

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 1207

Short Title: State Health Plan Changes.

(Public)

Sponsors: Senator Rand.

Referred to: Select Committee on Employee Hospital and Medical Benefits.

March 26, 2007

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CHANGES TO THE LAW PERTAINING TO THE TEACHERS'
2 AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** Effective January 1, 2009, G.S. 135-40.1(7b) is repealed.

5 **SECTION 1.(b)** Effective January 1, 2009, G.S. 135-40.1 is amended by
6 adding the following new subdivision in alphabetical order to read:

7 "(1c) Calendar year. – The period beginning on January 1 and ending on
8 December 31 of the same year."

9 **SECTION 1.(c)** Effective January 1, 2009, the Revisor of Statutes shall
10 delete the term "fiscal year" wherever it appears in Parts 1 through 3 of Article 3 of
11 Chapter 135 of the General Statutes and substitute the term "calendar year."

12 **SECTION 2.** G.S. 135-40.8(c2) reads as rewritten:

13 "(c2) Notwithstanding any other provision of this Article, the Plan does not pay the
14 first two hundred dollars (\$200.00) of allowable emergency room charges when
15 admission to a hospital pursuant to the emergency room use does not immediately
16 follow. ~~This subsection shall apply only when less costly alternative means of~~
17 ~~emergency medical care are reasonably available as determined by the Executive~~
18 ~~Administrator and Board of Trustees.~~ The exclusion made under this subsection shall
19 not count toward the deductible nor toward the maximum amount of coinsurance
20 out-of-pocket costs."
21

22 **SECTION 3.(a)** G.S. 135-40.3(a)(3) reads as rewritten:

23 "(3) Employees not enrolling or adding dependents when first eligible in
24 accordance with G.S. 135-40.1(7) may enroll later on the first of any
25 following month but will be subject to a 12-month waiting period for a
26 preexisting health condition, ~~except employees who elect to change~~
27 ~~their coverage in accordance with rules adopted by the Executive~~
28 ~~Administrator and Board of Trustees for optional prepaid hospital and~~
29 ~~medical benefit plans.~~

1 **SECTION 3.(b)** G.S. 135-40.3(b)(3) and (b)(5) read as rewritten:

2 "(b) Waiting Periods and Preexisting Conditions. –

3 ...

4 (3) Retiring employees and dependents enrolled when first eligible after
5 an employee's retirement are subject to no waiting period for
6 preexisting conditions under the Plan. Retiring employees not enrolled
7 or not adding dependents when first eligible after an employee's
8 retirement may enroll later on the first of any following month, ~~but~~
9 ~~will be subject to a 12-month waiting period for preexisting conditions~~
10 ~~except as provided in subdivision (a)(3) of this section.~~month.

11 ...

12 (5) To administer the 12-month waiting period for preexisting conditions
13 under this Article, the Plan must give credit against the 12-month
14 period for the time that a person was covered under a previous plan if
15 the previous plan's coverage was continuous ~~to a date not more than 63~~
16 ~~days before the effective date of coverage.~~ without a break of more
17 than 63 days in the 12 months prior to the person's effective date. As
18 used in this subdivision, a "previous plan" means any policy,
19 certificate, contract, or any other arrangement provided by any
20 accident and health insurer, any hospital or medical service
21 corporation, any health maintenance organization, any preferred
22 provider organization, any multiple employer welfare arrangement,
23 any self-insured health benefit arrangement, any governmental health
24 benefit or health care plan or program, or any other health benefit
25 arrangement."

26 **SECTION 3.(c)** G.S. 135-40.11(d) reads as rewritten:

27 "(d) No benefits will be paid by this Plan for any expenses incurred or treatment
28 received after cessation of coverage as provided in subsections (a) or (b) of this ~~section,~~
29 ~~except that in the event of hospital confinement at that time, hospitalization benefits as~~
30 ~~described in G.S. 135-40.6 will continue to the extent provided therein.~~section."

31 **SECTION 4.** G.S. 135-40.13A(a) reads as rewritten:

32 "(a) The Plan shall have the right of subrogation upon all of the Plan member's
33 right to recover from a liable third party for payment made under the Plan, for all
34 medical expenses, including provider, hospital, surgical, or prescription drug expenses,
35 to the extent those payments are related to an injury caused by a liable third party. A
36 liable third party shall not include the Plan member's underinsured motorist policy. The
37 Plan member shall do nothing to prejudice these rights. The Plan has the right to first
38 recovery on any amounts so recovered, whether by the Plan or the Plan member, and
39 whether recovered by litigation, arbitration, mediation, settlement, or otherwise.
40 Notwithstanding any other provision of law to the contrary, the recovery limitation set
41 forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation of Plan
42 members."

