following findings:

4 (1) That controlling escalating health care costs of the Medicaid program and
5 other State-funded health services is of significant importance to the State,
6 its taxpayers, its Medicaid recipients, and other recipients of State-funded
7 health services.

8 (2) That the Health Benefits Authority needs timely access to claims and clinical
9 information in order to assess performance, improve health care outcomes,
10 pinpoint medical expense trends, identify beneficiary health risks, and
11 evaluate how the State is spending money on Medicaid and other
12 State-funded health services.

13 (3) That making this clinical information available through the HIE Network
14 will improve care coordination within and across health systems, increase
15 care quality, enable more effective population health management, reduce
16 duplication of medical services, augment syndromic surveillance, allow
17 more accurate measurement of care services and outcomes, increase strategic
18 knowledge about the health of the population, and facilitate health care cost
19 containment.

20 (b) As a condition of receiving State funds, including Medicaid funds, the following
21 entities shall connect to the HIE Network and submit individual patient demographic and
22 clinical data on services paid for with State funds, including Medicaid funds, based on the
23 findings set forth in subsection (a) of this section and notwithstanding the voluntary nature of
24 the HIE Network under G.S. 90-414.2:

25 (1) Each hospital, as defined in G.S. 131E-76(3), that has an electronic health
26 record system.

27 (2) Each Medicaid provider.

28 (3) Each provider that receives State funds for the provision of health services.

29 (c) The Authority shall give the Health Benefits Authority real-time access to data and
30 information disclosed through the HIE Network. At the request of the Director of the Fiscal
31 Research, Bill Drafting, Research, or Program Evaluation Division of the General Assembly
32 for data and information disclosed through the HIE Network or for a consolidation or analysis
33 of the data and information disclosed through the HIE Network, the Authority shall provide the
34 professional staff of these Divisions with data and information responsive to the Director's
35 request. Prior to providing the General Assembly's staff with any data or information disclosed
36 through the HIE Network or with any compilation or analysis of data or information disclosed
37 through the HIE Network, the Authority shall redact any personal identifying information in a
38 manner consistent with the standards specified for de-identification of health information under
39 the HIPAA Privacy Rule, 45 C.F.R. § 164.15, as amended.

40 **"§ 90-414.4A. State ownership of data disclosed through HIE Network.**

41 Any data disclosed through the HIE Network pursuant to G.S. 90-414.4 or any other
42 provision of this Article shall be and will remain the sole property of the State. Any data or
43 product derived from the data disclosed to the HIE Network pursuant to G.S. 90-414.4 or any
44 other provision of this Article, including a consolidation or analysis of the data, shall be and
45 will remain the sole property of the State. The Authority shall not allow proprietary information
46 it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used by any
47 person or entity for commercial purposes.

48 **"§ 90-414.5. North Carolina Health Information Exchange Authority.**

49 (a) Creation. – There is hereby established the North Carolina Health Information
50 Exchange Authority to oversee and administer the HIE Network in accordance with this
51 Article. The Authority shall be located within the Office of Information Technology Services

1 and shall be under the supervision, direction, and control of the State CIO. The State CIO shall
2 employ an Authority Director and may delegate to the Authority Director all powers and duties
3 associated with the daily operation of the Authority, its staff, and the performance of the
4 powers and duties set forth in subsection (b) of this section. In making this delegation,
5 however, the State CIO maintains the responsibility for the performance of these powers and
6 duties.

7 (b) Powers and Duties. – The Authority has the following powers and duties:

