

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS55599-LN-295C* (11/6)

Short Title: State Health Plan.

(Public)

Sponsors: Senator Rand.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO REWRITE GENERAL STATUTE PROVISIONS PERTAINING TO
3 HEALTH AND LONG-TERM CARE BENEFITS FOR TEACHERS, STATE
4 EMPLOYEES, RETIRED STATE EMPLOYEES, AND THEIR ELIGIBLE
5 DEPENDENTS, AND PERTAINING TO THE NORTH CAROLINA HEALTH
6 CHOICE PROGRAM.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Effective July 1, 2008, Article 3 of Chapter 135 of the
9 General Statutes is recodified as Article 3A of Chapter 135 of the General Statutes.

10 **SECTION 1.(b)** Effective July 1, 2008, the title of Article 3A of Chapter
11 135 of the General Statutes, as enacted by this act, reads as rewritten:

12 ~~"Other Teacher, Employee Benefits; Child Health Benefits.~~

13 Other Benefits for Teachers, State Employees, Retired State Employees, and Child
14 Health."

15 **SECTION 1.(c)** Effective July 1, 2008, Part 1 of Article 3A of Chapter 135
16 of the General Statutes, as enacted by this act, is recodified as Part 1A of Article 3A of
17 Chapter 135 of the General Statutes.

18 **SECTION 1.(d)** Effective July 1, 2008, G.S. 135-37, as amended by Section
19 28.22A of S.L. 2007-323, is recodified as G.S. 135-37.1 under Part 1A of Article 3A of
20 Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as
21 rewritten:

22 "**§ 135-37.1. Confidentiality of information and medical records; provider**
23 **contracts.**

24 (a) Any information as herein described in this section which is in the possession
25 of the Executive Administrator and the Board of Trustees of the State Health Plan for
26 Teachers and State Employees or its Claims Processor under the Plan or the Predecessor
27 Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the

1 General Statutes or any other provision requiring information and records held by State
2 agencies to be made public or accessible to the public. This section shall apply to all
3 information concerning individuals, including the fact of coverage or noncoverage,
4 whether or not a claim has been filed, medical information, whether or not a claim has
5 been paid, and any other information or materials concerning a plan participant.
6 Provided, however, such information may be released to the State Auditor, or to the
7 Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of
8 their statutory duties and responsibilities, or to such persons or organizations as may be
9 designated and approved by the Executive Administrator and Board of Trustees of the
10 Plan, but any information so released shall remain confidential as stated above and any
11 party obtaining such information shall assume the same level of responsibility for
12 maintaining such confidentiality as that of the Executive Administrator and Board of
13 Trustees of the State Health Plan for Teachers and State Employees.

14 (b) Notwithstanding the provisions of this Article, the Executive Administrator
15 and Board of Trustees of the State Health Plan for Teachers and State Employees may
16 contract with providers of institutional and professional medical care and services to
17 establish preferred provider networks. The terms pertaining to reimbursement rates or
18 other terms of consideration of any contract between hospitals, hospital authorities,
19 doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or
20 contracts pertaining to the provision of any medical benefit offered under the Plan,
21 including its ~~optional plans or programs~~, optional alternative comprehensive benefit
22 plans, and programs available under the optional alternative plans, shall not be a public
23 record under Chapter 132 of the General Statutes for a period of 30 months after the
24 date of the expiration of the contract. Provided, however, nothing in this subsection
25 shall be deemed to prevent or restrict the release of any information made not a public
26 record under this subsection to the State Auditor, the Attorney General, the Director of
27 the State Budget, the Plan's Executive Administrator, and the Committee on Employee
28 Hospital and Medical Benefits solely and exclusively for their use in the furtherance of
29 their duties and responsibilities. The design, adoption, and implementation of the
30 preferred provider contracts, networks, and ~~optional plans or programs~~ optional
31 alternative comprehensive health benefit plans, and programs available under the
32 optional alternative plans, as authorized under G.S. 135-40 are not subject to the
33 requirements of Chapter 143 of the General Statutes. The Executive Administrator and
34 Board of Trustees shall make reports as requested to the President of the Senate, the
35 President Pro Tempore of the Senate, the Speaker of the House of Representatives, and
36 the Committee on Employee Hospital and Medical ~~Benefits on its progress in~~
37 ~~negotiating the preferred provider contracts.~~ Benefits."

38 **SECTION 1.(e)** Effective July 1, 2008, G.S. 135-38 is recodified as
39 G.S. 135-37.2 under Part 1A of Article 3A of Chapter 135 of the General Statutes, as
40 enacted by this act, and as recodified, reads as rewritten:

41 "**§ 135-37.2. Committee on Employee Hospital and Medical Benefits.**

42 (a) The Committee on Employee Hospital and Medical Benefits shall consist of
43 12 members as follows:

44 (1) The President Pro Tempore of the Senate or a designee thereof;

1 Board of Trustees, the Claims Processor, and the State Health Plan for Teachers and
2 State Employees. ~~Such assistance~~ Employees authorized by the Legislative Services
3 Commission and the Director of the Budget to provide assistance to the Committee on
4 Employee Hospital and Medical Benefits and to the Director of the Budget shall
5 comprise an oversight team.

6 (b) The oversight team shall, jointly or individually, have access to all records of
7 the Board of Trustees, the Executive Administrator, the Claims Processor, and the
8 ~~Comprehensive Major Medical Plan~~. They The oversight team shall, jointly or
9 individually, be entitled to attend all meetings of the Board of Trustees.

10 (c) The oversight team shall report to the Committee on Employee Hospital and
11 Medical Benefits when requested by the Committee."

12 **SECTION 2.(c)** G.S. 135-39.9 is recodified as G.S. 135-37.4 under Part 2A
13 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
14 recodified, reads as rewritten:

15 "**§ 135-37.4. Reports to the General Assembly.**

16 (a) The Executive Administrator and Board of Trustees shall report to the
17 General Assembly at such times and in such forms as shall be ~~provided~~ designated by
18 the Committee on Employee Hospital and Medical Benefits."

19 **SECTION 2.(d)** G.S. 135-39.11 is recodified as G.S. 135-37.5 under Part
20 2A of this Article, as enacted by this act, and as recodified, reads as rewritten:

21 "**§ 135-37.5. ~~Contract disputes.~~ Contract disputes not contested case under the**
22 **Administrative Procedure Act, Chapter 150B of the General Statutes.**

23 A dispute involving the performance, terms, or conditions of a contract between the
24 Plan and an entity under contract with the Plan is not a contested case under Article 3 of
25 Chapter 150B of the General Statutes."

26 **SECTION 2.(e)** G.S. 135-39, as amended by Section 28.22A(o) of S.L.
27 2007-323, is recodified as G.S. 135-38.2 under Part 2A of Article 3A of Chapter 135 of
28 the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

29 "**§ 135-38.2. Board of Trustees established.**

30 (a) There is ~~hereby~~ established the Board of Trustees of the State Health Plan for
31 Teachers and State Employees ("Board").

32 (a1)(b) The Board shall consist of nine members.

33 (b)(c) Three members shall be appointed by the Governor. ~~Of the initial members,~~
34 ~~one shall serve a term to expire June 30, 1983, and two shall serve terms to expire June~~
35 ~~30, 1984. Subsequent terms~~ Terms shall be for two years. Vacancies shall be filled by
36 the Governor. Of the members appointed by the Governor, one shall be either:

- 37 (1) An employee of a State department, agency, or institution;
- 38 (2) A teacher employed by a North Carolina public school system;
- 39 (3) A retired employee of a State department, agency, or institution; or
- 40 (4) A retired teacher from a North Carolina public school system.

41 (e)(d) Three members shall be appointed by the General Assembly upon the
42 recommendation of the Speaker of the House of Representatives in accordance with
43 G.S. 120-121. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and~~

1 ~~one shall serve a term expiring June 30, 1984.~~ Terms shall be for two years. Vacancies
2 shall be filled in accordance with G.S. 120-122.

3 ~~(d)(e)~~ Three members shall be appointed by the General Assembly upon the
4 recommendation of the President Pro Tempore of the Senate in accordance with
5 G.S. 120-121. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and~~
6 ~~one shall serve a term expiring June 30, 1984.~~ Terms shall be for two years. Vacancies
7 shall be filled in accordance with G.S. 120-122.

8 ~~(e)(f)~~ The Governor shall have the power to remove any member appointed by him
9 under subsection (b). The General Assembly may remove any member appointed under
10 subsections (c) or (d). Each appointing authority may remove any member appointed by
11 that appointing authority.

12 ~~(f)(g)~~ The members of the Board of Trustees shall receive one hundred dollars
13 (\$100.00) per day, except employees eligible to enroll in the Plan, whenever the full
14 Board of Trustees holds a public session, and travel allowances under G.S. 138-6 when
15 traveling to and from meetings of the Board of Trustees or hearings under
16 ~~G.S. 135-39.7, G.S. 135-38.10,~~ but shall not receive any subsistence allowance or per
17 diem under G.S. 138-5, except when holding a meeting or hearing where this section
18 does not provide for payment of one hundred dollars (\$100.00) per day.

19 (h) No member of the Board of Trustees may serve more than three consecutive
20 two-year terms.

21 (i) Meetings of the Board of Trustees may be called by the Executive
22 Administrator, the ~~Chairman, Chair,~~ or by any three members."

23 **SECTION 2.(f)** G.S. 135-39.2 is recodified as G.S. 135-38.3 under Part 2A
24 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
25 recodified, reads as rewritten:

26 "**§ 135-38.3. Officers, quorum, meetings.**

27 (a) The Board of Trustees shall elect from its own membership such officers as it
28 sees fit.

29 (b) Six members of the Board of Trustees in office shall constitute a quorum.
30 Decisions of the Board of Trustees shall be made by a majority vote of the Trustees
31 present, except as otherwise provided in this Part.

32 (c) Meetings may be called by the ~~Chairman, Chair,~~ or at the written request of
33 three members."

34 **SECTION 2.(g)** G.S. 135-39.1, as amended by Section 28.22A(o) of S.L.
35 2007-323, is recodified as G.S. 135-38.4 under Part 2A of Article 3A of Chapter 135 of
36 the General Statutes, as enacted by this act.

37 **SECTION 2.(h)** G.S. 135-39.4A, as amended by Section 28.22A of S.L.
38 2007-323, is recodified as G.S. 135-38.5 under Part 2A of Article 3A of Chapter 135 of
39 the General Statutes as enacted by this act, and as recodified, reads as rewritten:

40 "**§ 135-38.5. Executive Administrator.**

41 (a) The Plan shall have an Executive Administrator and a Deputy Executive
42 Administrator. The Executive Administrator and the Deputy Executive Administrator
43 positions are exempt from the provisions of Chapter 126 of the General Statutes as
44 provided in G.S. 126-5(c1).

1 (b) The Executive Administrator shall be appointed by the Commissioner of
2 Insurance. The term of employment and salary of the Executive Administrator shall be
3 set by the Commissioner of Insurance upon the advice of an executive committee of the
4 Committee on Employee Hospital and Medical Benefits.

