

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 744
PROPOSED COMMITTEE SUBSTITUTE S744-PCS85222-TK-26

Short Title: Transparency in the Cost of Health Care.

(Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW EMPLOYERS ACCESS TO INFORMATION ABOUT THEIR
3 GROUP HEALTH PLANS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 50 of Chapter 58 of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 8. Reporting of Group Claims Information to Employers With Fifty-One or More
8 Covered Employees.

9 **"§ 58-50-300. Definitions.**

10 The following definitions apply to this Part:

11 (1) Insurer. – Defined in G.S. 58-3-167(b).

12 (2) Protected Health Information. – Defined in the Health Insurance Portability
13 and Accountability Act of 1996, Pub. L. No. 104-191, as amended.

14 **"§ 58-50-305. Access to information by employers.**

15 (a) An employer shall be entitled to a report of claim information from its insurer for its
16 employee group health plan. The report shall include the following information for the 36
17 months prior to the employer's request if the request is made to the employer's current insurer
18 or for the 12 months prior to the employer's request if the request is made to the employer's
19 prior insurer, subject to the other provisions of this Part:

20 (1) Aggregate paid claims experience by month, including claims experience for
21 medical, dental, and pharmacy benefits, as applicable, including an estimate
22 of incurred but not reported claims (IBNR).

23 (2) Total premium paid by month.

24 (3) Total number of covered members on a monthly basis.

25 (4) A separate description and individual claims report for any individual whose
26 total paid claims exceed twenty-five thousand dollars (\$25,000) during the
27 12-month period preceding the date of the report, including the following
28 information related to the claims for that individual:

29 a. A unique identifying number, characteristic, or code for the
30 individual, so as not to identify the individual by name, social
31 security number, subscriber or member identification number, policy
32 number, or other information that could allow the employer to
33 identify the individual.



- 1 b. The amounts paid.
2 c. Dates of service.
3 d. Primary procedure codes or diagnosis codes or both.

4 (b) In order to receive the information contained in subdivision (4) of subsection (a) of
5 this section, an appropriately authorized representative of the employer must issue to the health
6 care benefits provider a certification substantially similar to the following:

7 'I hereby certify that the plan documents comply with the requirements of 45
8 C.F.R. § 164.504(f)(2) and that the employer will safeguard and limit the use
9 and disclosure of protected health information that the employer may receive
10 from the health care benefits provider only to perform plan administration
11 functions.'

12 (c) An employer shall be entitled to request and receive information under this Part up
13 to one year following the termination of the contract with the health care benefits provider to
14 provide health care benefits for the employer's employees.

15 **"§ 58-50-310. Provision of report by insurer.**

16 (a) Upon written request by an employer under G.S. 58-50-305, a health care benefits
17 provider shall, within 30 days of the request, provide the information required under
18 G.S. 58-50-305 in one of the following forms:

- 19 (1) In a written report.
20 (2) Through an electronic file transmitted by secure electronic mail or a secure
21 file transfer protocol site.
22 (3) By making the required information available through a secure Web site or
23 Web portal accessible by the requesting employer.

24 (b) A health care benefits provider shall not disclose protected health information in a
25 report of claim information provided under this Part if the health insurance issuer is prohibited
26 from disclosing that information under another State or federal law that imposes more stringent
27 privacy restrictions than those imposed under the Health Insurance Portability and
28 Accountability Act of 1996, Pub. L. No. 104-191, as amended. To withhold information in
29 accordance with this subsection, the health insurance issuer must do all of the following:

- 30 (1) Notify the plan, plan sponsor, or plan administrator requesting the report that
31 information is being withheld.
32 (2) Provide to the plan, plan sponsor, or plan administrator a list of categories of
33 claim information that the health insurance issuer has determined are subject
34 to the more stringent privacy restrictions under another State or federal law.

35 (c) An insurer shall not be required to provide a report to an employer more than once
36 in a 12-month period.

37 **"§ 58-50-315. Applicability of Part to governmental entities; reports not public record.**

38 (a) A governmental entity that contracts with an insurer may request a report under this
39 Part as an employer.

40 (b) A report of claim information provided under this Part to a governmental entity
41 shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

42 **"§ 58-50-320. Compliance with Part does not create liability.**

43 An insurer that releases information, including protected health information, in accordance
44 with this Part has not violated a standard of care and is not liable for civil damages resulting
45 from, and is not subject to criminal prosecution for, releasing that information.

46 **"§ 58-50-325. Penalty for noncompliance.**

47 An insurer that does not comply with the provisions of this Part shall be subject to the
48 provisions of G.S. 58-2-70."

49 **SECTION 2.** This act becomes effective October 1, 2011.