- 8 (1) Oversee and administer the HIE Network in a manner that ensures all of the
9 following:
- 10 a. Compliance with this Article.
 - 11 b. Compliance with HIPAA and any rules adopted under HIPAA,
12 including the Privacy Rule and Security Rule.
 - 13 c. Compliance with the terms of any business associate contract the
14 Authority or qualified organization enters into with a covered entity
15 participating in the HIE Network.
 - 16 d. Notice to the patient by the provider on the initial visit about the HIE
17 Network, including information and education about the right of
18 individuals on a continuing basis to opt out or rescind a decision to
19 opt out.
 - 20 e. Opportunity for all individuals to exercise on a continuing basis the
21 right to opt out or rescind a decision to opt out.
 - 22 f. Nondiscriminatory treatment by covered entities of individuals who
23 exercise the right to opt out.
- 24 (2) Employ staff necessary to carry out the provisions of this Article and
25 determine the compensation, duties, and other terms and conditions of
26 employment of hired staff.
- 27 (3) Enter into contracts pertaining to the oversight and administration of the HIE
28 Network, including contracts of a consulting or advisory nature.
29 G.S. 143-64.20 does not apply to this subdivision.
- 30 (4) Establish fees approved by the General Assembly for participation in the
31 HIE Network.
- 32 (5) Following consultation with the Advisory Board, develop and enter into
33 written participation agreements with covered entities that utilize the HIE
34 Network. The participation agreements shall specify the terms and
35 conditions governing participation in the HIE Network. The agreement shall
36 also require compliance with policies developed by the Authority pursuant to
37 this Article or pursuant to applicable laws of the state of residence for
38 entities located outside of North Carolina. In lieu of entering into a
39 participation agreement directly with covered entities, the Authority may
40 enter into participation agreements with qualified organizations, which in
41 turn enter into participation agreements with covered entities.
- 42 (6) Add, remove, disclose, and access protected health information through the
43 HIE Network in accordance with this Article.
- 44 (7) Following consultation with the Advisory Board, enter into a business
45 associate contract with each of the covered entities participating in the HIE
46 Network. In lieu of entering into a business associate contract directly with
47 covered entities, the Authority may enter into business associate contracts
48 with qualified organizations, which in turn may enter into business associate
49 contracts with covered entities.
- 50 (8) Following consultation with the Advisory Board, grant user rights to the HIE
51 Network to business associates of covered entities participating in the HIE

1 Network (i) at the request of the covered entities and (ii) at the discretion of
2 the Authority upon consideration of the business associates' legitimate need
3 for utilizing the HIE Network and privacy and security concerns.

4 (9) Facilitate and promote use of the HIE Network by covered entities.

5 (10) Periodically monitor compliance with this Article by covered entities
6 participating in the HIE Network.

7 (11) Collect clinical health data from all Medicaid providers and other providers
8 that receive State funds for the provision of health services in order to ensure
9 the efficient delivery of Medicaid and other health services and to improve
10 patient outcomes and measure performance.

11 (12) Collaborate with the State CIO to ensure that resources available through the
12 GDAC are properly leveraged, assigned, or deployed to support the work of
13 the Authority. The duty to collaborate under this subdivision includes
14 collaboration on data hosting and development, implementation, operation,
15 and maintenance of the HIE Network.

16 (13) Initiate or direct expansion of existing public-private partnerships within the
17 GDAC as necessary to meet the requirements, duties, and obligations of the
18 Authority. Notwithstanding any other provision of law and subject to the
19 availability of funds, the State CIO, at the request of the Authority, shall
20 assist and facilitate expansion of existing contracts related to the HIE
21 Network, provided that such request is made in writing by the Authority to
22 the State CIO with reference to specific requirements set forth in this Article.

23 (14) In consultation with the Advisory Board, develop a strategic plan for
24 achieving statewide participation in the HIE Network by all hospitals and
25 health care providers licensed in this State.

26 (15) In consultation with the Advisory Board, define the following with respect to
27 operation of the HIE Network:

28 a. Business policy.

29 b. Protocols for data integrity, data sharing, data security, HIPAA
30 compliance, and business intelligence as defined in
31 G.S. 143B-426.38A. To the extent permitted by HIPAA, protocols
32 for data sharing shall allow for the disclosure of data for academic
33 research.

34 c. Qualitative and quantitative performance measures.

35 d. An operational budget and assumptions.

36 (16) Annually report to the Joint Legislative Oversight Committees on the Health
37 Benefits Authority and Information Technology on the following:

38 a. The operation of the HIE Network.

39 b. Any efforts or progress in expanding participation in the HIE
40 Network.

41 c. Health care trends based on information disclosed through the HIE
42 Network.

43 **§ 90-414.6. North Carolina Health Information Exchange Advisory Board.**

44 (a) Creation and Membership. – There is hereby established the North Carolina Health
45 Information Exchange Advisory Board within the Office of Information Technology Services.
46 The Advisory Board shall consist of the following nine members:

47 (1) The following three members appointed by the President Pro Tempore of the
48 Senate:

49 a. A licensed physician in good standing and actively practicing in this
50 State.

51 b. A patient representative.

1 c. An individual with technical expertise in health data analytics.

2 (2) The following three members appointed by the Speaker of the House of
3 Representatives:

4 a. A representative of a critical access hospital.

5 b. A representative of a federally qualified health center.

6 c. An individual with technical expertise in health information
7 technology.

8 (3) The following three ex officio, nonvoting members:

9 a. The State Chief Information Officer or a designee.