5 The Executive Administrator may be removed from office by the Commissioner of
6 Insurance, upon the advice of an executive committee of the Committee on Employee
7 Hospital and Medical Benefits, and any vacancy in the office of Executive
8 Administrator may be filled by the Commissioner of Insurance with the term of
9 employment and salary set upon the advice of an executive committee of the Committee
10 on Employee Hospital and Medical Benefits.

11 ~~(f)~~(c) The Executive Administrator shall appoint the Deputy Executive
12 Administrator and may employ such clerical and professional staff, and such other
13 assistance as may be necessary to assist the Executive Administrator and the Board of
14 Trustees in carrying out their duties and responsibilities under this Article. The
15 Executive Administrator may designate managerial, professional, or policy-making
16 positions as exempt from the State Personnel Act. The Executive Administrator may
17 also negotiate, renegotiate and execute contracts with third parties in the performance of
18 ~~his~~the Executive Administrator's duties and responsibilities under this Article; provided
19 any contract negotiations, renegotiations and execution with a Claims Processor, with
20 ~~an optional hospital and medical benefit plan or program authorized under~~
21 G.S. 135-40, an optional alternative comprehensive health benefit plan, or program
22 thereunder, authorized under G.S. 135-39.12, with a preferred provider of institutional
23 or professional hospital and medical care, or with a pharmacy benefit manager shall be
24 done only after consultation with the Committee on Employee Hospital and Medical
25 Benefits.

26 ~~(g)~~(d) The Executive Administrator shall be responsible for:

- 27 (1) Cost management programs;
- 28 (2) Education and illness prevention programs;
- 29 (3) Training programs for Health Benefit Representatives;
- 30 (4) Membership functions;
- 31 (5) Long-range planning;
- 32 (6) Provider and participant relations; and
- 33 (7) Communications.

34 Managed care practices used by the Executive Administrator in cost management
35 programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223,
36 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

37 ~~(h)~~(e) The Executive Administrator shall make reports and recommendations on the
38 Plan to the President of the Senate, the Speaker of the House of Representatives and the
39 Committee on Employee Hospital and Medical Benefits."

40 **SECTION 2.(i)** G.S. 135-39.10, as amended by Section 28.22A(d),(o) of
41 S.L. 2007-323, is recodified as G.S. 135-38.6 under Part 2A of Article 3A of Chapter
42 135 of the General Statutes, as enacted by this act.

1 **SECTION 2.(j)** G.S. 135-39.5 is recodified as G.S. 135-38.7 under Part 2A
2 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
3 recodified, reads as rewritten:

4 "**§ 135-38.7. Powers and duties of the Executive Administrator and Board of**
5 **Trustees.**

6 The Executive Administrator and Board of Trustees of the Teachers' and State
7 Employees' Comprehensive Major Medical Plan shall have the following powers and
8 duties:

- 9 (1) Supervising and monitoring of the Claims Processor.
- 10 (2) Providing for enrollment of employees in the Plan.
- 11 (3) Communicating with employees enrolled under the Plan.
- 12 (4) Communicating with health care providers providing services under
13 the Plan.
- 14 (5) Making payments at appropriate intervals to the Claims Processor for
15 benefit costs and administrative costs.
- 16 (6) Conducting administrative reviews under
17 ~~G.S. 135-39.7.~~G.S. 135-38.10.
- 18 (7) Annually assessing the performance of the Claims Processor.
- 19 (8) Preparing and submitting to the Governor and the General Assembly
20 cost estimates for the ~~health benefits plan,~~ Plan, including those
21 required by Article 15 of Chapter 120 of the General Statutes.
- 22 (9) Recommending to the Governor and the General Assembly changes or
23 additions to the health benefits ~~program~~ programs and health care cost
24 containment ~~programs,~~ programs offered under the Plan, together with
25 statements of financial and actuarial effects as required by Article 15
26 of Chapter 120 of the General Statutes.
- 27 (10) Working with State employee groups to improve health benefit
28 programs.
- 29 (11) Repealed by Session Laws 1985, c. 732, s. 9.
- 30 (12) Determining basis of payments to health care providers, including
31 payments in accordance with G.S. 58-50-56. ~~The Comprehensive~~
32 ~~Major Medical Plan and optional plans and programs adopted pursuant~~
33 ~~to G.S. 135-39.5B shall comply with G.S. 58-3-225.~~
- 34 (13) Requiring bonding of the Claims Processor in the handling of State
35 funds.
- 36 (14) Repealed by Session Laws 1985, c. 732, s. 7.
- 37 (15) In case of termination of the contract under ~~G.S. 135-39.5A,~~
38 subdivision (29) of this section, to select a new Claims Processor, after
39 ~~competitive~~-bidding procedures approved by the Department of
40 Administration.
- 41 (16) Notwithstanding the provisions of ~~Part 3~~ Part 3A of this Article, to
42 formulate and implement cost-containment measures which are not in
43 direct conflict with that Part.

- 1 (17) Implementing pilot programs necessary to evaluate proposed cost
2 containment measures which are not in direct conflict with ~~Part 3~~ Part
3 3A of this Article, and expending funds necessary for the
4 implementation of ~~such~~ the pilot programs.
- 5 (18) Authorizing coverage for alternative forms of care not otherwise
6 provided by the Plan in individual cases when medically necessary,
7 medically equivalent to services covered by the Plan, and when such
8 alternatives would be less costly than would have been otherwise.
- 9 (19) Establishing and operating a hospital and other provider bill audit
10 program and a fraud detection program.
- 11 (20) Determining administrative and medical policies that are not in direct
12 conflict with ~~Part 3~~ Part 3A of this Article ~~upon the advice of~~ after
13 consultation with the Claims Processor and ~~upon the advice of the~~
14 Plan's consulting actuary when Plan costs are involved.
- 15 (21) Supervising the payment of claims and all other disbursements under
16 this Article, including the recovery of any disbursements that are not
17 made in accordance with the provisions of this Article.
- 18 (22) Implementing and administering a program of long-term care benefits
19 pursuant to ~~Part 4~~ Part 4A of this Article.
- 20 (23) Implementing and administering a program of child health insurance
21 benefits pursuant to ~~Part 5~~ Part 5A of this Article.
- 22 (24) Implementing and administering a case management and disease
23 management ~~program~~ program and a wellness program.
- 24 (25) Implementing and administering a pharmacy benefit management
25 program through a third-party contract awarded after receiving
26 competitive quotes.
- 27 ~~(26) Increasing annually the amount of the annual deductible and annual~~
28 ~~aggregate maximum deductible. The increase shall be established by~~
29 ~~determining the ratio of the CPI Medical Index to such index one year~~
30 ~~earlier. If the ratio indicates an increase in the CPI Medical Index, then~~
31 ~~the amount of the annual deductible and annual aggregate maximum~~
32 ~~deductible may be increased by not more than the percentage increase~~
33 ~~in the CPI Medical Index. As used in this subdivision, the term~~
34 ~~"CPI Medical Index" means the U.S. Consumer Price Index for All~~
35 ~~Urban Consumers for Total Medical Care.~~
- 36 (27) The Executive Administrator may establish pilot programs to measure
37 potential cost savings and improvements in patient care available
38 through local, provider-driven medical management.
- 39 (28) It is the intent of the General Assembly that active employees and
40 retired employees covered under the Plan and its successor Plan shall
41 have several opportunities in each fiscal year to attend presentations
42 conducted by Plan management staff providing detailed information
43 about benefits, limitations, premiums, co-payments, and other
44 pertinent Plan matters. To this end, beginning in 2007 and annually

1 thereafter, the Plan's management staff shall conduct multiple
2 presentations each year to Plan members and association groups
3 representing active and retired employees across all geographic
4 regions of the State. Regional meetings shall be held in locations that
5 afford reasonably convenient access to Plan members. The
6 presentations shall be designed not only to present information about
7 the Plan but also to hear and respond to Plan members' questions and
8 concerns.

9 (29) The Executive Administrator and Board of Trustees may terminate the
10 contract with the Claims Processor ~~as provided in the request for~~
11 ~~proposal in accordance with the terms of the contract."~~

12 **SECTION 2.(k)** G.S. 135-39.5A is recodified as G.S. 135-38.7(29), as
13 enacted by this act.

14 **SECTION 2.(l)** G.S. 135-39.6 is recodified as G.S. 135-38.8 under Part 2A
15 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
16 recodified reads as rewritten:

17 "**§ 135-38.8. Special Health benefit trust funds created.**

18 (a) There are hereby established two ~~special health benefit trust~~ funds, to be
19 known as the Public Employee Health Benefit Fund and the Health Benefit Reserve
20 Fund for the payment of hospital and medical benefits. As used in this section, the term
21 "health benefit trust funds" refers to the fund type described under
22 G.S. 143C-1-3(a)(10).

23 All premiums, fees, charges, rebates, refunds or any other receipts including, but not
24 limited to, earnings on investments, occurring or arising in connection with health
25 benefits programs established by this Article, shall be deposited into the Public
26 Employee Health Benefit Fund. Disbursements from the Fund shall include any and all
27 amounts required to pay the benefits and administrative costs of such programs as may
28 be determined by the Executive Administrator and Board of Trustees.

29 Any unencumbered balance in excess of prepaid premiums or charges in the Public
30 Employee Health Benefit Fund at the end of each fiscal year shall be used first, to
31 provide an actuarially determined Health Benefit Reserve Fund for incurred but
32 unrepresented claims, second, to reduce the premiums required in providing the benefits
33 of the health benefits programs, and third to improve the plan, as may be provided by
34 the General Assembly. The balance in the Health Benefits Reserve Fund may be
35 transferred from time to time to the Public Employee Health Benefit Fund to provide for
36 any deficiency occurring therein.

37 The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund
38 shall be deposited with the State Treasurer and invested as provided in G.S. 147-69.2
39 and 147-69.3.

40 (b) Disbursement from the Public Employee Health Benefit Fund may be made
41 by warrant drawn on the State Treasurer by the Executive Administrator, or the
42 Executive Administrator and Board of Trustees may by contract authorize the Claims
43 Processors to draw the warrant.

1 (c) Separate and apart from the ~~special~~ health benefit trust funds authorized by
2 subsections (a) and (b) of this section, there shall be a Public Employee Long-Term
3 Care Benefit Fund if the long-term care benefits provided by Part 4 of this Article are
4 administered on a self-insured basis.

5 (d) Separate and apart from the special funds authorized by subsections (a), (b),
6 and (c) of this section, there shall be a Child Health Insurance Fund. All premium
7 receipts or any other receipts, including earnings on investments, occurring or arising in
8 connection with acute medical care benefits provided under the Health Insurance
9 Program for Children shall be deposited into the Child Health Insurance Fund.
10 Disbursements from the Child Health Insurance Fund shall include any and all amounts
11 required to pay the benefits and administrative costs of the Health Insurance Program
12 for Children as may be determined by the Executive Administrator and Board of
13 Trustees."

