

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 821

Short Title: Health Care Reform Act.

(Public)

Sponsors: Representatives Redwine; Brawley, Cole, and Hill.

Referred to: Health and Human Services.

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA HEALTH CARE REFORM ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 68A.

"HEALTH CARE REFORM ACT.

"§ 58-68A-21. Short title; legislative findings and intent.

(a) This Article shall be known as the North Carolina Health Care Reform Act.

(b) The General Assembly makes the following findings:

(1) More than 1,000,000 North Carolina citizens are uninsured on an average day, and an additional number are underinsured.

(2) North Carolina citizens who are uninsured or underinsured, and some employees of small employers, lack access or have limited access to health care, especially to cost-effective primary and preventive care, which may result in poor health, illness, and death.

(3) The health care received by uninsured and underinsured individuals is obtained primarily through public programs and is financed by cost shifting which places an unfair financial burden on those who can pay, especially on employers who provide health care coverage for their employees.

(4) Health care costs in North Carolina and nationwide are rising much more rapidly than incomes, and the disparity will continue to grow over time unless health care cost controls are enacted.

1 (5) The increasing numbers of uninsured and underinsured individuals in
2 North Carolina and the escalating costs of health care are so
3 interrelated that it is not possible to guarantee access to health care for
4 all North Carolina citizens without containing health care costs.

5 (6) The employees of small employers would benefit and coverage would
6 be more affordable if their employer had the ability to purchase health
7 care coverage on the same basis as large employers.

8 (c) The General Assembly concludes from these findings that in order to provide
9 fair access to health care for the uninsured, underinsured, and employees of small
10 employers, and to contain costs, it is necessary to restructure the delivery of health care
11 to certain segments of the population in this State and to effectuate increased cost
12 controls for health care expenditures. It is the intent of the General Assembly to:

13 (1) Implement during the 1996 calendar year a health care program by
14 which all North Carolina residents who are uninsured, underinsured, or
15 employees of small employers will have the option to purchase health
16 care that is comprehensive and affordable;

17 (2) Establish a Commission to prepare for implementation of, and
18 implement, the health care program; and

19 (3) Direct the Commission to study and make recommendations to the
20 General Assembly concerning medical care cost controls which will
21 apply to all health care rendered in the State.

22 **"§ 58-68A-22. Definitions.**

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

25 (1) 'Accountable health plan' means a privately administered health
26 service plan or any other mode of delivery of health care that is
27 certified by a regional health plan purchasing cooperative and that
28 provides health care services to eligible residents in exchange for a
29 prescribed charge paid pursuant to the program established by this
30 Article.

31 (2) 'Commission' means the North Carolina Health Plan Commission
32 established pursuant to Article 64 of Chapter 143 of the General
33 Statutes.

34 (3) 'Eligible resident' means an individual who has been legally domiciled
35 in this State for a period of 30 days. For purposes of this Article, legal
36 domicile is established by living in this State and obtaining a North
37 Carolina motor vehicle operator's license, registering to vote in North
38 Carolina, or filing a North Carolina income tax return. A child is
39 legally domiciled in this State if the child lives in this State and if at
40 least one of the child's parents or the child's guardian is legally
41 domiciled in this State for a period of 30 days. A person with a
42 developmental disability or another disability which prevents the
43 person from obtaining a North Carolina motor vehicle operator's
44 license, registering to vote in North Carolina, or filing a North

1 Carolina income tax return, is legally domiciled in this State by living
2 in the State for 30 days.

3 (4) 'Federal poverty income level' means the federal official poverty line,
4 as defined by the federal Office of Management and Budget, based on
5 the Bureau of Census data, and revised annually by the Secretary of
6 Health and Human Services pursuant to section 9902(2) of Title 42 of
7 the United States Code.

8 (5) 'Plan' means the North Carolina Managed Competition Health Plan
9 described in this Article.

10 (6) 'Regional health plan purchasing cooperative' means an organization
11 established to administer the Plan in a geographic area of the State.

12 (7) 'Small employer' means a small employer as defined in G.S. 58-50-
13 110(22).