43 **SECTION 5.** G.S. 135-40.1(3) reads as rewritten:

1 "(3) Dependent Child. – A natural, legally adopted, or foster child of the
2 employee and/or spouse, unmarried, up to the first of the month
3 following his or her 19th birthday, whether or not the child is living
4 with the employee, as long as the employee is legally responsible for
5 such child's maintenance and support. Dependent child shall also
6 include any child under age 19 who has reached his or her 18th
7 birthday, provided the employee was legally responsible for such
8 child's maintenance and support on his or her 18th birthday.

9 A foster child is covered (i) if living in a regular parent-child
10 relationship with the expectation that the employee will continue to
11 rear the child into adulthood, (ii) if at the time of enrollment, or at the
12 time a foster child relationship is established, whichever occurs first,
13 the employee applies for coverage for such child and submits evidence
14 of a bona fide foster child relationship, identifying the foster child by
15 name and setting forth all relevant aspects of the relationship, (iii) if
16 the Claims Processor accepts the foster child as a participant through a
17 separate written document identifying the foster child by name and
18 specifically recognizing the foster child relationship, and (iv) if at the
19 time a claim is incurred, the foster child relationship, as identified by
20 the employee, continues to exist. Children placed in a home by a
21 welfare agency which obtains control of, and provides for maintenance
22 of, the child(ren), are not eligible participants.

23 Coverage may be extended beyond the 19th birthday under the
24 following conditions:

- 25 a. If the dependent is a full-time student, between the ages of 19
26 and 26, who is pursuing a course of study that represents at least
27 the normal workload of a full-time student at a school or college
28 accredited by the state of jurisdiction. At the Plan's sole
29 discretion, coverage may be extended for a period of 12 months
30 from the date of withdrawal from the school or accredited
31 college for dependent full-time students who withdraw from the
32 school or college due to a documented serious medical
33 condition.
- 34 b. The dependent is physically or mentally incapacitated to the
35 extent that he or she is incapable of earning a living and (i) such
36 handicap developed or began to develop before the dependent's
37 19th birthday, or (ii) such handicap developed or began to
38 develop before the dependent's 26th birthday if the dependent
39 was covered by the Plan in accordance with G.S. 135-40.1(3)a.

40 Dependent children of firemen, rescue squad workers, and
41 members of the national guard are subject to the same terms and
42 conditions as are other dependent children covered by this
43 subdivision."

44 **SECTION 6.** G.S. 135-40.2(b)(5) reads as rewritten:

1 "(b) The following person shall be eligible for coverage under the Plan, on a fully
2 contributory basis, subject to the provisions of G.S. 135-40.3:

3 ...

4 (5) The spouses and eligible dependent children of enrolled teachers, State
5 employees, retirees, former members of the General Assembly, former
6 employees covered by the provisions of G.S. 135-40.2(a)(6), Disability
7 Income Plan beneficiaries, enrolled continuation members, and
8 members of the General Assembly. Spouses of surviving dependents
9 are not eligible, nor are dependent children if they were not covered at
10 the time of the member's death. Surviving spouses may cover their
11 dependent children provided the children were enrolled at the time of
12 the member's death or enroll within ~~30~~90 days of the member's death."

13 **SECTION 7.** G.S. 135-40.5(g) reads as rewritten:

14 "(g) Prescription Drugs. – The Plan's allowable charges for prescription legend
15 drugs to be used outside of a hospital or skilled nursing facility are to be determined by
16 the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable
17 charges for each outpatient prescription drug less a copayment to be paid by each
18 covered individual equal to the following amounts: pharmacy charges up to ten dollars
19 (\$10.00) for each generic prescription, twenty five dollars (\$25.00) for each preferred
20 branded prescription, and forty dollars (\$40.00) for each preferred branded prescription
21 with a generic equivalent drug, and fifty dollars (\$50.00) for each nonpreferred branded
22 or generic prescription.