14 **SECTION 2.(m)** G.S. 135-39.6A, as amended by Section 11 of S.L.
15 2007-345, and as further amended by Section 28.22A(m),(o) of S.L. 2007-323, is
16 recodified as G.S. 135-38.9 under Part 2A of Article 3 of Chapter 135 of the General
17 Statutes, as enacted by this act, and as recodified, reads as rewritten:

18 "**§ 135-38.9. Premiums set.**

19 (a) The Executive Administrator and Board of Trustees shall, from time to time,
20 establish premium rates for the Plan except as they may be established by the General
21 Assembly in the Current Operations Appropriations Act, and establish ~~regulations~~ rules
22 for payment of the premiums. Premium rates shall be established for coverages where
23 Medicare is the primary payer of health benefits separate and apart from the rates
24 established for coverages where Medicare is not the primary payer of health benefits.
25 The amount of State funds contributed for optional coverage for employees and retirees
26 on a partially contributory basis shall not be more than the Plan's total noncontributory
27 premium for Employee Only coverage, with the person selecting the coverage paying
28 the balance of the partially contributory premium not paid by the Plan. The amount of
29 State funds contributed shall not exceed the Plan's cost for Employee Only coverage.
30 The Executive Administrator and Board of Trustees shall not impose a partially
31 contributory premium until after it has consulted on the premium and the optional
32 coverage design with the Committee on Employee Hospital and Medical Benefits.

33 (b) The Executive Administrator and Board of Trustees shall establish separate
34 premium rates for the long-term care benefits provided by ~~Part 4~~ Part 4A of this Article
35 if the benefits are administered on a self-insured basis.

36 (c) The Executive Administrator and Board of Trustees shall establish premium
37 rates for benefits provided under ~~Part 5~~ Part 5A of this Article. The Department of
38 Health and Human Services shall, from State and federal appropriations and from any
39 other funds made available for the Health Insurance Program for Children established
40 under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the
41 State Health Plan for Teachers and State Employees as determined by the Plan for its
42 administration, claims processing, and other services authorized to provide coverage for
43 acute medical care for children eligible for benefits provided under ~~Part 5~~ Part 5A of this
44 Article.

1 (d) In setting premiums for ~~firemen~~, firefighters, rescue squad workers, and
2 members of the national guard, and their eligible dependents, the Executive
3 Administrator and Board of Trustees shall establish rates separate from those affecting
4 other members of the Plan. These separate premium rates shall include rate factors for
5 incurred but unreported claim costs, for the effects of adverse selection from voluntary
6 participation in the Plan, and for any other actuarially determined measures needed to
7 protect the financial integrity of the Plan for the benefit of its served employees, retired
8 employees, and their eligible dependents.

9 (e) The total amount of premiums due the Plan from charter schools as
10 employing units, including amounts withheld from the compensation of Plan members,
11 that is not remitted to the Plan by the fifteenth day of the month following the due date
12 of remittance shall be assessed interest of one and one-half percent (1 ½%) of the
13 amount due the Plan, per month or fraction thereof, beginning with the sixteenth day of
14 the month following the due date of the remittance. The interest authorized by this
15 section shall be assessed until the premium payment plus the accrued interest amount is
16 remitted to the Plan. The remittance of premium payments under this section shall be
17 presumed to have been made if the remittance is postmarked in the United States mail
18 on a date not later than the fifteenth day of the month following the due date of the
19 remittance."

20 **SECTION 2.(n)** G.S. 135-39.7 is recodified as G.S. 135-38.10 under Part
21 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as
22 recodified, reads as rewritten:

23 "**§ 135-38.10. Administrative review.**

24 (a) If, after exhaustion of internal appeal handling as outlined in the contract with
25 the Claims Processors any person is aggrieved, the Claims Processors shall bring the
26 matter to the attention of the Executive Administrator and Board of Trustees, which
27 shall promptly decide whether the subject matter of the appeal is a determination subject
28 to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes. The
29 Executive Administrator and Board of Trustees shall inform the aggrieved person and
30 the aggrieved person's provider of the decision and shall provide the aggrieved person
31 notice of the aggrieved person's right to appeal that decision as provided in this
32 subsection. If the Executive Administrator and Board of Trustees decide that the subject
33 matter of the appeal is not a determination subject to external review, then the Executive
34 Administrator and Board of Trustees may make a binding decision on the matter in
35 accordance with procedures established by the Executive Administrator and Board of
36 Trustees. The Executive Administrator and Board of Trustees shall provide a written
37 summary of the decisions made pursuant to this section to all employing units, all health
38 benefit representatives, the oversight team provided for in ~~G.S. 135-39.3~~, G.S. 135-37.3,
39 all relevant health care providers affected by a decision, and to any other parties
40 requesting a written summary and approved by the Executive Administrator and Board
41 of Trustees to receive a summary immediately following the issuance of a decision. A
42 decision by the Executive Administrator and Board of Trustees that a matter raised on
43 internal appeal is a determination subject to external review as provided in subsection
44 (b) of this section may be contested by the aggrieved person under Chapter 150B of the

1 General Statutes. The person contesting the decision may proceed with external review
2 pending a decision in the contested case under Chapter 150B of the General Statutes.

3 (b) The Executive Administrator and Board of Trustees shall adopt and
4 implement utilization review and internal grievance procedures that are substantially
5 equivalent to those required under G.S. 58-50-61 and G.S. 58-50-62. External review of
6 determinations shall be conducted in accordance with Part 4 of Article 50 of Chapter 58
7 of the General Statutes. As used in this section, "determination" is a decision by the
8 Executive Administrator and Board of Trustees, ~~the Plan's designated utilization review~~
9 ~~organization, or a self-funded health maintenance organization or the Plan's designated~~
10 utilization review organization administrated by or under contract with the Plan that an
11 admission, availability of care, continued stay, or other health care service has been
12 reviewed and, based upon information provided, does not meet the Plan's requirements
13 for medical necessity, appropriateness, health care setting, or level of care or
14 effectiveness, and the requested service is therefore denied, reduced, or terminated.

15 (c) The Board of Trustees shall make the final agency decision in all cases
16 contested pursuant to Chapter 150B of the General Statutes. The Executive
17 Administrator shall execute the Board's final agency decisions. For purposes of
18 G.S. 150B-44, the Board of Trustees is an agency that is a board or commission."

19 **SECTION 2.(o)** G.S. 135-39.8 is recodified as G.S. 135-38.11 under Part
20 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as
21 recodified, reads as rewritten:

22 "**§ 135-38.11. Rules and regulations.**Rules.

23 The Executive Administrator and Board of Trustees may ~~issue~~ adopt rules ~~and~~
24 ~~regulations~~ to implement Parts ~~2, 3, 4, and 5~~ 2A, 3A, 4A, and 5A of this Article. The
25 Executive Administrator and Board of Trustees shall provide to all employing units, all
26 health benefit representatives, the oversight team provided for in
27 ~~G.S. 135-39.3, G.S. 135-37.3,~~ all relevant health care providers affected by a ~~rule or~~
28 ~~regulation,~~ rule, and to any other persons requesting a written description and approved
29 by the Executive Administrator and Board of Trustees written notice and an opportunity
30 to comment not later than 30 days prior to adopting, amending, or rescinding a ~~rule or~~
31 ~~regulation,~~ rule, unless immediate adoption of the rule ~~or regulation~~ without notice is
32 necessary in order to fully effectuate the purpose of the ~~rule or regulation.~~ rule. Rules
33 ~~and regulations~~ of the Board of Trustees shall remain in effect until amended or
34 repealed by the Executive Administrator and Board of Trustees. The Executive
35 Administrator and Board of Trustees shall provide a written description of the rules ~~and~~
36 ~~regulations issued~~ adopted under this section to all employing units, all health benefit
37 representatives, the oversight team provided for in ~~G.S. 135-39.3, G.S. 135-37.3,~~ all
38 relevant health care providers affected by a ~~rule or regulation,~~ rule, and to any other
39 persons requesting a written description and approved by the Executive Administrator
40 and Board of Trustees on a timely basis. Rules adopted by the Executive Administrator
41 and Board of Trustees to implement this Article are not subject to Article 2A of Chapter
42 150B of the General Statutes."

1 **SECTION 3.(a)** Effective July 1, 2008, Part 3 of Article 3A of Chapter 135
2 of the General Statutes, as enacted by this act, is recodified as Part 3A of Article 3A of
3 Chapter 135 of the General Statutes.

4 **SECTION 3.(b)** Effective July 1, 2008, G.S. 135-40 is repealed.

5 **SECTION 3.(c)** Part 3A of Article 3A of Chapter 135 of the General
6 Statutes, as enacted by this act, is amended by adding the following new section to read:
7 **"§ 135-39.12. Undertaking.**

8 (a) The State of North Carolina undertakes to make available a State Health Plan
9 (hereinafter called the "Plan") exclusively for the benefit of eligible employees, eligible
10 retired employees, and certain of their eligible dependents, which will pay benefits in
11 accordance with the terms of this Article. The Plan shall have all the powers and
12 privileges of a corporation and shall be known as the State Health Plan for Teachers and
13 State Employees. The Executive Administrator and Board of Trustees shall carry out
14 their duties and responsibilities as fiduciaries for the Plan. The Plan shall administer one
15 or more group health plans that are comprehensive in coverage and shall provide
16 eligible employees and retired employees coverage on a noncontributory basis under at
17 least one of the group plans with benefits equal to that specified in subsection (g) of this
18 section. The Executive Administrator and Board of Trustees may operate group plans as
19 a preferred provider option, or health maintenance, point-of-service, or other
20 organizational arrangement and may offer the plans to employees and retirees on a
21 noncontributory or partially contributory basis. Plans offered on a partially contributory
22 basis must provide benefits that are additional to that specified in subsection (g) of this
23 section and may not be offered unless approved in an act of the General Assembly.

24 (b) Individuals eligible for coverage under G.S. 135-39.14 on a fully or partially
25 contributory basis are eligible to participate in any plan authorized under this section.

26 (c) The State of North Carolina deems it to be in the public interest for North
27 Carolina firefighters, rescue squad workers, and members of the national guard, and
28 certain of their dependents, who are not eligible for any other type of comprehensive
29 group health insurance or other comprehensive group health benefits, and who have
30 been without any form of group health insurance or other comprehensive group health
31 benefit coverage for at least six consecutive months, to be given the opportunity to
32 participate in the benefits provided by the State Health Plan for Teachers and State
33 Employees. Coverage under the Plan shall be voluntary for eligible firefighters, rescue
34 squad workers, and members of the national guard who elect participation in the Plan
35 for themselves and their eligible dependents.

36 (d) The Plan benefits shall be provided under contracts between the Plan and the
37 claims processors selected by the Plan. The Executive Administrator may contract with
38 a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such
39 contracts shall include the applicable provisions of G.S. 135-39.13 through
40 G.S. 135-39.27 and the description of the Plan in the request for proposal, and shall be
41 administered by the respective claims processor or Pharmacy Benefits Manager, which
42 will determine benefits and other questions arising thereunder. The contracts necessarily
43 will conform to applicable State law. If any of the provisions of G.S. 135-39.13 through

1 G.S. 135-39.27 and the request for proposals must be modified for inclusion in the
2 contract because of State law, such modification shall be made.