10 b. The Program Manager of GDAC or a designee.

11 c. The Chief Executive Officer of the Health Benefits Authority or a
12 designee.

13 (b) Chairperson. – A chairperson shall be elected from among the members. The
14 chairperson shall organize and direct the work of the Advisory Board.

15 (c) Administrative Support. – The Office of Information Technology Services shall
16 provide necessary clerical and administrative support to the Advisory Board.

17 (d) Meetings. – The Advisory Board shall meet at least quarterly and at the call of the
18 chairperson. A majority of the Advisory Board constitutes a quorum for the transaction of
19 business.

20 (e) Terms. – In order to stagger terms, in making initial appointments, the President Pro
21 Tempore of the Senate shall designate two of the members appointed under subdivision (1) of
22 subsection (a) of this section to serve for a one-year period from the date of appointment and,
23 the Speaker of the House of Representatives shall designate two members appointed under
24 subdivision (2) of subsection (a) of this section to serve for a one-year period from the date of
25 appointment. The remaining voting members shall serve two-year periods. Future appointees
26 who are voting members shall serve terms of two years, with staggered terms based on this
27 subsection. Voting members may serve up to two consecutive terms, not including the
28 abbreviated two-year terms that establish staggered terms or terms of less than two years that
29 result from the filling of a vacancy. Ex officio, nonvoting members are not subject to these term
30 limits. A vacancy other than by expiration of a term shall be filled by the appointing authority.

31 (f) Expenses. – Members of the Advisory Board who are State officers or employees
32 shall receive no compensation for serving on the Advisory Board but may be reimbursed for
33 their expenses in accordance with G.S. 138-6. Members of the Advisory Board who are
34 full-time salaried public officers or employees other than State officers or employees shall
35 receive no compensation for serving on the Advisory Board but may be reimbursed for their
36 expenses in accordance with G.S. 138-5(b). All other members of the Advisory Board may
37 receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

38 (g) Duties. – The Advisory Board shall provide consultation to the Authority with
39 respect to the advancement, administration, and operation of the HIE Network and on matters
40 pertaining to health information exchange, generally. In carrying out its responsibilities, the
41 Advisory Board may form committees of the Advisory Board to examine particular issues
42 related to the advancement, administration, or operation of the HIE Network.

43 **§ 90-414.7. Participation by covered entities.**

44 (a) Each covered entity that elects to participate in the HIE Network shall enter into a
45 business associate contract and a written participation agreement with the Authority or
46 qualified organization prior to disclosing or accessing any protected health information through
47 the HIE Network.

48 (b) Each covered entity that elects to participate in the HIE Network may authorize its
49 business associates to disclose or access protected health information on behalf of the covered
50 entity through the HIE Network in accordance with this Article and at the discretion of the
51 Authority, as provided in G.S. 90-414.5(b)(8).

1 (c) Notwithstanding any State law or regulation to the contrary, each covered entity that
2 elects to participate in the HIE Network may disclose an individual's protected health
3 information through the HIE Network (i) to other covered entities for any purpose permitted by
4 HIPAA, unless the individual has exercised the right to opt out, and (ii) in order to facilitate the
5 provision of emergency medical treatment to the individual, subject to the requirements set
6 forth in G.S. 90-414.8(e).

7 (d) Any health care provider who relies in good faith upon any information provided
8 through the Authority or through a qualified organization in the health care provider's treatment
9 of a patient shall not incur criminal or civil liability for damages caused by the inaccurate or
10 incomplete nature of this information.

11 **"§ 90-414.8. Continuing right to opt out; effect of opt out; exception for emergency**
12 **medical treatment.**

13 (a) Each individual has the right on a continuing basis to opt out or rescind a decision to
14 opt out.

15 (b) The Authority or its designee shall enforce an individual's decision to opt out or
16 rescind an opt out prospectively from the date the Authority or its designee receives notice of
17 the individual's decision to opt out or rescind an opt out in the manner prescribed by the
18 Authority. An individual's decision to opt out or rescind an opt out does not affect any
19 disclosures made by the Authority or covered entities through the HIE Network prior to receipt
20 by the Authority or its designee of the individual's notice to opt out or rescind an opt out.

21 (c) A covered entity may not deny treatment or benefits to an individual because of the
22 individual's decision to opt out. However, nothing in this Article is intended to restrict a
23 treating physician from otherwise appropriately terminating a relationship with a patient in
24 accordance with applicable law and professional ethical standards.

