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SENATE BILL DRS15105-MR-79A

Short Title: Allow Employers to Offer EPO Benefit Plans.

(Public)

Sponsors: Senators Edwards, Krawiec, and Burgin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LOWER HEALTH CARE COSTS AND EXPAND ACCESS BY ALLOWING
3 SMALL BUSINESSES TO OFFER EXCLUSIVE PROVIDER BENEFIT PLANS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 58-50-56(i) reads as rewritten:

6 "(i) A person enrolled in a preferred provider benefit ~~plan~~ plan, other than an exclusive
7 provider benefit plan as defined in G.S. 58-50-56.1, may obtain covered health care services from
8 a provider who does not participate in the plan. In accordance with rules adopted by the
9 Commissioner and subject to G.S. 58-3-200(d), the preferred provider benefit plan may limit
10 coverage for health care services obtained from a nonparticipating provider. The Commissioner
11 shall adopt rules on product limitations, including payment differentials for services rendered by
12 nonparticipating providers. These rules shall be similar in substance to rules governing HMO
13 point-of-service products."

14 **SECTION 1.(b)** Article 50 of Chapter 58 of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 58-50-56.1. Continuity of care.**

17 (a) Definitions. – The following definitions shall apply in this section:

18 (1) Exclusive provider benefit plan. – A preferred provider benefit plan in which
19 enrollees must receive covered services from health care providers who are
20 under contract with the insurer and under which there is no requirement of
21 coverage for care received from a health care provider who is not under
22 contract with the insurer, except for emergency services as required by
23 G.S. 58-3-190 and medically necessary covered services as required by
24 G.S. 58-3-200(d).

25 (2) Insurer. – As defined in G.S. 58-50-56.

26 (3) Ongoing special condition. – One of the following conditions:

- 27 a. An acute illness that is serious enough to require medical care or
28 treatment to avoid a reasonable possibility of death or permanent harm.
29 b. A chronic illness, disease, or condition that is life-threatening,
30 degenerative, or disabling and that requires medical care or treatment
31 over a prolonged period of time.
32 c. Pregnancy from the start of the second trimester.
33 d. A terminal illness for which an individual has a medical prognosis of
34 a life expectancy of six months or less.



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1 (4) Terminated or termination. – The expiration or nonrenewal of a contract. This
2 term does not include an ending of the contract by an insurer for failure to
3 meet applicable quality standards or for fraud.

4 (b) Termination of a Provider. – If (i) a contract between an insurer and a health care
5 provider offering an exclusive provider benefit plan is terminated by the provider or by the
6 insurer or benefits or coverage provided by the insurer are terminated because of a change in the
7 terms of provider participation in an insurer's exclusive provider benefit plan and (ii) an insured
8 is undergoing treatment from the provider for an ongoing special condition on the date of
9 termination, then the following shall apply:

10 (1) Upon termination of the contract by the insurer or upon receipt by the insurer
11 of written notification of termination by the provider, the insurer shall notify
12 the insured on a timely basis of the termination and of the insured's right to
13 elect continuation of coverage of treatment by the provider. This subdivision
14 shall apply only if the insured has a claim with the insurer for services
15 provided by the terminated provider or the insured is otherwise known by the
16 insurer to be a patient of the terminated provider.

17 (2) Subject to subsection (h) of this section, the insurer shall permit an insured to
18 elect to continue to be covered with respect to the treatment by the terminated
19 provider for the ongoing special condition during a transitional period, as
20 provided under this section.

21 (c) Newly Covered Insured. – Each exclusive provider benefit plan offered by an insurer
22 shall provide transition coverage to individuals who (i) are newly covered under an exclusive
23 provider benefit plan because the individual's employer has changed benefit plans and (ii) are
24 undergoing treatment from a provider for an ongoing special condition. On the date of
25 enrollment, an insurer shall notify the newly covered insured of the right to elect continuation of
26 coverage of treatment by a provider that is not contracted with the exclusive provider benefit plan
27 and, subject to subsection (h) of this section, the insurer shall permit the newly covered insured
28 to elect to continue to be covered with respect to the treatment by the provider of the ongoing
29 special condition during a transitional period, as provided under this section.

30 (d) Transitional Period: In General. – Except as otherwise provided in this section, the
31 length of a transitional period provided under this subsection shall be determined by the treating
32 health care provider, so long as it does not exceed 90 days after the date of the notice to the
33 individual described in subdivision (b)(1) of this section or the date of enrollment in a new plan
34 described in subsection (c) of this section.