3 (e) Payroll deduction shall be available for coverage under this Part for
4 subscribers able to meet the Plan's requirements for payroll deduction.

5 (f) Notwithstanding any other provisions of the Plan, the Executive
6 Administrator and Board of Trustees are specifically authorized to use all appropriate
7 means to secure tax qualification of the Plan under any applicable provisions of the
8 Internal Revenue Code of 1954 as amended. The Executive Administrator and Board of
9 Trustees shall furthermore comply with all applicable provisions of the Internal
10 Revenue Code as amended, to the extent that this compliance is not prohibited by this
11 Article.

12 (g) The Executive Administrator and Board of Trustees shall not change the
13 Plan's comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket
14 expenditures, and lifetime maximums in effect on July 1, 2008, that would result in a
15 net increased cost to the Plan or in a reduction in benefits to Plan members unless and
16 until the proposed changes are directed to be made in an act of the General Assembly."

17 **SECTION 3.(d)** G.S. 135-40.1 is repealed.

18 **SECTION 3.(e)** Part 3A of Article 3A of Chapter 135 of the General
19 Statutes, as enacted by this act, is amended by adding the following new section to read:

20 **"§ 135-39.13. General Definitions.**

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

23 (1) Allowed amount. – The charge that the Plan or its claims processors
24 determines is reasonable for covered services provided to a Plan
25 member. This amount may be established in accordance with an
26 agreement between the provider and the Plan or its claims processor.
27 In the case of providers that have not entered into an agreement with
28 the Plan or its claims processor, the allowed amount will be the lesser
29 of the provider's actual charge or a reasonable charge established by
30 the Plan or its claims processor using a methodology that is applied to
31 comparable providers for similar services under a similar health
32 benefit plan.

33 (2) Benefit period. – The period of time during which charges for covered
34 services provided to a Plan member must be incurred in order to be
35 eligible for payment by the Plan.

36 (3) Chemical dependency. – The pathological use or abuse of alcohol or
37 other drugs in a manner or to a degree that produces an impairment in
38 personal, social, or occupational functioning and which may, but need
39 not, include a pattern of tolerance and withdrawal.

40 (4) Claims Processor. – One or more administrators, third-party
41 administrators, or other parties contracting with the Plan to administer
42 Plan benefits.

- 1 (5) Clinical trials. – Patient research studies designed to evaluate new
2 treatments, including prescription drugs. Coverage for clinical trials
3 shall be as provided in G.S. 135-39.20.
- 4 (6) Comprehensive health benefit plan. – Health care coverage that
5 consists of inpatient and outpatient hospital and medical benefits, as
6 well as other outpatient medical services, prescription drugs, medical
7 supplies, and equipment that are generally available in the health
8 insurance market.
- 9 (7) Covered service; benefit; allowable expense. – Any medically
10 necessary, reasonable, and customary items of service, including
11 prescription drugs, and medical supplies included in the Plan.
- 12 (8) Deductible. – The dollar amount that must be incurred for certain
13 covered services in a benefit period before benefits are payable by the
14 Plan.
15 The deductible applies separately to each covered individual in
16 each fiscal year, subject to an aggregate maximum per employee and
17 child, employee and spouse, or employee and family coverage contract
18 in any fiscal year.
19 If two or more family members are injured in the same accident,
20 only one deductible is required for charges related to that accident
21 during the benefit period.
- 22 (9) Dependent. – An eligible Plan member other than the subscriber.
- 23 (10) Dependent child. – A natural, legally adopted, or foster child or
24 children of the employee and or spouse, unmarried, up to the first of
25 the month following his or her 19th birthday, whether or not the child
26 is living with the employee, as long as the employee is legally
27 responsible for such child's maintenance and support. Dependent child
28 shall also include any child under age 19 who has reached his or her
29 18th birthday, provided the employee was legally responsible for such
30 child's maintenance and support on his or her 18th birthday.
31 Dependent children of firefighters, rescue squad workers, and
32 members of the national guard are subject to the same terms and
33 conditions as are other dependent children covered by this subdivision.
34 Eligibility of dependent children is subject to the requirements of
35 G.S. 135-39.14(d).
- 36 (11) Employee or State employee. – Any permanent full-time or permanent
37 part-time regular employee (designated as half-time or more) of an
38 employing unit.
- 39 (12) Employing Unit. – A North Carolina School System; Community
40 College; State Department, Agency, or Institution; Administrative
41 Office of the Courts; or Association or Examining Board whose
42 employees are eligible for membership in a State-Supported
43 Retirement System. An employing unit also shall mean a charter
44 school in accordance with Part 6A of Chapter 115C of the General

1 Statutes whose board of directors elects to become a participating
2 employer in the Plan under G.S. 135-39.17. Bona fide fire
3 departments, rescue or emergency medical service squads, and
4 national guard units are deemed to be employing units for the purpose
5 of providing benefits under this Article.

6 (13) Experimental/Investigational. – Experimental/Investigational Medical
7 Procedures. – The use of a service, supply, drug, or device not
8 recognized as standard medical care for the condition, disease, illness,
9 or injury being treated as determined by the Executive Administrator
10 and Board of Trustees upon the advice of the Claims Processor.

11 (14) Firefighter. – Eligible firefighters as defined by G.S. 58-86-25 who
12 belong to a bona fide fire department as defined by G.S. 58-86-25 and
13 who are not eligible for any type of comprehensive group health
14 insurance or other comprehensive group health benefit coverage and
15 who have been without any form of group health insurance or other
16 comprehensive group health benefit coverage for at least six months.
17 Firefighter shall also include members of the North Carolina Firemen
18 and Rescue Squad Workers' Pension Fund who are in receipt of a
19 monthly pension, who are not eligible for any type of comprehensive
20 group health insurance or other comprehensive group health benefit
21 coverage, and who have been without any form of group health
22 insurance or other comprehensive group health benefit coverage for at
23 least six months. Comprehensive group health insurance and other
24 benefit coverage consists of inpatient and outpatient hospital and
25 medical benefits, as well as other outpatient medical services,
26 prescription drugs, medical supplies, and equipment that are generally
27 available in the health insurance market. For purposes of this
28 subdivision, comprehensive group health insurance and other benefit
29 coverage includes Medicare benefits, CHAMPUS benefits, and other
30 Uniformed Services benefits. North Carolina fire departments or their
31 respective governing bodies shall certify the eligibility of their
32 firefighters to the Plan for their participation in its benefits prior to
33 enrollment.

34 (15) Health Benefits Representative. – The employee designated by the
35 employing unit to administer the Plan for the unit and its employees.
36 The HBR is responsible for enrolling new employees, reporting
37 changes, explaining benefits, reconciling group statements, and
38 remitting group fees. The State Retirement System is the Health
39 Benefits Representative for retired State employees.

40 (16) Medical necessity or medically necessary. – Covered services or
41 supplies that are:

42 a. Provided for the diagnosis, treatment, cure, or relief of a health
43 condition, illness, injury, or disease; and, except for clinical

1 trials covered under the Plan, not for experimental,
2 investigational, or cosmetic purposes.

3 b. Necessary for and appropriate to the diagnosis, treatment, cure,
4 or relief of a health condition, illness, injury, disease, or its
5 symptoms.

6 c. Within generally accepted standards of medical care in the
7 community.

8 d. Not solely for the convenience of the insured, the insured's
9 family, or the provider.

10 For medically necessary services, the Plan or its representative may
11 compare the cost-effectiveness of alternative services or supplies when
12 determining which of the services or supplies will be covered and in
13 what setting medically necessary services are eligible for coverage.

14 (17) National guard members. – Members of the North Carolina army and
15 air national guard who are not eligible for any type of comprehensive
16 group health insurance or other comprehensive group health benefit
17 coverage and who have been without any form of group health
18 insurance or other comprehensive group health benefit coverage for at
19 least six months. Members of the North Carolina army and air national
20 guard include those who are actively serving in the national guard as
21 well as former members of the national guard who have completed 20
22 or more years of service in the national guard but have not attained the
23 minimum age to begin receipt of a uniformed service military
24 retirement benefit. Comprehensive group health insurance and other
25 benefit coverage consists of inpatient and outpatient hospital and
26 medical benefits, as well as other outpatient medical services,
27 prescription drugs, medical supplies, and equipment that are generally
28 available in the health insurance market. Comprehensive group health
29 insurance and other benefit coverage includes Medicare benefits,
30 Civilian Health and Medical Program of the Uniformed Services
31 (CHAMPUS) benefits, and other Uniformed Services benefits. North
32 Carolina national guard units shall certify the eligibility of their
33 members to the Plan for their participation in its benefits prior to
34 enrollment.

35 (18) Optional alternative comprehensive benefit plans. – Comprehensive
36 benefit plans administered by the Plan that differ in coverage,
37 deductibles, coinsurance from the Standard Plan providing for 80/20
38 coinsurance, and that are alternative choices for coverage at the option
39 of the Plan member.

40 (19) Plan or State Health Plan. – The State Health Plan for Teachers and
41 State Employees. Unless otherwise expressly provided, "Plan"
42 includes all comprehensive health benefit plans offered under the Plan.

43 (20) Plan member. – A subscriber or dependent who is eligible and
44 currently enrolled in the Plan and for whom a premium is paid.

- 1 (21) Plan year. – Effective January 1, 2009, the period beginning January 1
2 and ending on December 31 of the succeeding calendar year.
- 3 (22) Predecessor plan. – The Hospital and Medical Benefits for the
4 Teachers' and State Employees' Retirement System of the State of
5 North Carolina and the North Carolina Teachers' and State Employees'
6 Comprehensive Major Medical Plan.
- 7 (23) Rescue squad workers. – Eligible rescue squad workers as defined by
8 the provisions of G.S. 58-86-30 who belong to a rescue or emergency
9 medical services squad as defined by the same statute and who are not
10 eligible for any type of comprehensive group health insurance or other
11 comprehensive group health benefit coverage and who have been
12 without any form of group health insurance or other comprehensive
13 group health benefit coverage for at least six months. Rescue squad
14 workers shall also include members of the North Carolina Firemen and
15 Rescue Squad Workers' Pension Fund who are in receipt of a monthly
16 pension, who are not eligible for any type of comprehensive group
17 health insurance or other comprehensive group health benefit
18 coverage, and who have been without any form of group health
19 insurance or other comprehensive group health benefit coverage for at
20 least six months. Comprehensive group health insurance and other
21 benefit coverage consists of inpatient and outpatient hospital and
22 medical benefits, as well as other outpatient medical services,
23 prescription drugs, medical supplies, and equipment that are generally
24 available in the health insurance market. For purposes of this
25 subdivision, comprehensive group health insurance and other benefit
26 coverage includes Medicare benefits, CHAMPUS benefits, and other
27 Uniformed Services benefits. North Carolina rescue or emergency
28 medical services squads or their respective governing bodies shall
29 certify the eligibility of their rescue squad workers to the Plan for their
30 participation in its benefits prior to enrollment.
- 31 (24) Retired employee (retiree). – Retired teachers, State employees, and
32 members of the General Assembly who are receiving monthly
33 retirement benefits from any retirement system supported in whole or
34 in part by contributions of the State of North Carolina, so long as the
35 retiree is enrolled.
- 36 (25) Subscriber. – A Plan member who is not a dependent.
- 37 (26) Surviving spouse. – The spouse of a deceased Plan member who is
38 eligible for Plan enrollment."

