GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 865
Insurance Committee Substitute Adopted 6/23/16
PROPOSED HOUSE COMMITTEE SUBSTITUTE S865-PCS15403-TU-30

Short Title: State Health Plan/Admin Changes/Local Govts. (Public)

Sponsors:

Referred to:

May 11, 2016

A BILL TO BE ENTITLED

AN ACT TO MAKE ADMINISTRATIVE CHANGES TO THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES STATUTES; TO INCREASE THE NUMBER OF LOCAL GOVERNMENTS ABLE TO PARTICIPATE IN THE STATE HEALTH PLAN; AND TO MAKE CHANGES TO STATE HEALTH PLAN PREMIUMS PAID BY LOCAL GOVERNMENT EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.1 reads as rewritten:

"**§ 135-48.1. General definitions.**

As used in this Article unless the context clearly requires otherwise, the following definitions apply:

...

(2a) Claims Data Feed. – An electronic file provided by a Claims Processor that contains all claims processing data elements for every claim processed by the Claims Processor for the Plan, including Claim Payment Data for each claim.

(2b) Claim Payment Data. – Data fields within a Claims Data Feed that reflect the provider and the amount the provider billed for services provided to a Plan member, the allowed amount applied to the claim by the Claims Processor, and the amount paid by the Plan on the claim. The term "Claim Payment Data" includes any document, material, or other work, whether tangible or electronic, that is derived from, is based on, or reflects any of the foregoing data fields or information contained therein. If the Claims Processor designates Claim Payment Data as a trade secret, the Claim Payment Data shall be treated as a trade secret as defined in G.S. 66-152(3)

...."

SECTION 2. G.S. 135-48.10(a) reads as rewritten:

"**§ 135-48.10. Confidentiality of information and medical records; provider contracts.**

(a) Any information described in this section that is in the possession of the State Health Plan for Teachers and State Employees or its Claims Processor under the Plan or the Predecessor Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a plan ~~participant.~~participant, including Claim Payment Data and any documents or

other materials derived from the Claim Payment Data. This information may, however, be released to the State Auditor or to the Attorney General in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the State Treasurer. Any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the State Health Plan for Teachers and State Employees."

SECTION 3. G.S. 135-48.32 reads as rewritten:

"**§ 135-48.32. Contracts to provide benefits.**

(a) The Plan benefits shall be provided under contracts between the Plan and the claims processors selected by the Plan. ~~The State Treasurer may contract with a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such contracts shall include the applicable provisions of this Article and the description of the Plan in the request for proposal, and shall be administered by the respective claims processor or Pharmacy Benefits Manager, which will determine benefits and other questions arising thereunder.~~ The contracts necessarily will conform to applicable State law. The Claims Processor shall provide all claims processing data elements to the Plan including the identification of providers and the allowed amounts paid. ~~If any of the provisions of this Article and the request for proposals must be modified for inclusion in the contract because of State law, such modification shall be made. The State Treasurer shall ensure that the terms of the contract between the Plan and the Plan's Claims Processing Contractor, the Pharmacy Benefit Manager, and the Disease Management Contractor require the contractor to provide the following:~~

~~(1) Detailed billing by each entity showing itemized cost information, including individual administrative services provided;~~

~~(2) Transactional data; and~~

~~(3) The cost to the Plan for each administrative function performed by the contractor.~~

(b) Unless otherwise directed by the Plan, each Claims Processor shall provide the Plan with a Claims Data Feed, which includes all Claim Payment Data, at a frequency agreed to by the Plan and the Claims Processor. The frequency shall be no less than monthly. The Claims Processor is not required to disclose Claim Payment Data that reflects rates negotiated with or agreed to by a noncontracted third party but, upon request, shall provide to the Plan sufficient documentation to support the payment of claims for which Claim Payment Data is withheld on such basis.

(c) Any provision of any contract between a Claims Processor and a health care provider, subcontractor, or third party that would prevent or prohibit the Claims Processor from disclosing Claim Payment Data to the Plan, in accordance with this section, shall be void and unenforceable, but only to the extent the provision prevents and prohibits disclosure to the Plan.

(d) The Plan may use and disclose Claim Payment Data solely for the purpose of administering and operating the State Health Plan for Teachers and State Employees in accordance with G.S. 135-48.2 and the provisions of this Article. The Plan shall not make any use or disclosure of Claim Payment Data that would compromise the proprietary nature of the data or, as applicable, its status as a trade secret, or otherwise misappropriate the data.

(e) The Plan may not use a provider's Claim Payment Data to negotiate rates, fee schedules, or other master charges with that provider or any other provider.

(f) The Plan may disclose Claim Payment Data to a third party to use on the Plan's behalf as agreed upon between the Plan and the Claims Processor. The Plan must obtain the agreement of the Claims Processor for each third party to whom the Plan seeks to disclose Claim Payment Data and for each use the third party will make of the data. The Plan may not disclose Claim Payment Data to any third party without first entering into a contract with the third party that contains restrictions on the use and disclosure of the Claim Payment Data by the third party that are at least as restrictive as the provisions of this section.