14 (8) 'Uninsured' means for an eligible resident that he or she is not covered
15 under any employer sponsored accident and health benefit plan,
16 whether insured or uninsured, and that he or she is not eligible to be
17 covered under such a plan with benefits equal to or exceeding the
18 benefits established by the Commission in accordance with G.S. 143-
19 592(5).

20 (9) 'Underinsured' means for an eligible resident that he or she is covered
21 under an accident and health benefit plan, but that he or she is not
22 eligible to be covered under such plan or an employer sponsored
23 accident and health benefit plan, whether insured or uninsured, with
24 benefits equal to or exceeding the benefits established by the
25 Commission in accordance with G.S. 143-592(5).

26 **"§ 58-68A-23. North Carolina Managed Competition Health Plan.**

27 The Commission shall design a Plan for a system of health care coverage to be
28 known as the North Carolina Managed Competition Health Plan, which shall provide
29 the following:

30 (1) All eligible residents of North Carolina who are employees of small
31 employers or are uninsured or underinsured residents shall be eligible
32 for the same guaranteed package of comprehensive, medically
33 necessary health care services, including primary and preventive care,
34 provided through accountable health plans that must accept all eligible
35 individuals regardless of health status, and without individual medical
36 underwriting, or waiting periods.

37 A preexisting condition exclusion shall be included in the Plan but
38 shall be limited to new residents of North Carolina and shall only
39 apply to any sickness, disease, or bodily injury for which the person
40 received care, diagnosis, or treatment in the 12 months just prior to
41 becoming a resident of North Carolina or which existed on the date the
42 person became a resident of the State; however, the exclusion shall not
43 apply after the person is a resident of North Carolina for 12
44 consecutive months.

- 1 (2) The cost of the Plan elected by each small employer or individual shall
2 be paid through charges made to small employers and the insured
3 individuals.
- 4 (3) Costs shall be contained by:
- 5 a. Encouraging competition among private health plans on the
6 basis of price and quality,
- 7 b. Reducing administrative cost,
- 8 c. Providing incentives for health care providers to participate in
9 managed care systems,
- 10 d. Ensuring appropriate growth in medical technology, and
- 11 e. Other methods that will contain health care costs without
12 impairing the quality of services and through the
13 implementation of cost control measures to be studied by the
14 Commission in accordance with G.S. 143-592.
- 15 (4) The standard comprehensive medical benefits developed by the
16 Commission shall be similar to the most commonly purchased Health
17 Maintenance Organization (HMO) benefit package in the State. The
18 Commission's benefit package shall include patient cost sharing. Cost
19 sharing for those individuals below one hundred percent (100%) of the
20 federal poverty income level shall not exceed Medicaid-allowable
21 amounts. Cost sharing for those individuals between one hundred
22 percent (100%) and two hundred percent (200%) of the federal poverty
23 income level shall be based on a sliding scale. The Commission shall
24 develop maximum out-of-pocket limits.
- 25 (5) The Plan shall be administered through regional health plan purchasing
26 cooperatives which shall:
- 27 a. Certify private health plans as accountable health plans for
28 participation in the system of health coverage on the basis of
29 ability to deliver their package of comprehensive, medically
30 necessary health services in accordance with criteria defined by
31 the Commission for quality and service;
- 32 b. Ensure that no accountable health plan shall charge an eligible
33 person a higher premium than that charged to any other eligible
34 person with the same expectation of risk and that no charge
35 made by an accountable health plan shall be based in whole or
36 in part on the health condition of an eligible person;
- 37 c. Except in underserved areas in which the regional health plan
38 purchasing cooperative determines that there are insufficient
39 providers to support more than one accountable health plan,
40 ensure that all eligible persons have a choice of at least two
41 accountable health plans that will provide the standard package
42 of comprehensive, medically necessary health services;
- 43 d. Establish the mechanism through the use of licensed resident
44 agents to assist consumers in choosing among accountable

1 health plans by providing consumer education, including
 2 uniform information about all the accountable health plans,
 3 quality indicators, and provider selection available through the
 4 regional health plan purchasing cooperative;

5 e. Provide a mechanism through the use of licensed resident
 6 agents for enrolling all eligible residents in any accountable
 7 health plan which they may elect;

8 f. Monitor and enforce standards concerning access and quality of
 9 care in all accountable health plans;

10 g. Jointly with the Commission and the North Carolina Medical
 11 Database Commission, collect data from all accountable health
 12 plans and sponsor research into health outcomes and practice
 13 guidelines; and

14 h. Jointly with the Commission and where necessary to meet the
 15 needs of underserved areas or special populations, organize the
 16 delivery of health care."