39 **SECTION 3.(f)** G.S. 135-40.2, as amended by Section 28.22A of S.L.
40 2007-323, is recodified as G.S. 135-39.14 under Part 3A of Article 3A of Chapter 135
41 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:
42 "**§ 135-39.14. Eligibility.**

1 (a) Noncontributory Coverage. – The following persons are eligible for coverage
2 under the Plan, on a noncontributory basis, subject to the provisions of
3 ~~G.S. 135-40.3~~G.S. 135-39.16:

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

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

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

14 ~~(1a)~~(2) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
15 least one-half of the workdays of each pay period.

16 ~~(2)~~(3) Retired teachers, State employees, members of the General Assembly,
17 and retired State law enforcement officers who retired under the Law
18 Enforcement Officers' Retirement System prior to January 1, 1985.
19 Except as otherwise provided in this subdivision, on and after January
20 1, 1988, a retiring employee or retiree must have completed at least
21 five years of contributory retirement service with an employing unit
22 prior to retirement from any State-supported retirement system in order
23 to be eligible for group benefits under this Part as a retired employee
24 or retiree. For employees first hired on and after October 1, 2006, and
25 members of the General Assembly first taking office on and after
26 February 1, 2007, future coverage as retired employees and retired
27 members of the General Assembly is subject to a requirement that the
28 future retiree have 20 or more years of retirement service credit in
29 order to be covered by the provisions of this subdivision.

30 ~~(2a)~~(4) Surviving spouses of:

- 31 a. Deceased retired employees, provided the death of the former
32 plan member occurred prior to October 1, 1986; and
33 b. Deceased teachers, State employees, and members of the
34 General Assembly who are receiving a survivor's alternate
35 benefit under any of the State-supported retirement programs,
36 provided the death of the former plan member occurred prior to
37 October 1, 1986.

38 ~~(3a)~~(5) Employees of the General Assembly, not otherwise covered by this
39 section, as determined by the Legislative Services Commission, except
40 for legislative interns and pages.

41 ~~(4)~~(6) Members of the General Assembly.

42 ~~(5)~~(7) Notwithstanding the provisions of subsection (e) of this section,
43 employees on official leave of absence while completing a full-time
44 program in school administration in an approved program as a

1 Principal Fellow in accordance with Article 5C of Chapter 116 of the
2 General Statutes.

3 ~~(6)~~(8) Notwithstanding the provisions of ~~G.S. 135-40.11~~, G.S. 135-39.24
4 employees formerly covered by the provisions of this section, other
5 than retired employees, who have been employed for 12 or more
6 months by an employing unit and whose jobs are eliminated because
7 of a reduction, in total or in part, in the funds used to support the job or
8 its responsibilities, provided the employees were covered by the Plan
9 at the time of separation from service resulting from a job elimination.
10 Employees covered by this subsection shall be covered for a period of
11 up to 12 months following a separation from service because of a job
12 elimination.

13 ~~(7)~~(9) Any member enrolled pursuant to subdivision (1) or ~~(1a)~~(2) of this
14 subsection who is on approved leave of absence with pay or receiving
15 workers' compensation.

16 ~~(8)~~(10) Employees on approved Family and Medical Leave.

17 ~~(a2)~~(b) Partially Contributory. – The following persons are eligible for coverage
18 under the Plan on a partially contributory basis subject to the provisions of
19 G.S. 135-39.16:

20 (1) A school employee in a job-sharing position as defined in
21 ~~G.S. 130-40.3~~, G.S. 135-39.16. If these employees elect to participate
22 in the Plan, the employing unit shall pay fifty percent (50%) of the
23 Plan's total noncontributory premiums. Individual employees shall pay
24 the balance of the total noncontributory premiums not paid by the
25 employing unit.

26 (2) ~~(a3)~~ Subject to the provisions of ~~G.S. 135-40.3~~, G.S. 135-39.16,
27 employees and members of the General Assembly with 10 but less
28 than 20 years of retirement service credit ~~shall be eligible for coverage~~
29 ~~under the Plan on a partially contributory basis~~, provided the
30 employees were first hired on or after October 1, 2006, and the
31 members first took office on or after February 1, 2007. For such future
32 retirees, the State shall pay fifty percent (50%) of the Plan's total
33 noncontributory premiums. Individual retirees shall pay the balance of
34 the total noncontributory premiums not paid by the State.

35 ~~(a4) The Executive Administrator and Board of Trustees may in addition to~~
36 ~~noncontributory coverage offer optional coverage on a partially contributory basis and~~
37 ~~may set premium rates for the optional coverage on a partially contributory basis. The~~
38 ~~amount of State funds contributed for optional coverage on a partially contributory basis~~
39 ~~shall not be more than the Plan's total noncontributory premium for Employee Only~~
40 ~~coverage, with the person selecting the coverage paying the balance of the partially~~
41 ~~contributory premium not paid by the Plan. The amount of State funds contributed shall~~
42 ~~not exceed the Plan's cost for Employee Only coverage. The Executive Administrator~~
43 ~~and Board of Trustees shall not impose a partially contributory premium until after it~~

1 has consulted on the premium and the optional coverage design with the Committee on
2 Employee Hospital and Medical Benefits.

3 ~~(b)~~(c) Fully Contributory. – The following person shall be eligible for coverage
4 under the Plan, on a fully contributory basis, subject to the provisions of
5 ~~G.S. 135-40.3~~:G.S. 135-39.16:

6 ~~(2)~~(1) Former members of the General Assembly who enroll before October
7 1, 1986.

8 ~~(2a)~~(2) For enrollments after September 30, 1986, former members of the
9 General Assembly if covered under the Plan at termination of
10 membership in the General Assembly. To be eligible for coverage as a
11 former member of the General Assembly, application must be made
12 within 30 days of the end of the term of office. Only members of the
13 General Assembly covered by the Plan at the end of the term of office
14 are eligible. If application is not made within the specified time period,
15 the member forfeits eligibility.

16 (3) Surviving spouses of deceased former members of the General
17 Assembly who enroll before October 1, 1986.

18 ~~(3a)~~(4) Employees of the General Assembly, not otherwise covered by this
19 section, as determined by the Legislative Services Commission, except
20 for legislative interns and pages.

21 ~~(3b)~~(5) For enrollments after September 30, 1986, surviving spouses of
22 deceased former members of the General Assembly, if covered under
23 the Plan at the time of death of the former member of the General
24 Assembly.

25 ~~(4)~~(6) All permanent part-time employees (designated as half-time or more)
26 of an employing unit who meets the conditions outlined in subdivision
27 (a)(1)a above, and who are not covered by the provisions of
28 ~~G.S. 135-40.2(a)(1)~~:G.S. 135-39.14(a)(1).

29 ~~(5)~~(7) The spouses and eligible dependent children of enrolled teachers, State
30 employees, retirees, former members of the General Assembly, former
31 employees covered by the provisions of
32 ~~G.S. 135-40.2(a)(6)~~,G.S. 135-39.14(a)(8), Disability Income Plan
33 beneficiaries, enrolled continuation members, and members of the
34 General Assembly. Spouses of surviving dependents are not eligible,
35 nor are dependent children if they were not covered at the time of the
36 member's death. Surviving spouses may cover their dependent children
37 provided the children were enrolled at the time of the member's death
38 or enroll within ~~30~~90 days of the member's death.

39 ~~(6)~~(8) Blind persons licensed by the State to operate vending facilities under
40 contract with the Department of Health and Human Services, Division
41 of Services for the Blind and its successors, who are:

42 a. Operating such a vending facility;

43 b. Former operators of such a vending facility whose service as an
44 operator would have made these operators eligible for an early

1 or service retirement allowance under Article 1 of this Chapter
2 had they been members of the Retirement System; and

- 3 c. Former operators of such a vending facility who attain five or
4 more years of service as operators and who become eligible for
5 and receive a disability benefit under the Social Security Act
6 upon cessation of service as an operator.

7 Spouses, dependent children, surviving spouses, and surviving
8 dependent children of such members are not eligible for coverage.

- 9 ~~(8)~~(9) Surviving spouses of deceased retirees and surviving spouses of
10 deceased teachers, State employees, and members of the General
11 Assembly provided the death of the former Plan member occurred
12 after September 30, 1986, and the surviving spouse was covered under
13 the Plan at the time of death.

- 14 (10) Any eligible dependent child of the deceased retiree, teacher, State
15 employee, member of the General Assembly, former member of the
16 General Assembly, or Disability Income Plan beneficiary, provided the
17 child was covered at the time of death of the retiree, teacher, State
18 employee, member of the General Assembly, former member of the
19 General Assembly, or Disability Income Plan beneficiary, (or was in
20 posse at the time and is covered at birth under this Part), or was
21 covered under the Plan on September 30, 1986. An eligible surviving
22 dependent child can remain covered until age 19, or age 26 if a
23 full-time student, or indefinitely if certified as incapacitated under
24 G.S. 135-40.1(3)b.~~G.S. 135-39.13(5)b.~~

- 25 ~~(11a)~~(11) Retired teachers, State employees, and members of the General
26 Assembly with less than 10 years of retirement service credit, provided
27 the teachers and State employees were first hired on or after October 1,
28 2006, and the members first took office on or after February 1, 2007.

- 29 (12) Notwithstanding the provisions of ~~G.S. 135-40.11,~~G.S. 135-39.23
30 former employees covered by the provisions of ~~G.S.~~
31 ~~135-40.2(a)(6),~~G.S. 135-39.14 and their spouses and eligible
32 dependent children who were covered by the Plan at the time of the
33 former employees' separation from service pursuant to
34 ~~G.S. 135-40.2(a)(6),~~ G.S. 135-39.14, following expiration of the
35 former employees' coverage provided by ~~G.S. 135-40.2(a)(6).~~
36 G.S. 135-39.14. Election of coverage under this subdivision shall be
37 made within 90 days after the termination of coverage provided under
38 ~~G.S. 135-40.2(a)(6).~~G.S. 135-39.14.

- 39 (13) ~~Firemen,~~Firefighters, rescue squad workers, and members of the
40 national guard, their eligible spouses, and eligible dependent children.

41 (d) A foster child is covered as a dependent child (i) if living in a regular
42 parent-child relationship with the expectation that the employee will continue to rear the
43 child into adulthood, (ii) if at the time of enrollment, or at the time a foster child
44 relationship is established, whichever occurs first, the employee applies for coverage for

1 such child and submits evidence of a bona fide foster child relationship, identifying the
2 foster child by name and setting forth all relevant aspects of the relationship, (iii) if the
3 claims processor accepts the foster child as a participant through a separate written
4 document identifying the foster child by name and specifically recognizing the foster
5 child relationship, and (iv) if at the time a claim is incurred, the foster child relationship,
6 as identified by the employee, continues to exist. Children placed in a home by a
7 welfare agency which obtains control of, and provides for maintenance of the child, are
8 not eligible participants.