(g) A Claims Processor who discloses Claim Payment Data in accordance with this section shall not incur any civil liability and shall not be subject to equitable relief in connection for the disclosure."

SECTION 4. G.S. 135-48.47(b) reads as rewritten:

"(b) Participation Requirements. – A local government unit may elect to participate in the State Health Plan. Participation shall be governed by the following:

(1) In order to participate, a local government unit must do the following:
  a. Pass a valid resolution expressing the local government's desire to participate in the Plan.
  b. Enter into a memorandum of understanding with the Plan that acknowledges the conditions of this section and this Article.
  c. Provide at least 90 days' notice to the Plan prior to entry and complete the requirements of this subdivision at least 60 days prior to entry.

(2) In order to participate, a local government unit and its employees must meet the federal requirements to participate in a governmental plan. The Plan may refuse participation to persons who would jeopardize the Plan's qualification as a governmental plan under federal law.

(2a) The Plan shall admit any local government unit that meets the administrative and legal requirements of this section, regardless of the claims experience of the local government unit group or the financial impact on the Plan.

(3) A local government unit shall determine the eligibility of its employees and employees' ~~dependents and what portion of the premiums employees with pay to the local governments unit.~~dependents.

(3a) The premiums employees pay to the local government unit for their own coverage shall conform to the premiums in the structure set by the Plan. The premiums employees pay to the local government unit for coverage of their dependents may be determined by the local government unit but may not exceed the premiums set by the Plan.

(4) Premiums for coverage and Plan options shall be the same as those offered to State employees and dependents on a fully contributory basis.

(5) The local government unit shall pay all premiums for all covered individuals directly to the Plan or the Plan's designee."

SECTION 5.(a) G.S. 135-48.47(c) reads as rewritten:

"(c) Enrollment Limitation. – Local governments may elect to participate until the number of employees and dependents of employees of local governments enrolled in the Plan reaches ~~10,000,~~16,000, after which time no additional local governments may join the Plan. Any local government electing to participate must have less than 1,000 employees and dependents enrolled in health coverage at the time the local government provides notice to the Plan of its desire to participate."

SECTION 5.(b) In admitting additional local governments as permitted by subsection (a) of this section, the Plan shall use the following transition schedule:

(1) Through June 30, 2017, the Plan may admit local governments until the number of employees and dependents of employees of local governments enrolled in the Plan reaches 13,500.

(2) Through January 31, 2018, the Plan may admit local governments until the number of employees and dependents of employees of local governments enrolled in the Plan, plus the estimated number of employees and dependents of employees of local governments that completed the Plan's Notice of Participation and Information Sheet prior to April 1, 2016, but that are not yet enrolled in the Plan reaches 16,000.

(3) After January 31, 2018, only the limitations of G.S. 135-48.47 will apply.

Notwithstanding the schedule above, the Plan may admit a local government that completed the Plan's Notice of Participation and Information Sheet prior to April 1, 2016, unless the limitation of 16,000 is reached.

SECTION 6. G.S. 135-48.47 is amended by adding a new subsection to read:

"(d) Local governments participating in the Plan as of April 1, 2016, may elect to withdraw from participating in the Plan effective January 1, 2017. Notice of withdrawal must be given by the local government to the Plan no later than September 15, 2016."

SECTION 7. Part 4 of Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-48.49. IRC sections 6055 and 6056 regulatory reporting.**

The Plan shall be responsible for reporting coverage for retirees and coverage for direct bill members, except for individuals participating in Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, as required by section 6055 of the Internal Revenue Code. The Plan shall provide employing units with access to Plan data necessary for employing units to meet filing requirements under sections 6055 and 6056 of the Internal Revenue Code. The Plan may facilitate the availability of a reporting solution; however, the employing unit is responsible for paying all costs associated with the use of any reporting solution made available by the Plan."

SECTION 8. G.S. 58-3-167 reads as rewritten:

"**§ 58-3-167. Applicability of acts of the General Assembly to health benefit plans.**

(a) As used in this section:

(1) "Health benefit plan" means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that act provided under federal law or regulation. "Health benefit plan" does not mean any plan implemented or administered by the North Carolina or United States Department of Health and Human Services, or any successor agency, or its representatives. "Health benefit plan" does not mean any plan implemented or administered by the State Health Plan for Teachers and State Employees. "Health benefit plan" does not mean any plan consisting of one or more of any combination of benefits described in G.S. 58-68-25(b).

...."

SECTION 9. Section 4 of this act becomes effective January 1, 2017, and applies to premiums paid on or after that date. The remainder of this act is effective when it becomes law and applies to contracts entered into on or after that date.