17 Sec. 2. Chapter 143 of the General Statutes is amended by adding the
 18 following new Article to read:

19 **"ARTICLE 64.**

20 **"NORTH CAROLINA HEALTH PLAN COMMISSION.**

21 **"§ 143-590. Definitions.**

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

24 (1) 'Accountable health plan' means any privately administered health
 25 service plan or any other mode of delivery of health care that is
 26 certified by a regional health plan purchasing cooperative and that
 27 provides health care services to eligible residents in exchange for a
 28 prescribed charge paid pursuant to the program established by this
 29 Article.

30 (2) 'Commission' means the North Carolina Health Plan Commission
 31 established pursuant to this Article.

32 (3) 'Eligible resident' means an individual who has been legally domiciled
 33 in this State for a period of 30 days. For purposes of this Article, legal
 34 domicile is established by living in this State and obtaining a North
 35 Carolina motor vehicle operator's license, registering to vote in North
 36 Carolina, or filing a North Carolina income tax return. A child is
 37 legally domiciled in this State if the child lives in this State and if at
 38 least one of the child's parents or the child's guardian is legally
 39 domiciled in this State for a period of 30 days. A person with a
 40 developmental disability or another disability which prevents the
 41 person from obtaining a North Carolina motor vehicle operator's
 42 license, registering to vote in North Carolina, or filing a North
 43 Carolina income tax return, is legally domiciled in this State by living
 44 in the State for 30 days.

- 1 (4) 'Federal poverty income level' means the federal official poverty line,
2 as defined by the federal Office of Management and Budget, based on
3 Bureau of Census data, and revised annually by the Secretary of
4 Health and Human Services pursuant to section 9902(2) of Title 42 of
5 the United States Code.
- 6 (5) 'Plan' means the North Carolina Managed Competition Health Plan
7 described in Article 68A of Chapter 58 of the General Statutes.
- 8 (6) 'Regional health plan purchasing cooperative' means an organization
9 established to administer the Plan in a geographic area of the State.
- 10 (7) 'Small employer' means a small employer as defined in G.S. 58-50-
11 110(22).
- 12 (8) 'Uninsured' means for an eligible resident that he or she is not covered
13 under any employer sponsored accident and health benefit plan,
14 whether insured or uninsured, and that he or she is not eligible to be
15 covered under such a plan with benefits equal to or exceeding the
16 benefits established by the Commission in accordance with G.S. 143-
17 592(5).
- 18 (9) 'Underinsured' means for an eligible resident that he or she is covered
19 under an accident and health benefit plan, but that he or she is not
20 eligible to be covered under such plan or an employer sponsored
21 accident and health plan, whether insured or uninsured, with benefits
22 equal to or exceeding the benefits established by the Commission in
23 accordance with G.S. 143-592(5).

24 **"§ 143-591. North Carolina Health Plan Commission established; members, terms**
25 **of office, quorum, compensation.**

26 (a) There is established the North Carolina Health Plan Commission with the
27 powers and duties specified in this Article, including the power to adopt, amend, and
28 repeal rules necessary to carry out this Article. The Commission shall be a commission
29 within the Department of Insurance for organizational, budgetary, and administrative
30 purposes only. The Commission shall be responsible for the development,
31 implementation, and administration of the North Carolina Health Care Reform Act in
32 accordance with this Article.

33 (b) The Commission shall consist of 10 members as follows:

- 34 (1) Four members shall be appointed by the Governor, one of whom shall
35 represent consumers, one of whom shall represent an insurance
36 company writing accident and health insurance in North Carolina, one
37 of whom shall represent a hospital located in North Carolina, and one
38 shall represent North Carolina life and health insurance agents.
- 39 (2) Three members shall be appointed by the General Assembly upon the
40 recommendation of the President Pro Tempore of the Senate, one of
41 whom shall represent physician providers located in North Carolina,
42 one of whom shall represent a large employer, and one of whom shall
43 represent a health maintenance organization operating in North
44 Carolina.