9 Coverage of a dependent child may be extended beyond the 19th birthday under the
10 following conditions:

11 (1) If the dependent is a full-time student, between the ages of 19 and 26,
12 who is pursuing a course of study that represents at least the normal
13 workload of a full-time student at a school or college accredited by the
14 state of jurisdiction.

15 (2) The dependent is physically or mentally incapacitated to the extent that
16 he or she is incapable of earning a living and (i) such handicap
17 developed or began to develop before the dependent's 19th birthday, or
18 (ii) such handicap developed or began to develop before the
19 dependent's 26th birthday if the dependent was covered by the Plan in
20 accordance with G.S. 135-39.14(5)a.

21 ~~(e)~~(e) No person shall be eligible for coverage as a dependent if eligible as an
22 employee or retired employee, except when a spouse is eligible on a fully contributory
23 basis. In addition, no person shall be eligible for coverage as a dependent of more than
24 one employee or retired employee at the same time.

25 ~~(d)~~(f) Former employees who are receiving disability retirement benefits or
26 disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes,
27 provided the former employee has at least five years of retirement membership service,
28 shall be eligible for the benefit provisions of this Plan, as set forth in this Part, on a
29 noncontributory basis. Such coverage shall terminate as of the end of the month in
30 which such former employee is no longer eligible for disability retirement benefits or
31 disability income benefits pursuant to Article 6 of this Chapter.

32 ~~(e)~~(g) Employees on official leave of absence without pay may elect to continue this
33 group coverage at group cost provided that they pay the full employee and employer
34 contribution through the employing unit during the leave period.

35 ~~(f)~~(h) For the support of the benefits made available to any member vested at the
36 time of retirement, their spouses or surviving spouses, and the surviving spouses of
37 employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those
38 associations listed in G.S. 135-27(a), licensing and examining boards under
39 G.S. 135-1.1, ~~the North Carolina Art Society, Inc., and the North Carolina Symphony~~
40 ~~Society, Inc.,~~ each association, organization or board shall pay to the Plan the full cost
41 of providing these benefits under this section as determined by the Board of Trustees of
42 the State Health Plan for Teachers and State Employees. In addition, each association,
43 organization or board shall pay to the Plan an amount equal to the cost of the benefits
44 provided under this section to presently retired members of each association,

1 organization or board since such benefits became available at no cost to the retired
2 member.

3 ~~(g)~~(i) An eligible surviving spouse and any eligible surviving dependent child of a
4 deceased retiree, teacher, State employee, member of the General Assembly, former
5 member of the General Assembly, or Disability Income Plan beneficiary shall be
6 eligible for group benefits under this section without waiting periods for preexisting
7 conditions provided coverage is elected within 90 days after the death of the former plan
8 member. Coverage may be elected at a later time, but will be subject to the 12-month
9 waiting period for preexisting conditions and will be effective the first day of the month
10 following receipt of the application.

11 ~~(h)~~(j) No person shall be eligible for coverage as an employee or retired employee
12 or as a dependent of an employee or retired employee upon a finding by the Executive
13 Administrator or Board of Trustees or by a court of competent jurisdiction that the
14 employee or dependent knowingly and willfully made or caused to be made a false
15 statement or false representation of a material fact in a claim for reimbursement of
16 medical services under the Plan. The Executive Administrator and Board of Trustees
17 may make an exception to the provisions of this subsection when persons subject to this
18 subsection have had a cessation of coverage for a period of five years and have made a
19 full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in
20 this subsection shall be construed to obligate the Executive Administrator and Board of
21 Trustees to make an exception as allowed for under this subsection.

22 ~~(i)~~(k) Any employee receiving benefits pursuant to Article 6 of this Chapter when
23 the employee has less than five years of retirement membership service, or an employee
24 on leave without pay due to illness or injury for up to 12 months, is entitled to continued
25 coverage under the Plan for the employee and any eligible dependents by paying one
26 hundred percent (100%) of the cost."

27 **SECTION 3.(g)** Part 3A of Article 3A of Chapter 135 of the General
28 Statutes is amended by adding the following new section to read:

29 "**§ 135-39.15. Enrollment.**

30 (a) Except as otherwise required by applicable federal law, new employees must
31 be given the opportunity to enroll or decline enrollment for themselves and their
32 dependents within 30 days from the date of employment or from first becoming eligible
33 on a noncontributory basis. Coverage may become effective on the first day of the
34 month following date of entry on payroll or on the first day of the following month.
35 New employees not enrolling themselves and their dependents within 30 days, or not
36 adding dependents when first eligible as provided herein may enroll on the first day of
37 any month but will be subject to a 12-month waiting period for preexisting health
38 conditions, except for employees who elect to change their coverage in accordance with
39 rules established by the Executive Administrator and Board of Trustees for optional or
40 alternative plans available under the Plan. Children born to covered employees having
41 coverage type (2) or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered
42 at the time of birth without any waiting period for preexisting health conditions.
43 Children born to covered employees having coverage type (1) shall be automatically
44 covered at birth without any waiting period for preexisting health conditions so long as

1 the claims processor receives notification within 30 days of the date of birth that the
2 employee desires to change from coverage (1) to coverage type (2) or (3), provided that
3 the employee pays any additional premium required by the coverage type selected
4 retroactive to the first day of the month in which the child was born.

5 (b) Newly acquired dependents (spouse/child) enrolled within 30 days of
6 becoming an eligible dependent will not be subject to the 12-month waiting period for
7 preexisting conditions. A dependent can become qualified due to marriage, adoption,
8 entering a foster child relationship, due to the divorce of a dependent child or the death
9 of the spouse of a dependent child, and at the beginning of each legislative session
10 (applies only to enrolled legislators). Effective date for newly acquired dependents if
11 application was made within the 30 days can be the first day of the following month.
12 Effective date for an adopted child can be date of adoption, or date of placement in the
13 adoptive parents' home, or the first of the month following the date of adoption or
14 placement. Firefighters, rescue squad workers, and members of the national guard, and
15 their eligible dependents, are subject to the same terms and conditions as are new
16 employees and their dependents covered by this subdivision. Enrollments in these
17 circumstances must occur within 30 days of eligibility to enroll."

18 **SECTION 3.(h)** G.S. 135-40.3, as amended by Section 28.22A of S.L.
19 2007-323, is recodified as G.S. 135-39.16 under Part 3A of Article 3A of Chapter 135
20 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

21 "**§ 135-39.16. Effective dates of coverage.**

22 (a) Employees and Retired Employees. –

- 23 (1) Employees and retired employees covered under the Predecessor Plan
24 will continue to be covered, subject to the terms hereof.
- 25 (2) New employees may apply for coverage to be effective on the first day
26 of the month following employment, or on a like date the following
27 month if the employee has enrolled.
- 28 (3) Employees not enrolling or adding dependents when first eligible in
29 accordance with ~~G.S. 135-40.1(7)~~G.S. 135-39.15 may enroll later on
30 the first of any following month but will be subject to a 12-month
31 waiting period for a preexisting health condition, except employees
32 who elect to change their coverage in accordance with rules adopted
33 by the Executive Administrator and Board of Trustees for optional
34 ~~prepaid hospital and medical benefit plans~~alternative plans offered
35 under the Plan.
- 36 (4) Members of the General Assembly, beginning with the 1985 Session,
37 shall become first eligible with the convening of each Session of the
38 General Assembly, regardless of a Member's service during previous
39 Sessions. Members and their dependents enrolled when first eligible
40 after the convening of each Session of the General Assembly will not
41 be subject to any waiting periods for preexisting health conditions.
42 Members of the 1983 Session of the General Assembly, not already
43 enrolled, shall be eligible to enroll themselves and their dependents on

1 or before October 1, 1983, without being subject to any waiting
2 periods for preexisting health conditions.

3 (b) Waiting Periods and Preexisting Conditions. –

4 (1) New employees and dependents enrolling when first eligible are
5 subject to no waiting period for preexisting conditions under the Plan.

6 (2) Employees not enrolling or not adding dependents when first eligible
7 may enroll later on the first of any following month, but will be subject
8 to a twelve-month waiting period for preexisting conditions except as
9 provided in subdivision (a)(3) of this section.

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

17 (4) Employees and dependents enrolling or reenrolling within 12 months
18 after a termination of enrollment or employment that were not enrolled
19 at the time of this previous termination, regardless of the employing
20 units involved, shall not be considered as newly-eligible employees or
21 dependents for the purposes of waiting periods and preexisting
22 conditions. Employees and dependents transferring from optional
23 ~~plans in accordance with G.S. 135-39.5B;~~ alternative plans available
24 under the Plan; employees and dependents immediately returning to
25 service from an employing unit's approved periods of leave without
26 pay for illness, injury, educational improvement, workers'
27 compensation, parental duties, or for military reasons; employees and
28 dependents immediately returning to service from a reduction in an
29 employing unit's work force; retiring employees and dependents
30 reenrolled in accordance with
31 ~~G.S. 135-40.3(b)(3);~~ G.S. 135-39.16(b)(3); formerly-enrolled
32 dependents reenrolling as eligible employees; formerly-enrolled
33 employees reenrolling as eligible dependents; and employees and
34 dependents reenrolled without waiting periods and preexisting
35 conditions under specific rules ~~and regulations~~ adopted by the
36 Executive Administrator and Board of Trustees in the best interests of
37 the Plan shall not be considered reenrollments for the purpose of this
38 subdivision. Furthermore, employees accepting permanent, full-time
39 appointments who had previously worked in a part-time or temporary
40 position and their qualified dependents shall not be covered by waiting
41 periods and preexisting conditions under this division provided
42 enrollment as a permanent, full-time employee is made when the
43 employee and his dependents are first eligible to enroll.