25 (d) Except as otherwise permitted in subsection (e) of this section and
26 G.S. 90-414.9(a)(3), the protected health information of an individual who has exercised the
27 right to opt out may not be disclosed to covered entities through the HIE Network for any
28 purpose.

29 (e) The protected health information of an individual who has exercised the right to opt
30 out may be disclosed through the HIE Network in order to facilitate the provision of emergency
31 medical treatment to the individual if all of the following criteria are met:

32 (1) The reasonably apparent circumstances indicate to the treating health care
33 provider that (i) the individual has an emergency medical condition, (ii) a
34 meaningful discussion with the individual about whether to rescind a
35 previous decision to opt out is impractical due to the nature of the
36 individual's emergency medical condition, and (iii) information available
37 through the HIE Network could assist in the diagnosis or treatment of the
38 individual's emergency medical condition.

39 (2) The disclosure through the HIE Network is limited to the covered entities
40 providing diagnosis and treatment of the individual's emergency medical
41 condition.

42 (3) The circumstances and extent of the disclosure through the HIE Network is
43 recorded electronically in a manner that permits the Authority or its designee
44 to periodically audit compliance with this subsection.

45 **"§ 90-414.9. Construction and applicability.**

46 (a) Nothing in this Article shall be construed to do any of the following:

47 (1) Impair any rights conferred upon an individual under HIPAA, including all
48 of the following rights related to an individual's protected health
49 information:

50 a. The right to receive a notice of privacy practices.

51 b. The right to request restriction of use and disclosure.

- 1 c. The right of access to inspect and obtain copies.
 2 d. The right to request amendment.
 3 e. The right to request confidential forms of communication.
 4 f. The right to receive an accounting of disclosures.

5 (2) Authorize the disclosure of protected health information through the HIE
 6 Network to the extent that the disclosure is restricted by federal laws or
 7 regulations, including the federal drug and alcohol confidentiality
 8 regulations set forth in 42 C.F.R. Part 2.

9 (3) Restrict the disclosure of protected health information through the HIE
 10 Network for public health purposes or research purposes, so long as
 11 disclosure is permitted by both HIPAA and State law.

12 (4) Prohibit the Authority or any covered entity participating in the HIE
 13 Network from maintaining in the Authority's or qualified organization's
 14 computer system a copy of the protected health information of an individual
 15 who has exercised the right to opt out, as long as the Authority or the
 16 qualified organization does not access, use, or disclose the individual's
 17 protected health information for any purpose other than for necessary system
 18 maintenance or as required by federal or State law.

19 (b) This Article applies only to disclosures of protected health information made
 20 through the HIE Network, including disclosures made within qualified organizations. It does
 21 not apply to the use or disclosure of protected health information in any context outside of the
 22 HIE Network, including the redisclosure of protected health information obtained through the
 23 HIE Network.

24 "**§ 90-414.10. Penalties and remedies.**

25 A covered entity that discloses protected health information in violation of this Article is
 26 subject to the following:

27 (1) Any civil penalty or criminal penalty, or both, that may be imposed on the
 28 covered entity pursuant to the Health Information Technology for Economic
 29 and Clinical Health (HITECH) Act, P.L. 111-5, Div. A, Title XIII, section
 30 13001, as amended, and any regulations adopted under the HITECH Act.

31 (2) Any civil remedy under the HITECH Act or any regulations adopted under
 32 the HITECH Act that is available to the Attorney General or to an individual
 33 who has been harmed by a violation of this Article, including damages,
 34 penalties, attorneys' fees, and costs.

35 (3) Disciplinary action by the respective licensing board or regulatory agency
 36 with jurisdiction over the covered entity.

37 (4) Any penalty authorized under Article 2A of Chapter 75 of the General
 38 Statutes if the violation of this Article is also a violation of Article 2A of
 39 Chapter 75 of the General Statutes.

40 (5) Any other civil or administrative remedy available to a plaintiff by State or
 41 federal law or equity."

42 **SECTION 2.(e)** G.S. 126-5(c1) is amended by adding a new subdivision to read:

43 "**§ 126-5. Employees subject to Chapter; exemptions.**

44 ...
 45 (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
 46 Chapter shall not apply to:

47 ...
 48 (32) Employees of the North Carolina Health Information Exchange Authority."

49 **SECTION 2.(f)** Article 29A of Chapter 90 of the General Statutes is repealed.