1 (3) Three members shall be appointed by the General Assembly upon the
2 recommendation of the Speaker of the House of Representatives, one
3 of whom shall represent a small employer, one of whom shall
4 represent a nonprofit hospital and medical service plan, and one of
5 whom shall represent public health departments.

6 (c) Terms. Members of the Commission shall serve for staggered six-year terms.
7 No member may be appointed to serve more than two consecutive terms. Initial
8 appointments shall be staggered as follows:

9 (1) One of the appointees of each appointing authority shall be appointed
10 for a term of six years;

11 (2) One of the appointees of each appointing authority shall be appointed
12 for a term of five years; and

13 (3) Not more than two of the appointees of each appointing authority shall
14 be appointed for a term of four years. A member whose term has
15 expired may serve until his or her successor has been appointed.
16 Appointments to fill unexpired terms shall be made by the authority
17 that made the original appointment.

18 (d) Officers. The Commission shall have a chair and vice-chair, which offices
19 shall be for a term of two years. The Commission shall elect the chair and vice-chair
20 from its membership.

21 (e) Meetings. Meetings shall be called by the chair or vice-chair. The
22 Commission shall meet as often as necessary, but at least six times a year.

23 (f) Quorum. Five members of the Commission shall constitute a quorum. The
24 affirmative vote of a majority of the members present at meetings of the Commission
25 shall be necessary for action to be taken by the Commission.

26 (g) Compensation. Members of the Commission shall receive a per diem rate
27 and necessary travel and subsistence expenses for each day spent conducting the
28 business of the Commission, and in accordance with G.S. 138-5.

29 **"§ 143-592. Powers and duties of the Commission.**

30 The Commission shall have the following powers and duties:

31 (1) Employ such staff as it deems necessary and fix their compensation.
32 Staff employed by the Commission shall be subject to the State
33 Personnel System;

34 (2) Enter into contracts to carry out the purposes of this Article;

35 (3) Conduct investigations and inquiries and compel the submission of
36 information and records the Commission deems necessary;

37 (4) Adopt rules necessary for administration of the Plan;

38 (5) Develop the benefits to be included in the Plan which must be offered
39 on a guaranteed issue basis, using as a standard the most commonly
40 purchased health maintenance organization benefit package in the
41 State and review those benefits annually;

42 (6) Obtain independent actuarially sound cost estimates for the
43 recommended benefit package;

- 1 (7) Develop standards for eligibility for the plans in addition to those
2 contained in G.S. 58-68A-22(3) and G.S. 143-590(3);
- 3 (8) Establish one or more advisory panels as the Commission deems
4 appropriate for the effective and timely conduct of its duties;
- 5 (9) Appoint an executive director of the Plan who shall perform such
6 duties as the Commission may assign;
- 7 (10) Ensure accessibility to health care in rural areas by enhancing provider
8 payments, requiring an accountable health plan to provide services
9 throughout the area, or by any other reasonable means;
- 10 (11) Determine the economic impact of implementing and not
11 implementing the Plan;
- 12 (12) Study and make recommendations to the General Assembly
13 concerning the following aspects of Plan implementation:
- 14 a. Options for assistance in financing the Plan for individuals
15 below two hundred percent (200%) of the federal poverty level;
- 16 b. Legislation needed to finance the Plan;
- 17 c. The number, organization, and geographic areas of the regional
18 health plan purchasing cooperatives to be established;
- 19 d. The steps necessary to include the populations served by
20 Medicaid, including a statement of any necessary federal
21 waivers;
- 22 e. The role of existing publicly financed systems of health
23 coverage such as federal employee health benefits, health
24 benefits for armed services members, the Veterans
25 Administration, the CHAMPUS program (10 U.S.C. § 1071 et
26 seq.), and any other existing publicly financed systems of health
27 coverage mandated by State or federal law or funded by State
28 agencies including Medicare;
- 29 f. Whether existing retirement health benefits may be included in
30 the Plan;
- 31 g. The mechanisms for ensuring that the accountable health plans
32 available to North Carolina residents will provide appropriate
33 access to quality medical services;
- 34 h. The means by which the Plan will ensure that the needs of
35 special populations of eligible residents such as low-income
36 persons, people living in rural and underserved areas, and
37 people with disabilities and chronic or unusual medical needs
38 will be met;
- 39 i. The appropriate roles of the regional health plan purchasing
40 cooperatives and the Commission in collecting data for both
41 quality assurance and cost containment, and in guiding the
42 proliferation of new medical technologies;