- 1 (5) To administer the 12-month waiting period for preexisting conditions
2 under this Article, the Plan must give credit against the 12-month
3 period for the time that a person was covered under a previous plan if
4 the previous plan's coverage was continuous to a date not more than 63
5 days before the effective date of coverage. As used in this subdivision,
6 a "previous plan" means any policy, certificate, contract, or any other
7 arrangement provided by any accident and health insurer, any hospital
8 or medical service corporation, any health maintenance organization,
9 any preferred provider organization, any multiple employer welfare
10 arrangement, any self-insured health benefit arrangement, any
11 governmental health benefit or health care plan or program, or any
12 other health benefit arrangement.
- 13 (c) Dependents of Employees and Retired Employees. –
- 14 (1) Dependents of employees and retired employees who have family
15 coverage under the Predecessor Plan will continue to be covered
16 subject to the terms hereof.
- 17 (2) Employees who have dependents may apply for family coverage at the
18 time they enroll as provided in subdivisions (a)(2) and (a)(3) of this
19 section and such dependents will be covered under the Plan beginning
20 the same date as such employees.
- 21 (3) Employees and retired employees may change from ~~individual or~~
22 ~~parent/child(ren) coverage to parent/child(ren) or family coverage or~~
23 ~~add dependents to existing family or parent/child(ren) coverage upon~~
24 ~~acquiring a dependent~~ one category of coverage to a different category
25 of coverage without a waiting period for preexisting conditions, ~~and~~
26 and, as applicable, dependents will be covered under the Plan the first
27 of the month or the first of the second month following the dependent's
28 eligibility for coverage, provided written application is submitted to
29 the Health Benefits Representative within 30 days of becoming
30 eligible.
- 31 (4) Employees or retired employees who wish to change ~~from family~~
32 ~~coverage to parent/child(ren) or individual or from parent/child(ren) to~~
33 ~~individual coverage to employee only coverage~~ shall give written
34 notice to their Health Benefits Representative within 30 days after any
35 change in the status of dependents, (resulting from death, divorce, etc.)
36 that requires a change in contract ~~type~~ category. The effective date will
37 be the first of the month following the dependent's ineligibility event.
38 If notification was not made within the 30 days following the
39 dependent's ineligibility event, the dependent will be retroactively
40 removed the first of the month following the dependent's ineligibility
41 event, and the coverage ~~type~~ category change will be the first of the
42 month following written notification, except in cases of death, in
43 which case the coverage ~~type~~ category change will be made retroactive
44 to the first of the month following the death.

- 1 (5) Employees not adding dependents when first eligible may enroll later
2 on the first of any following month, but dependents will be subject to a
3 12-month waiting period for preexisting health conditions except as
4 provided in subdivision (a)(3) of this section.
- 5 (6) Employees or retired employees who wish to change to employee only
6 coverage from family to parent/child(ren) or individual coverage or
7 from parent/child(ren) to individual coverage, even though their
8 dependents continue to be eligible, shall give written notification to
9 their Health Benefits Representative. ~~Effective~~ Except as otherwise
10 required by applicable federal law, e date of this ~~type-category~~ change
11 will be the first of the month following written notification or any first
12 of the month thereafter as desired by the employee.
- 13 (7) The effective date for newborns or adopted children will be date of
14 birth, date of adoption, or placement with adoptive parent provided
15 member is currently covered under a ~~family or parent/child(ren)~~
16 ~~coverage.~~ employee and family or employee and child coverage. If the
17 member wishes to add a newborn or adopted child and is currently
18 enrolled ~~on individual~~ in employee only coverage, the member must
19 submit application for coverage and a coverage type change within 30
20 days of the child's birth or date of adoption or placement. Effective
21 date for the coverage ~~type-category~~ change is the first of the month in
22 which the child is born, adopted, or placed. Adopted children may also
23 be covered the first of the month following placement or adoption.
- 24 (d) ~~Types-Categories~~ of Coverage Available. – There are ~~three~~ four ~~types~~
25 categories of coverage which an employee or retiree may elect.
- 26 (1) Employee Only. – Covers enrolled employees only. Maternity benefits
27 are provided to employee only.
- 28 (2) Employee and ~~Child(ren).~~ Child. – Covers enrolled employee and all
29 eligible dependent children. Maternity benefits are provided to the
30 employee only.
- 31 (3) Employee and Family. – Covers employee and spouse, and all eligible
32 dependent children. Maternity benefits are provided to employee or
33 enrolled spouse.
- 34 (4) Employee and spouse. Covers employee and spouse only. Maternity
35 benefits are provided to the employee or the employee's enrolled
36 spouse.
- 37 (e) Notwithstanding any other provision of this section, no coverage under the
38 Plan shall become effective prior to the payment of premiums required by the Plan.
- 39 (f) ~~Firemen, Firefighters,~~ rescue squad workers, and members of the national
40 guard are subject to the same terms and conditions of this section as are employees.
41 Eligible dependents of ~~firemen, firefighters,~~ rescue squad workers, and members of the
42 national guard are subject to the same terms and conditions of this section as are
43 dependents of employees.

1 (g) Different categories of coverage may be offered for optional alternative plans
2 or programs.

3 (h) If any provision of this section is in conflict with applicable federal law,
4 federal law shall control to the extent of the conflict."

5 **SECTION 3.(i)** G.S. 135-40.3A is recodified as G.S. 135-39.17 under Part
6 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

7 **SECTION 3.(j)** G.S. 135-40.5, as amended by Section 28.22 of S.L.
8 2007-323, and as further amended by Section 22.28A of S.L. 2007-323, is recodified as
9 G.S. 135-39.18 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as
10 enacted by this act, and as recodified, reads as rewritten:

11 "**§ 135-39.18. Benefits not subject to deductible or coinsurance.**

12 (e) ~~Preadmission Testing. — The Plan will pay one hundred percent (100%) of~~
13 ~~reasonable and customary charges for diagnostic, laboratory and x ray examinations~~
14 ~~performed on an outpatient basis.~~

15 (f)(a) Immunizations. — The Plan will pay one hundred percent (100%) of allowable
16 medical charges for immunizations for the prevention of contagious diseases as
17 generally accepted medical practices would dictate when directed by ~~an attending~~
18 physician, a credentialed provider as determined by the claims processor.

19 (g)(b) Prescription Drugs. — The Plan's allowable charges for prescription legend
20 drugs to be used outside of a hospital or skilled nursing facility ~~are to be~~ shall be as
21 determined by the Plan's Executive Administrator and Board of Trustees. Trustees,
22 which determinations are not subject to appeal under Article 3 of Chapter 150B of the
23 General Statutes.

24 The Plan will pay allowable charges for each outpatient prescription drug less a
25 copayment to be paid by each covered individual equal to the following amounts:
26 pharmacy charges up to ten dollars (\$10.00) for each generic prescription, thirty dollars
27 (\$30.00) for each preferred branded prescription, and forty dollars (\$40.00) for each
28 preferred branded prescription with a generic equivalent drug, and fifty dollars (\$50.00)
29 for each nonpreferred branded or generic prescription. These co-payments apply to ~~the~~
30 Plan's optional programs, all optional alternative plans available under the Plan.

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

1 necessary to the health of the member. The Plan and its pharmacy benefit manager shall
2 not provide coverage for growth hormone and weight loss drugs and antifungal drugs
3 for the treatment of nail fungus and botulinum toxin without approval in advance by the
4 pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator
5 and pharmacy benefit manager shall be an open formulary. Plan members shall not be
6 assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal
7 year in copayments required by this subsection.

8 **SECTION 3.(k)** G.S. 135-40.6A is repealed.

9 **SECTION 3.(l)** Part 3A of Article 3A of Chapter 135 of the General Statutes
10 is amended by adding the following new section to read:

11 **"§ 135-39.19. Prior approval procedures.**

12 The Executive Administrator and Board of Trustees may establish procedures to
13 require prior medical approval and may implement the procedures after consultation
14 with the Committee on Employee Hospital and Medical Benefits."

15 **SECTION 3.(m)** Effective July 1, 2008, G.S. 135-40.7, as amended by
16 Section 28.22A(j) of S.L. 2007-323, is recodified as G.S. 135-39.20 under Part 3A of
17 Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as
18 recodified, reads as rewritten:

19 **"§ 135-39.20. General limitations and exclusions.**

20 The following shall in no event be considered covered expenses nor will benefits
21 described in ~~G.S. 135-40.5 through G.S. 135-40.11~~G.S. 135-39.18 through
22 G.S. 135-39.23 be payable for:

- 23 (1) Charges for any services rendered to a person prior to the date
24 coverage under this Plan becomes effective with respect to such
25 person.
- 26 (2) Charges for care in a nursing home, adult care home, convalescent
27 home, or in any other facility or location for custodial or for rest cures.
- 28 (3) Charges to the extent paid, or which the individual is entitled to have
29 paid, or to obtain without cost, in accordance with any government
30 laws or regulations except Medicare. If a charge is made to any such
31 person which he or she is legally required to pay, any benefits under
32 this Plan will be computed in accordance with its provisions, taking
33 into account only such charge. "Any government" includes the federal,
34 State, provincial or local government, or any political subdivision
35 thereof, of the United States, Canada or any other country.
- 36 (4) Charges for services rendered in connection with any occupational
37 injury or disease arising out of and in the course of employment with
38 any employer, if (i) the employer furnishes, pays for or provides
39 reimbursement for such charges, or (ii) the employer makes a
40 settlement payment for such charges, or (iii) the person incurring such
41 charges waives or fails to assert his or her rights respecting such
42 charges.
- 43 (5) Charges for any care, treatment, services or supplies other than those
44 which are certified by a physician who is attending the individual as

1 being required for the medically necessary treatment of the injury or
2 disease and are deemed medically necessary and appropriate for the
3 treatment of the injury or disease by the Executive Administrator and
4 Board of Trustees upon the advice of the Claims Processor. This
5 subdivision shall not be construed, however, to require certification by
6 an attending physician for a service provided by an advanced practice
7 registered nurse acting within the nurse's lawful scope of ~~practice,~~
8 ~~subject to the limitations of G.S. 135-40.6(10).practice.~~

- 9 (6) Charges for any services rendered as a result of injury or sickness due
10 to an act of war, declared or undeclared, which act shall have occurred
11 after the effective date of a person's coverage under the Plan.
- 12 (7) Charges for personal services such as barber services, guest meals,
13 radio and TV rentals, etc.
- 14 (8) Charges for any services with respect to which there is no legal
15 obligation to pay. For the purposes of this item, any charge which
16 exceeds the charge that would have been made if a person were not
17 covered under this Plan shall, to the extent of such excess, be treated as
18 a charge for which there is no legal obligation to pay; and any charge
19 made by any person for anything which is normally or customarily
20 furnished by such person without payment from the recipient or user
21 thereof shall also be treated as a charge for which there is no legal
22 obligation to pay.
- 23 (9) Charges during a continuous hospital confinement which commenced
24 prior to the effective date of the person's coverage under this Plan.
- 25 (10) Charges in excess of either ~~the usual, customary and reasonable charge~~
26 ~~for the allowed amount or the reasonable amount,~~ or the fair and
27 reasonable value of the services or supply which gives rise to the
28 expense; provided that in each instance the extent that a particular
29 charge is usual, customary and reasonable or fair and reasonable shall
30 be measured and determined by comparing the charge with charges
31 made for similar things to individuals of similar age, sex, income and
32 medical condition in the locality concerned, and the result of such
33 determination shall constitute the maximum allowable as covered
34 medical expenses unless the Claims Processor finds that considerations
35 of fairness and equity in a particular set of circumstances require that
36 greater or lesser charges be considered as covered medical expenses in
37 that set of circumstances.
- 38 (11) Charges for or in connection with any dental work or dental treatment
39 except to the extent that such work or treatment is specifically
40 provided for under the Plan. Excluded is payment for surgical benefits
41 for tooth replacement, such as crowns, bridges or dentures; orthodontic
42 care; filling of teeth; extraction of teeth (whether or not impacted); root
43 canal therapy; removal of root tips from teeth; treatment for tooth
44 decay, inflammation of gingiva, or surgical procedures on diseased

1 gingiva or other periodontal surgery; repositioning soft tissue,
2 reshaping bone, and removal of bony projections from the ridges
3 preparatory to fitting of dentures; removal of cysts incidental to
4 removal of root tips from teeth and extraction of teeth; or other dental
5 procedures involving teeth and their bones or tissue supporting
6 structure.