35 (e) Transitional Period: Scheduled Surgery, Organ Transplantation, or Inpatient Care. –
36 If surgery, organ transplantation, or other inpatient care was scheduled for an individual, or if the
37 individual was on an established waiting list for surgery, organ transplantation, or other inpatient
38 care, before the date of the notice required under subdivision (b)(1) of this section or the date of
39 enrollment described in subsection (c) of this section, then the transitional period under this
40 subsection with respect to the surgery, transplantation, or other inpatient care shall extend
41 through the date of discharge of the individual after completion of the surgery, transplantation,
42 or other inpatient care, and through postdischarge follow-up care related to the surgery,
43 transplantation, or other inpatient care occurring within 90 days after the date of discharge.

44 (f) Transitional Period: Pregnancy. – If an individual has entered the second trimester of
45 pregnancy on or before the date of the notice required under subdivision (b)(1) of this section or
46 the date of enrollment in a new plan described in subsection (c) of this section, and the provider
47 was treating the pregnancy before the date of the notice or the date of enrollment in the plan, then
48 the transitional period with respect to the provider's treatment of the pregnancy shall extend
49 through the provision of 60 days of postpartum care.

50 (g) Transitional Period: Terminal Illness. – If an individual was determined to be
51 terminally ill at the time of a provider's termination of participation under subsection (b) of this

1 section or at the time of enrollment in the plan under subsection (c) of this section, and the
2 provider was treating the terminal illness before the date of the termination or enrollment in the
3 plan, then the transitional period shall extend for the remainder of the individual's life with respect
4 to care directly related to the treatment of the terminal illness or its medical manifestations.

5 (h) Permissible Terms and Conditions. – An insurer may condition coverage of continued
6 treatment by a provider under subsection (b) or subsection (c) of this section upon the following
7 terms and conditions:

8 (1) When care is provided pursuant to subsection (b) of this section, the provider
9 agrees to accept reimbursement from the insurer and, with respect to
10 cost-sharing, from the insured involved at the rates applicable before the start
11 of the transitional period as payment in full.

12 (2) When care is provided pursuant to subsection (c) of this section, the provider
13 agrees to accept the prevailing rate based on contracts the insurer has with the
14 same or similar providers in the same or similar geographic area, plus the
15 applicable copayment from the newly covered insured, as reimbursement in
16 full from the insurer and the insured for all covered services.

17 (3) The provider agrees to comply with the quality assurance programs of the
18 insurer responsible for payment under this subsection and to provide to the
19 insurer necessary medical information related to the care provided. The
20 insurer's quality assurance programs shall not override the professional or
21 ethical responsibility of the provider or interfere with the provider's ability to
22 provide information or assistance to the insured.

23 (4) The provider agrees to adhere to the insurer's established policies and
24 procedures for participating providers, including procedures regarding
25 referrals and obtaining prior authorization, providing services pursuant to a
26 treatment plan approved by the insurer, and member hold harmless provisions.

27 (5) The receipt of notification from the insured within 45 days of the date of the
28 notice described in subdivision (b)(1) of this section or the new enrollment
29 described in subsection (c) of this section that the insured elects to continue
30 receiving treatment by the provider.

31 (6) The provider agrees to discontinue providing services at the end of the
32 transition period and to assist the insured in an orderly transition to a network
33 provider. Nothing in this section shall prohibit the insured from continuing to
34 receive services from the provider at the insured's expense.

35 (i) Construction. – Nothing in this section shall do any of the following:

36 (1) Require the coverage of benefits that would not have been covered if the
37 provider involved remained a participating provider or, in the case of a newly
38 covered insured, require the coverage of benefits not provided under the
39 policy in which the newly covered insured is enrolled.

40 (2) Require an insurer to offer a transitional period when the insurer terminates a
41 provider's contract for reasons relating to quality of care or fraud. Refusal by
42 an insurer to offer a transitional period under these circumstances is not
43 subject to the grievance review provisions of G.S. 58-50-62.

44 (3) Prohibit an insurer from extending any transitional period beyond that
45 specified in this section.

46 (4) Prohibit an insurer from terminating the continuing services of a provider
47 when the insurer has determined that the provider's continued provision of
48 services may result in, or is resulting in, a serious danger to the health or safety
49 of the insured. A termination for these reasons shall be in accordance with the
50 contract provisions that the provider would otherwise be subject to if the
51 provider's contract were still in effect.

1 (j) Disclosure of Right to Transitional Period. – Each insurer shall include a clear
2 description of an insured's rights under this section in its evidence of coverage and summary plan
3 description."

4 **SECTION 2.** The Department of Insurance may adopt temporary rules to implement
5 this act.

6 **SECTION 3.** This act becomes effective October 1, 2021, and applies to insurance
7 contracts issued, renewed, or amended on or after that date.