50 **SECTION 2.(g)** Subsections (d) and (e) of this section become effective October 1,
 51 2015. Subsection (f) of this section becomes effective on the date the State Chief Information

1 Officer notifies the Revisor of Statutes that all contracts pertaining to the HIE Network
2 established under Article 29A of Chapter 90 of the General Statutes (i) between the State and
3 the NC HIE, as defined in G.S. 90-413.3, and (ii) between the NC HIE and any third parties
4 have been terminated or assigned to the North Carolina Health Information Exchange Authority
5 established under Article 29B of Chapter 90 of the General Statutes, as enacted by subsection
6 (d) of this section. The remainder of this section becomes effective July 1, 2015.
7

8 **INCREASE RATES TO PRIMARY CARE PHYSICIANS AND DISCONTINUE** 9 **PRIMARY CARE CASE MANAGEMENT**

10 **SECTION 3.(a)** Effective May 1, 2016, the current Medicaid and Health Choice
11 primary care case management (PCCM) program is discontinued. The Department of Health
12 and Human Services shall not renew or extend the contract for PCCM services with North
13 Carolina Community Care Networks, Inc. (NCCCN), beyond April 30, 2016.

14 **SECTION 3.(b)** The Department of Health and Human Services shall take all
15 actions necessary to discontinue the current Medicaid and Health Choice PCCM program as
16 implemented by NCCCN. As soon as reasonably possible, but no later than February 1, 2016,
17 the Department shall submit to the Centers for Medicare and Medicaid Services (CMS) a
18 Medicaid State plan amendment eliminating the PCCM program. If CMS has not approved the
19 State plan amendment by May 1, 2016, the Department of Health and Human Services
20 nevertheless shall discontinue all payments related to the PCCM program beginning May 1,
21 2016, unless and until CMS denies the State plan amendment.

22 **SECTION 3.(c)** This section shall not be construed to prohibit the Department of
23 Health and Human Services from developing or utilizing contracts for managed care other than
24 PCCM after May 1, 2016.

25 **SECTION 3.(d)** Effective May 1, 2016, G.S. 108A-70.21(b) reads as rewritten:

26 "(b) Benefits. – All health benefits changes of the Program shall meet the coverage
27 requirements set forth in this subsection. Except as otherwise provided for eligibility, fees,
28 deductibles, copayments, and other cost sharing charges, health benefits coverage provided to
29 children eligible under the Program shall be equivalent to coverage provided for dependents
30 under North Carolina Medicaid Program except for the following:

31 ...

32 No benefits are to be provided for services and materials under this subsection that do not
33 meet the standards accepted by the American Dental Association.

34 ~~The Department shall provide services to children enrolled in the NC Health Choice~~
35 ~~Program through Community Care of North Carolina (CCNC) and shall pay Community Care~~
36 ~~of North Carolina providers the per member, per month fees as allowed under Medicaid."~~

37 **SECTION 3.(e)** Effective May 1, 2016, the rates paid to primary care physicians
38 shall be one hundred percent (100%) of Medicare rates. For purposes of this section, the term
39 primary care physicians refers to those physicians for whom the Affordable Care Act required
40 payment at one hundred percent (100%) of the Medicare rate until January 1, 2015, and all
41 OB/GYN physicians.

42 **SECTION 3.(f)** The General Assembly finds that the discontinuation of the PCCM
43 program and the NCCCN contract as required by this section will save a recurring sum of ten
44 million eight hundred twenty-five thousand dollars (\$10,825,000) in fiscal year 2015-2016 and
45 sixty-four million nine hundred fifty thousand dollars (\$64,950,000) in fiscal year 2016-2017.
46 As a result of these savings, appropriations are made as follows: the recurring sum of eight
47 million four hundred thirty-four thousand three hundred thirteen dollars (\$8,434,313) in fiscal
48 year 2015-2016 and fifty million six hundred five thousand eight hundred eighty dollars
49 (\$50,605,880) in fiscal year 2016-2017 is appropriated to the Department of Health and Human
50 Services, Division of Medical Assistance, to pay for the increased Medicaid rates required by
51 subsection (e) of this section, and the recurring sum of two million one hundred fifty-eight

1 thousand three hundred thirty-three dollars (\$2,158,333) in fiscal year 2015-2016 and twelve
2 million nine hundred fifty thousand dollars (\$12,950,000) in fiscal year 2016-2017 is
3 appropriated to the Department of Health and Human Services, Division of Medical Assistance,
4 to directly fund local health departments' continued services related to the Care Coordination
5 for Children (CC4C) program, which was previously funded through the contract with
6 NCCCN.

7 **SECTION 3.(g)** This section is effective when this act becomes law.

8 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
9 law.