23 Allowable charges shall not be greater than a pharmacy's usual and customary
24 charge to the general public for a particular prescription. Prescriptions shall be for no
25 more than a 34-day supply for the purposes of the copayments paid by each covered
26 individual. By accepting the copayments and any remaining allowable charges provided
27 by this subsection, pharmacies shall not balance bill an individual covered by the Plan.
28 A prescription legend drug is defined as an article the label of which, under the Federal
29 Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law
30 Prohibits Dispensing Without Prescription." Such articles may not be sold to or
31 purchased by the public without a prescription order. Benefits are provided for insulin
32 even though a prescription is not required. The Plan may use a pharmacy benefit
33 manager to help manage the Plan's outpatient prescription drug coverage. In managing
34 the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit
35 manager shall not provide coverage for ~~erectile dysfunction~~, growth hormone,
36 antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically
37 necessary to the health of the member. In managing the Plan's outpatient prescription
38 drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for
39 male and female sexual dysfunction drugs and idiopathic short stature drugs unless such
40 coverage is medically necessary to the health of the member. The Plan and its pharmacy
41 benefit manager shall not provide coverage for growth hormone and weight loss drugs
42 and antifungal drugs for the treatment of nail fungus and botulinium toxin without
43 approval in advance by the pharmacy benefit manager. Any formulary used by the
44 Plan's Executive Administrator and pharmacy benefit manager shall be an open

1 formulary. Plan members shall not be assessed more than two thousand five hundred
2 dollars (\$2,500) per person per fiscal year in copayments required by this subsection."

3 **SECTION 8.** G.S. 135-40.3(c)(4) reads as rewritten:

4 "(c) Dependents of Employees and Retired Employees. –

5 ...

6 (4) Employees or retired employees who wish to change from family
7 coverage to parent/child(ren) or individual or from parent/child(ren) to
8 individual coverage shall give written notice to their Health Benefits
9 Representative within 30 days after any change in the status of
10 dependents, (resulting from death, divorce, etc.) that requires a change
11 in contract type. The effective date will be the first of the month
12 following the dependent's ineligibility event. If notification was not
13 made within the 30 days following the dependent's ineligibility event,
14 the dependent will be retroactively removed the first of the month
15 following the dependent's ineligibility event, and the coverage type
16 change will be the first of the month following written notification,
17 except in cases of death, in which case the coverage type change will
18 be made retroactive to the first of the month following the death. If
19 notification was not made within the 30 days following the dependent's
20 ineligibility event, reimbursement of dependent premiums, minus
21 claims paid during the period of ineligibility, will be made from the
22 month following the ineligibility event."

23 **SECTION 9.** G.S. 135-40.1(8) reads as rewritten:

24 "(8) Health Benefits Representative. – The employee designated by the
25 employing unit to administer the Comprehensive Major Medical ~~Plan~~
26 Plan, including the Indemnity Plan and any optional plans offered
27 pursuant to G.S. 135-39.5B, for the unit and its employees. The HBR
28 is responsible for enrolling new employees, reporting changes,
29 explaining benefits, reconciling group statements and remitting group
30 fees. The State Retirement System is the Health Benefits
31 Representative for retired members."

32 **SECTION 10.** G.S. 135-40.6(8) reads as rewritten:

33 "(8) Other Covered Charges. –

34 ...

35 s. Routine Diagnostic Examinations: Allowable charges for
36 routine diagnostic examinations and tests, including
37 examinations and tests for the screening for the early detection
38 of cervical cancer, breast, colon, rectal, and prostate exams, X
39 rays, blood and blood pressure checks, urine tests, tuberculosis
40 tests, and general health checkups that are medically necessary
41 for the maintenance and improvement of individual health but
42 no more often than once every three years for covered
43 individuals to age 40 years, once every two years for covered
44 individuals to age 50 years, and once a year for covered

