

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 307*
Health Care Committee Substitute Adopted 4/14/11
PROPOSED COMMITTEE SUBSTITUTE S307-PCS85184-TK-9

Short Title: Smart Card Biometrics Against Medicaid Fraud.

(Public)

Sponsors:

Referred to:

March 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA SMART CARD PILOT PROGRAM
3 TO COMBAT FRAUD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Smart Card Pilot Program. – There is established under the
6 Department of Health and Human Services the North Carolina Smart Card Pilot Program. The
7 pilot program shall be administered by the Provider and Recipient Services Unit of the Division
8 of Medical Assistance. The Department shall determine the scope of the pilot program and may
9 enter into an agreement with a third-party vendor for the purpose of developing and executing
10 the pilot program in accordance with this act. The pilot program shall be initiated for a six- to
11 12-month period. The pilot program shall involve enrollment, distribution, and use of smart
12 cards by designated recipients as replacements for currently used Medicaid assistance cards.

13 **SECTION 2.(a)** The pilot program shall be designed to do all of the following:

- 14 (1) Authenticate recipients at the onset and completion of each point of
15 transaction in order to prevent card sharing and other forms of fraud.
16 (2) Deny ineligible persons at the point of transaction.
17 (3) Authenticate providers at the point of transaction to prevent phantom billing
18 and other forms of provider fraud.
19 (4) Secure and protect the personal identity and information of recipients.
20 (5) Reduce the total amount of medical assistance expenditures by reducing the
21 average cost per recipient.

22 **SECTION 2.(b)** The pilot program may include all of the following:

- 23 (1) A secure Web-based information system for recording and reporting
24 authenticated transactions.
25 (2) A secure Web-based information system that interfaces with the appropriate
26 State databases to determine eligibility of recipients.
27 (3) A system that gathers analytical information to be provided to data-mining
28 companies in order to assist in data-mining processes.
29 (4) A smart card with the ability to store multiple recipients' information on one
30 card.
31 (5) No requirement for preenrollment of recipients.
32 (6) An image of the recipient stored on both the smart card and database.



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1 **SECTION 2.(c)** In implementing the pilot program, the Department may do the
2 following:

- 3 (1) Incorporate additional or alternative methods of authentication of recipients.
- 4 (2) Enter and store billing codes, deductible amounts, and bill confirmations.
- 5 (3) Allow electronic prescribing services and prescription database integration
6 and tracking in order to prevent medical error through information sharing
7 and to reduce pharmaceutical abuse and lower health care costs.
- 8 (4) Implement quick-pay incentives for providers when electronic prescribing
9 services, electronic health records, electronic patient records, or
10 computerized patient records used by providers automatically synchronize
11 with recipients' smart cards and electronically submit a claim.
- 12 (5) Allow the program, including, but not limited to, smart cards, fingerprint
13 scanners, and card readers, to be adapted for use by other State programs
14 administered by the Department in order to reduce costs associated with the
15 necessity of multiple cards per recipient.

16 **SECTION 2.(d)** The pilot program shall be considered a success if it meets the
17 minimum criteria defined by this act and reduces the average monthly cost of recipients within
18 the pilot program area to recover the cost of the smart card program. In the event that the pilot
19 program does not meet the minimum criteria to be considered a success, the Department may
20 extend and revise the pilot program as necessary and reevaluate the results. In order to evaluate
21 the average monthly cost of recipients within the pilot program and develop the strategy
22 necessary to target the highest rate of savings to the State plan, four sample sets of figures shall
23 be analyzed for the pilot program, including the following:

- 24 (1) Establishment of base figures. – Gather claims data for a first sample set,
25 which shall include all claims for the recipients within the pilot program area
26 and the average cost per recipient by provider type and county from at least
27 the prior year for the exact time period for all areas in the pilot program.
- 28 (2) Adjusted base figures for increase or decrease in cost of services. – In order
29 to evaluate increases or decreases in the cost of services, a second sample set
30 shall be gathered and adjusted to the base figures of the first sample set. The
31 second sample set of claims data shall represent a rural area and an urban
32 area not participating in the pilot program, with as close as possible
33 demographics as the population of recipients in the pilot program areas,
34 including specific data relating to sex, age, race, and ethnicity, county
35 similarities, number of providers, and the average cost per recipient. This
36 sample set shall be analyzed against the prior year's figures and compared to
37 current year figures for the same time frame and area to determine an
38 increase or decrease in cost of services. This sample set shall not have any
39 major changes from the prior year to the current year that would change the
40 comparison, such as the introduction of managed care in the area. The
41 increase or decrease in cost per recipient from this sampling set shall be
42 factored into the data set determined pursuant to subdivision (1) of this
43 subsection to derive at an adjusted base figure or average cost per recipient
44 per month.
- 45 (3) Comparison of base figures to current figures. – A third sample set of data
46 shall be gathered reflecting the claims data of the recipients and the average
47 cost per recipient on a monthly basis during the pilot program by provider
48 type. A comparison of the adjusted base figures arrived at by the prior
49 sampling set with the actual figures from this third sample set shall be made
50 to determine how much the State saved by provider type. Recipients leaving
51 the pilot program area to avoid fraud detection will be noted, thus the third

1 sample set will be adjusted by claims derived outside of the pilot program
2 area.

- 3 (4) Recipient surveying. – A fourth sample set of data shall be obtained by
4 sampling two percent (2%) of Medicaid recipients in the pilot program area
5 and shall be surveyed prior to the start of the pilot program to acknowledge
6 services used, frequency of services used, and satisfaction of services used.
7 This survey shall be taken again at the completion of the pilot program to
8 rate the level of satisfaction of the pilot program.

9 **SECTION 2.(e)** The pilot program shall not be expanded unless the Department's
10 data indicates that the program can be expanded through program savings. During the pilot
11 program, the Department may consider the feasibility of expanding the pilot program, including
12 the need to develop rules and policies related to the following:

- 13 (1) The handling of lost, forgotten, or stolen cards.
14 (2) Enrolling all recipients, regardless of age, for participation in the program.
15 (3) Distributing and activating smart cards for designated recipients.

16 **SECTION 2.(f)** The Department shall work with the Division of Motor Vehicles
17 to ensure that State data, such as drivers license photos and other identification data, is
18 leveraged to reduce program cost.

19 **SECTION 3.** Reports. – By June 30, 2012, the Department shall submit a detailed
20 written report on the implementation and success of the smart card pilot program to the
21 Governor, to the Speaker of the House of Representatives, to the President Pro Tempore of the
22 Senate, to the Chairs of the Senate and House of Representatives Appropriations Committees,
23 and to the Fiscal Research Division.

24 **SECTION 4.** Compliance. – This act shall be construed consistent with the federal
25 Social Security Act, and any provision of this article found to be in conflict with the federal
26 Social Security Act shall be deemed to be void and of no effect. If before implementing any
27 provision of this act, the Department determines that a waiver or authorization from a federal
28 agency is necessary for implementation of that provision, the Department shall request the
29 waiver or authorization as soon as practicable.

30 **SECTION 5.** Prosecutions. – All federal and State laws regulating the privacy of
31 personal health information, including the Health Insurance Portability and Accountability Act
32 of 1998 (HIPAA) and the Health Information Technology for Economic and Clinical Health
33 (HITECH) Act shall apply. If, in connection with the pilot program, the Department has reason
34 to believe medical assistance fraud has been committed, the Department shall refer such
35 matters to the Attorney General for prosecution, as appropriate. Prosecutions can involve both
36 criminal and civil penalties allowable under law, up to a felony criminal conviction.

37 **SECTION 6.** Contracts. – Sections 4 and 5 of this act shall apply to all contracts
38 made by the Department in regard to this pilot program. All compliance and prosecution
39 provisions in this act shall be incorporated into all contracts, subcontracts, and any other
40 contractual documents created between the Department and a third-party vendor. All
41 contracting parties will be subject to all applicable federal and State laws and will be subject to
42 prosecution if there is any violation of federal or State laws with regard to privacy of personal
43 health information. The Department, if acting in good faith, shall not be held responsible for
44 any action of any contractor or subcontractor in the event that that contractor or subcontractor
45 violates any federal or State laws regarding the protection of personal health information.

46 **SECTION 7.** This act is effective when it becomes law.