- 1 j. The need for the collection of data prior to implementation of
2 the Plan and, if necessary, make recommendations for the
3 collection of such data;
4 k. The role of licensed resident agents and producers in the
5 enrollment, education, and provision of service to eligible
6 residents; and
7 (13) Study and make recommendations to the General Assembly
8 concerning the following items related to the provision of medical care
9 to all citizens of North Carolina:
10 a. Whether medical malpractice tort reforms are needed, and, if
11 so, the tort reforms needed;
12 b. The development of medical practice parameters;
13 c. Methods to ensure adequate primary care for all eligible
14 residents;
15 d. The role of the existing county health systems;
16 e. The need for antifraud legislation to control fraudulent abuse in
17 claims and charges;
18 f. The need for all citizens to be informed on personal health care
19 issues such as life-style modifications, preventive care and
20 issues of access and availability services through public health
21 departments, educational systems, community hospitals, private
22 providers, and other relevant agencies;
23 g. The need for a cost-effective program for prevention and early
24 detection of illness to be made universally available, with no
25 means testing, through direct service provision rather than
26 through third-party coverage, with counties responsible for the
27 availability of such services to all residents with State financial
28 support;
29 h. The need for a program for the early detection and education of
30 high-risk pregnant women;
31 i. The elimination of unnecessary defensive medicine through
32 implementation of State-approved practice parameters;
33 j. The need for prohibitions on current referral practices where
34 providers profit from referring patients to certain facilities or
35 providers;
36 k. The need for claim submission standardization and electronic
37 submission of claims;
38 l. Any recommended changes to promote effective, fairly
39 administered managed care, case management, and utilization
40 review; and
41 m. The need for strong and effective Certificate of Need
42 legislation.

43 **"§ 143-593. North Carolina Health Care Trust Fund.**

1 (a) Effective July 1, 1995, there is established in the Office of State Treasurer the
2 North Carolina Health Care Trust Fund which shall consist of the following:

3 (1) All revenues collected from taxes and other sources enacted for the
4 purpose of funding;

5 (2) All federal payments received as a result of any waiver of
6 requirements granted by the United States Secretary of Health and
7 Human Services under health care programs established under Title
8 XIX of the Social Security Act, as amended; and

9 (3) All moneys appropriated by the General Assembly for carrying out the
10 purposes of the Plan.

11 (b) Moneys shall be deposited to the Fund beginning with the 1995-96 fiscal
12 year.

13 (c) Revenues held in the Fund are not subject to appropriation or allotment by the
14 State or any political subdivision of the State.

15 (d) The Commission shall administer the fund and shall conduct a quarterly
16 review of the expenditures from and revenues received by the Fund.

17 (e) The Commission may invest the funds of the Plan as authorized by State
18 law."

19 Sec. 3. As the first step in implementation of the Plan, the Commission shall,
20 on or before the first day of the 1993 General Assembly, Regular Session 1994, produce
21 and deliver to the President Pro Tempore of the Senate and the Speaker of the House of
22 Representatives, a detailed report concerning implementation of the Plan. The report
23 shall contain the following:

24 (1) Detailed recommendations for financing, including an analysis of costs
25 and financing options;

26 (2) The benefits to be included in the standard comprehensive medical
27 plan which must be offered on a guaranteed issue basis. The
28 Commission shall consider using as a standard the most commonly
29 purchased Health Maintenance Organization (HMO) benefit package
30 in the State;

31 (3) Independent actuarial cost estimates for the recommended benefit
32 package;

33 (4) Standards for eligibility and how eligibility standards shall be
34 administered;

35 (5) Detailed recommendations concerning the organization, number, and
36 geographic areas of the regional health insurance purchasing
37 cooperatives; and

38 (6) The economic impact of this act.