1 individuals age 50 years and older and, for examinations and
2 tests for the screening for the early detection of cervical cancer,
3 in accordance with the most recently published American
4 Cancer Society guidelines or guidelines adopted by the North
5 Carolina Advisory Committee on Cancer Coordination and
6 Control, unless a more frequent occurrence is warranted by a
7 medical condition when such charges are incurred in a
8 medically supervised facility. The Plan will pay ~~one hundred~~
9 ~~percent (100%) of~~ allowable charges for mammograms once
10 per year for covered individuals age 40 years and over, and not
11 more often than once every three years for covered individuals
12 to age 40 years, when such charges are incurred in a medically
13 supervised facility. Provided, however, that charges for such
14 examinations and tests are not covered by the Plan when they
15 are incurred to obtain or continue employment, to secure
16 insurance coverage, to comply with legal proceedings, to attend
17 schools or camps, to meet travel requirements, to participate in
18 athletic and related activities or to comply with governmental
19 licensing requirements. For the purposes of this
20 sub-subdivision, "examinations and laboratory tests for the
21 screening for the early detection of cervical cancer" means
22 conventional PAP smear screening, liquid-based cytology, and
23 human papilloma virus (HPV) detection methods for women
24 with equivocal findings on cervical cytologic analysis that are
25 subject to the approval of and have been approved by the
26 United States Food and Drug Administration."

27 **SECTION 11.(a)** G.S. 135-40.2(a), (a1), 40.2(a2), and 40.2(a3) read as
28 rewritten:

29 "**§ 135-40.2. Eligibility.**

30 (a) The following persons are eligible for coverage under the Indemnity Plan, on
31 a ~~noncontributory~~ partially contributory basis, subject to the provisions of
32 G.S. 135-40.3:

33 (1) All permanent full-time employees of an employing unit who meet the
34 following conditions:

- 35 a. Paid from general or special State funds, or
36 b. Paid from non-State funds and in a group for which his or her
37 employing unit has agreed to provide coverage.

38 Employees of State agencies, departments, institutions, boards, and
39 commissions not otherwise covered by the Plan who are employed in
40 permanent job positions on a recurring basis and who work 30 or more
41 hours per week for nine or more months per calendar year are covered
42 by the provisions of this subdivision.

43 (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
44 least one-half of the workdays of each pay period.

- 1 (2) Retired teachers, State employees, members of the General Assembly,
2 and retired State law enforcement officers who retired under the Law
3 Enforcement Officers' Retirement System prior to January 1, 1985. For
4 employees first hired on and after October 1, 2006, and members of
5 the General Assembly first taking office on and after February 1, 2007,
6 future coverage as retired employees and retired members of the
7 General Assembly is subject to a requirement that the future retiree
8 have 20 or more years of retirement service credit in order to be
9 covered by the provisions of this subdivision.
- 10 (2a) Surviving spouses of:
- 11 a. Deceased retired employees, provided the death of the former
12 plan member occurred prior to October 1, 1986; and
- 13 b. Deceased teachers, State employees, and members of the
14 General Assembly who are receiving a survivor's alternate
15 benefit under any of the State-supported retirement programs,
16 provided the death of the former plan member occurred prior to
17 October 1, 1986.
- 18 (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).
- 19 (3a) Employees of the General Assembly, not otherwise covered by this
20 section, as determined by the Legislative Services Commission, except
21 for legislative interns and pages.
- 22 (4) Members of the General Assembly.
- 23 (5) Notwithstanding the provisions of subsection (e) of this section,
24 employees on official leave of absence while completing a full-time
25 program in school administration in an approved program as a
26 Principal Fellow in accordance with Article 5C of Chapter 116 of the
27 General Statutes.
- 28 (6) Notwithstanding the provisions of G.S. 135-40.11, employees
29 formerly covered by the provisions of this section, other than retired
30 employees, who have been employed for 12 or more months by an
31 employing unit and whose jobs are eliminated because of a reduction,
32 in total or in part, in the funds used to support the job or its
33 responsibilities, provided the employees were covered by the Plan at
34 the time of separation from service resulting from a job elimination.
35 Employees covered by this subsection shall be covered for a period of
36 up to 12 months following a separation from service because of a job
37 elimination.
- 38 (7) Any member enrolled pursuant to subdivision (1) or (1a) of this
39 subsection who is on approved leave of absence with pay or receiving
40 workers' compensation.
- 41 (8) Employees on approved Family and Medical Leave.
- 42 (a2) A school employee in a job-sharing position as defined in G.S. 130-40.3. If
43 these employees elect to participate in the Plan, the employing unit shall pay fifty
44 percent (50%) of the ~~Plan's total noncontributory premiums.~~ Plan's maximum annual

1 employer contribution. Individual employees shall pay the balance of the total
2 ~~noncontributory premiums~~ Plan's maximum annual employer contribution not paid by
3 the employing unit.