39 Sec. 4. The Department of Insurance shall prepare and present for
40 consideration and action by the General Assembly all changes to Chapter 58 of the
41 General Statutes, other than Article 68A of that Chapter, necessary to make relevant
42 sections of Chapter 58 of the General Statutes conform to and be consistent with the
43 requirements of the North Carolina Health Care Reform Act and amendments thereto.
44 The Department shall present the recommended changes to the General Assembly upon

1 the convening of the next session following the enactment of the North Carolina Health
2 Care Reform Act.

3 Sec. 5. There is appropriated from the General Fund to the Department of
4 Insurance the sum of five hundred thousand dollars (\$500,000) for the 1993-94 fiscal
5 year and the sum of five hundred thousand dollars (\$500,000) for the 1994-95 fiscal
6 year for allocation to the North Carolina Health Plan Commission to carry out the
7 purposes authorized under Section 2 of this act.

8 Sec. 6. The Governor and the General Assembly shall make their respective
9 appointments to the North Carolina Health Plan Commission within 60 days of
10 ratification of this act.

11 Sec. 7. Article 51 of Chapter 58 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 58-51-31. Policies to give credit for prior coverage.**

14 Every policy of insurance and every hospital service or medical service plan as
15 defined in Articles 65 and 66 of this Chapter, and and health care plan operated by a
16 health maintenance organization as defined in Article 67 of this Chapter, regardless of
17 whether any of such policies or plans shall be defined as individual, family, group,
18 blanket, franchise, industrial, or otherwise, that provides benefits on account of any
19 sickness, illness, or accident and which includes a preexisting condition limitation or
20 exclusion shall credit the time a person was covered under a previous plan providing
21 such benefits if the previous coverage was continuous to a date not more than 30 days
22 before the effective date of the new coverage, exclusive of any applicable waiting
23 period under the new plan."

24 Sec. 8. G.S. 58-50-110(22) reads as rewritten:

25 "(22) 'Small employer' means any person actively engaged in business that,
26 on at least fifty percent (50%) of its working days during the preceding
27 year, employed no more than ~~25~~49 eligible employees and not less
28 than three eligible employees, the majority of whom are employed
29 within this State. Small employer includes companies that are
30 affiliated companies, as defined in G.S. 58-19-5(1) or that are eligible
31 to file a combined tax return under Chapter 105 of the General Statutes
32 or under the Internal Revenue Code. Except as otherwise provided,
33 the provisions of this Act that apply to a small employer shall continue
34 to apply until the plan anniversary following the date the employer no
35 longer meets the requirements of this section."

36 Sec. 9. G.S. 58-50-125(g) reads as rewritten:

37 "(g) No HMO operating as either a risk-assuming carrier or a reinsuring carrier is
38 required to offer coverage or accept applications under subsection (d) of this section in
39 the case of any of the following:

- 40 (1) To a group, where the group is not physically located in the HMO's
41 approved service areas;
- 42 (2) To an employee, where the employee does not reside within the
43 HMO's approved service areas;

1 (3) Within an area, where the HMO reasonably anticipates, and
2 demonstrates to the Commissioner's satisfaction, that it will not have
3 the capacity within that area and its network of providers to deliver
4 services adequately to the enrollees of those groups because of its
5 obligations to existing group contract holders and enrollees.

6 An HMO that does not offer coverage pursuant to subdivision (3) of this subsection may
7 not offer coverage in the applicable area to new employer groups with more than ~~25-49~~
8 eligible employees until the later of 90 days after that closure or the date on which the
9 carrier notifies the Commissioner that it has regained capacity to deliver services to
10 small employers."

11 Sec. 10. Section 1 of this act becomes effective if and only if specific funds
12 are made available for implementation of the Plan. Funds appropriated for the 1993-94
13 fiscal year or for any fiscal year in the future do not constitute an entitlement to services
14 beyond those provided for that fiscal year. Nothing in this act creates any right except
15 to the extent funds are made available by the General Assembly to implement its
16 provisions from year to year and nothing in this act obligates the General Assembly to
17 appropriate funds to implement its provisions. Section 5 becomes effective July 1,
18 1993. The remainder of this act is effective upon ratification.