4 (a3) Subject to the provisions of G.S. 135-40.3, employees and members of the
5 General Assembly with 10 but less than 20 years of retirement service credit shall be
6 eligible for coverage under the Plan on a partially contributory basis, provided the
7 employees were first hired on or after October 1, 2006, and the members first took
8 office on or after February 1, 2007. For such future retirees, the State shall pay fifty
9 percent (50%) of the Plan's ~~total noncontributory premiums~~. ~~Individual retirees shall~~
10 ~~pay the balance of the total noncontributory premiums not paid by the State.~~ maximum
11 annual employer contribution. Individual retirees shall pay the balance of the maximum
12 annual employer contribution not paid by the State."

13 **SECTION 11.(b)** G.S. 135-40.2 is amended by adding the following new
14 subsection to read:

15 "(a4) Persons eligible under G.S. 135-40.2(a) who are enrolled in the optional plan
16 established pursuant to G.S. 135-39.5B(b) are eligible for coverage under the optional
17 plan on a noncontributory basis. The provisions of G.S. 135-39.5B(b) apply to persons
18 eligible under G.S. 135-40.2(a2) and 135-40.2(b) who are enrolled in the optional plan."

19 **SECTION 12.(a)** G.S. 135-39.5B(b) reads as rewritten:

20 "(b) The Executive Administrator and Board of Trustees may, after consulting
21 with the Committee on Employee Hospital and Medical Benefits, adopt an arrangement
22 for an optional hospital and medical benefits program other than the one specified in
23 subsection (a) of this section. The optional program may include one that is purchased
24 or underwritten by the State and may be a PPO or other type optional program. Optional
25 programs under this section are not subject to benefits and cost-sharing requirements
26 under G.S. 135-40.5 through G.S. 135-40.9, except that if a pharmacy benefit is not
27 provided under the optional program, the pharmacy benefit under
28 ~~G.S. 135-40.59(g)~~ G.S. 135-40.5(g) shall apply. The Executive Administrator and Board
29 of Trustees may set premium rates for coverage under an optional program on a
30 partially contributory basis, provided that the amounts of State funds contributed for
31 coverage on a partially contributory basis shall not be more than the ~~Plan's total~~
32 ~~noncontributory premium for Employee Only coverage,~~ maximum annual employer
33 contribution as enacted in the Current Operations Appropriations Act, with the person
34 selecting the optional program coverage paying the balance of the partially contributory
35 ~~premium not paid by the Plan. The amount of State funds contributed for purchased~~
36 ~~optional programs shall not exceed the amount of a purchased optional program's cost~~
37 ~~for Employee Only coverage premium.~~ Contracts for an optional program under this
38 subsection are not subject to Article 3 of Chapter 143 of the General Statutes. In no
39 instance shall benefits be paid under Part 3 of this Article for persons enrolled in an
40 optional prepaid hospital and medical benefits program authorized under this subsection
41 on and after the effective date of enrollment in the optional prepaid plan, except in cases
42 of continuous hospital confinement approved by the Executive Administrator."

43 **SECTION 12.(b)** G.S. 135-39.5B is amended by adding the following new
44 subsection to read:

1 "(c) There are four types of coverage that an employee or retiree may elect under
2 the optional program:

3 (1) Employee only. – Covers enrolled employees only. Maternity benefits
4 are provided to employee only.

5 (2) Employee and child(ren). – Covers enrolled employee and all eligible
6 dependent children. Maternity benefits are provided to the employee
7 only.

8 (3) Employee and family. – Covers employee and spouse and all eligible
9 dependent children. Maternity benefits are provided to employee or
10 enrolled spouse.

11 (4) Employee and spouse. – Covers enrolled employee and spouse only.
12 Maternity benefits are provided to employee or enrolled spouse."

13 **SECTION 13.** For the purpose of improving efficiency and
14 cost-effectiveness of Plan operations, the Executive Administrator and Board of
15 Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan
16 may create nine and one-half full-time positions, seven and one-half of which shall be
17 subject to the State Personnel Act under G.S. 126-5, and two of which shall be exempt
18 from the State Personnel Act under G.S. 126-5(c). The Executive Administrator and
19 Board of Trustees may use up to six hundred one thousand five hundred twenty dollars
20 (\$601,520) of funds available to support these positions.

21 **SECTION 14.** Section 1 of this act is effective when it becomes law. The
22 remainder of this act becomes effective July 1, 2007.