7 (12) Charges incurred for any medical observations or diagnostic study
8 when no disease or injury is revealed, unless proof satisfactory to the
9 Claims Processor is furnished that (i) the claim is in order in all other
10 respects, (ii) the covered individual had a definite symptomatic
11 condition of disease or injury other than hypochondria, and (iii) the
12 medical observation and diagnostic studies concerned were not
13 undertaken as a matter of routine physical examination or health
14 ~~checkup as provided in G.S. 135-40.6(8)s-checkup.~~

15 (13) Charges for eyeglasses or other corrective lenses (except for cataract
16 lenses certified as medically necessary for aphakia persons) and
17 hearing aids or examinations for the prescription or fitting thereof.

18 (14) Charges for cosmetic surgery or treatment except that charges for
19 cosmetic surgery or treatment required for correction of damage
20 caused by accidental injury sustained by the covered individual while
21 coverage under this plan is in force on his or her account or to correct
22 congenital deformities or anomalies shall not be excluded if they
23 otherwise qualify as covered medical expenses. Reconstructive breast
24 surgery following mastectomy, as those terms are defined in
25 G.S. 58-51-62, is not "cosmetic surgery or treatment" for purposes of
26 this section.

27 (15) Admissions for diagnostic tests or procedures which could be, and
28 generally are, performed on an outpatient basis and inpatient services
29 or supplies which are not consistent with the diagnosis, for which
30 admitted.

31 (16) Costs denied by the Claims Processor as part of its overall program of
32 claim review and cost containment.

33 ~~(16a)~~(17) Charges in excess of negotiated rates allowed for preferred
34 providers of institutional and professional medical care and ~~services in~~
35 ~~accordance with the provisions of G.S. 135-40.4, services,~~ when such
36 preferred providers are reasonably available to provide institutional
37 and professional medical care.

38 ~~(17)~~(18) If a covered service becomes excluded from coverage under the
39 Plan, the Executive Administrator and Claims Processor may, in the
40 event of exceptional situations creating undue hardships or adverse
41 medical conditions, allow persons enrolled in the Plan to remain
42 covered by the Plan's previous coverage for up to three months after
43 the effective date of the change in coverage, provided the persons so
44 enrolled had been undergoing a continuous plan of specific treatment

1 initiated within three months prior to the effective date of the change
2 in coverage.

3 ~~(18)~~(19) Charges for services unless a claim is filed within 18 months from
4 the date of service.

5 ~~(19)~~(20) Any service, treatment, facility, equipment, drug, supply, or
6 procedure that is experimental or investigational as defined in
7 ~~G.S. 135-40.1(7a)~~ by the Plan. Clinical trial phases III and IV are
8 covered by the Plan as is clinical trial phase II when approved by the
9 Plan. Regardless of the type of trial phases covered by the Plan, all
10 covered trials must involve the treatment of life-threatening medical
11 conditions, must be clearly superior to available noninvestigational
12 treatment alternatives, and must have clinical and preclinical data that
13 shows the trials will be at least as effective as noninvestigational
14 alternatives. Trials must also involve determinations by treating
15 physicians, relevant scientific data, and opinions of experts in relevant
16 fields of medicine. Covered trials must be approved by the National
17 Institutes of Health, a National Institutes of Health cooperative group
18 or center, the U.S. Food and Drug Administration, the U.S.
19 Department of Defense, or the U.S. Department of Veterans Affairs.
20 The Plan may also cover clinical trials sponsored by other entities.
21 Trials must also be approved by applicable qualified institutional
22 review boards. All covered trials must be conducted in and by facilities
23 and personnel that maintain a high level of expertise because of their
24 training, experience, and volume of patients. To be covered by the
25 Plan, patients participating in clinical trials must meet substantially all
26 protocol requirements of the trials and exercise informed consent in
27 the trials. Only medically necessary costs of health care services
28 involved in treatments provided to patients for the purpose of the trials
29 are covered by the Plan to the extent that such costs are not
30 customarily funded by national agencies, commercial manufacturers,
31 distributors, or other such providers. Clinical trial costs not covered by
32 the Plan include, but are not limited to, the costs of services that are
33 not health care services and costs associated with managing research in
34 the trials. The Plan shall not exclude benefits for covered clinical trials
35 if the proposed treatment is the only appropriate protocol for the
36 condition being treated.

37 ~~(20)~~(21) Complications arising from noncovered ~~services known at the time~~
38 ~~the noncovered services were provided.~~services.

39 ~~(21)~~(22) Charges related to a noncovered service, even if the charges would
40 have been covered if rendered in connection with a covered service.

41 ~~(22)~~(23) Charges for services covered by the long-term care benefit
42 provisions of ~~Part 4~~Part 4A of this Article.

43 ~~(23)~~(24) Charges disallowed by the Plan's pharmacy benefits manager."

1 **SECTION 3.(n)** G.S. 135-40.7B, as amended by Section 28.22(f) of S.L.
2 2007-323, and as further amended by Section 28.22A(o) of S.L. 2007-323, is recodified
3 as G.S. 135-39.21 under Part 3A of Article 3A of Chapter 135 of the General Statutes,
4 as enacted by this act, and as recodified, reads as rewritten:

5 "**§ 135-39.21. Special provisions for chemical dependency and mental health**
6 **benefits.**

7 (a) Except as otherwise provided in this section, benefits for the treatment of
8 mental illness and chemical dependency are covered by the Plan and shall be subject to
9 the same deductibles, durational limits, and coinsurance factors as are benefits for
10 physical illness generally.

11 (b) Notwithstanding any other provision of this Part, the following necessary
12 services for the care and treatment of chemical dependency and mental illness shall be
13 covered ~~under~~ as provided in this section: allowable institutional and professional
14 charges for inpatient care, outpatient care, intensive outpatient program services, partial
15 hospitalization treatment, and residential care and treatment:

16 (1) For mental illness treatment:

- 17 a. Licensed psychiatric hospitals;
- 18 b. Licensed psychiatric beds in licensed general hospitals;
- 19 c. Licensed residential treatment facilities that have 24-hour
20 on-site care provided by a registered nurse who is physically
21 located at the facility at all times and that hold current
22 accreditation by a national accrediting body approved by the
23 Plan's mental health case manager;
- 24 d. Area Mental Health, Developmental Disabilities, and Substance
25 Abuse ~~Authorities;~~ Authorities or County Programs in
26 accordance with G.S. 122C-141;
- 27 e. Licensed intensive outpatient treatment programs; and
- 28 f. Licensed partial hospitalization programs.

29 (2) For chemical dependency treatment:

- 30 a. Licensed chemical dependency units in licensed psychiatric
31 hospitals;
- 32 b. Licensed chemical dependency hospitals;
- 33 c. Licensed chemical dependency treatment facilities;
- 34 d. Area Mental Health, Developmental Disabilities, and Substance
35 Abuse ~~Authorities;~~ Authorities or County Programs in
36 accordance with G.S. 122C-141;
- 37 e. Licensed intensive outpatient treatment programs;
- 38 f. Licensed partial hospitalization programs; and
- 39 g. Medical detoxification facilities or units.

40 (c) Notwithstanding any other provisions of this Part, the following providers
41 and no others may provide necessary care and treatment for mental health under this
42 section:

- 43 (1) Psychiatrists who have completed a residency in psychiatry approved
44 by the American Council for Graduate Medical Education and who are

- 1 licensed as medical doctors or doctors of osteopathy in the state in
2 which they perform and services covered by the Plan;
- 3 (2) Licensed ~~or certified~~ doctors of psychology;
- 4 (3) ~~Certified clinical~~ Clinical social workers licensed or certified by the
5 North Carolina Social Work Certification and Licensure Board under
6 Chapter 90B of the General Statutes ~~and licensed clinical social~~
7 ~~workers~~;
- 8 ~~(3a)~~ (4) Licensed professional counselors;
- 9 ~~(4)~~ (5) Certified clinical specialists in psychiatric and mental health nursing;
10 nursing in accordance with Article 9A of Chapter 90 of the General
11 Statutes;
- 12 ~~(4a)~~ (6) Nurses working under the employment and direct supervision of such
13 physicians, psychologists, or psychiatrists;
- 14 ~~(6)~~ (7) Licensed psychological associates;
- 15 ~~(9)~~ (8) Certified fee-based practicing pastoral counselors; counselors in
16 accordance with Article 26 of Chapter 90 of the General Statutes;
- 17 ~~(10)~~ (9) Licensed physician assistants under the supervision of a licensed
18 psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws
19 and rules of the area in which the physician assistant is licensed or
20 certified; and
- 21 ~~(11)~~ (10) Licensed marriage and family therapists.
- 22 (11) Physicians licensed under Chapter 90 of the General Statutes and
23 certified professionals working under the direct supervision of such
24 physicians.
- 25 ~~(e1)~~ (d) Notwithstanding any other provisions of this Part, the following providers
26 and no others may provide necessary care and treatment for chemical dependency under
27 this section:
- 28 (1) The following providers with appropriate substance abuse training and
29 experience in the field of alcohol and other drug abuse as determined
30 by the mental health case manager, in facilities described in
31 subdivision (b)(2) of this section, in day/night programs or outpatient
32 treatment facilities licensed after July 1, 1984, under Article 2 of
33 Chapter 122C of the General Statutes or in North Carolina area
34 programs in substance abuse services are authorized to provide
35 treatment for chemical dependency under this section:
- 36 a. Licensed physicians including, but not limited to, physicians
37 who are certified in substance abuse by the American Society of
38 Addiction Medicine (ASAM);
- 39 b. Licensed ~~or certified~~ psychologists;
- 40 c. Psychiatrists;
- 41 d. Certified substance abuse counselors working under the direct
42 supervision of such physicians, psychologists, or psychiatrists;
- 43 e. Licensed psychological associates;

- 1 f. Nurses working under the direct supervision of such physicians,
- 2 psychologists, or psychiatrists;
- 3 g. ~~Certified clinical social workers and licensed clinical social~~
- 4 ~~workers;~~Clinical social workers licensed or certified by the
- 5 North Carolina Social Work Certification and Licensure Board
- 6 under Chapter 90B of the General Statutes;
- 7 h. Certified clinical specialists in psychiatric and mental health
- 8 ~~nursing;~~nursing in accordance with Article 9A of Chapter 90 of
- 9 the General Statutes;
- 10 i. Licensed professional counselors;
- 11 j. ~~Certified fee-based practicing pastoral counselors;~~counselors in
- 12 accordance with Article 26 of Chapter 90 of the General
- 13 Statutes;
- 14 k. Substance abuse professionals certified under Article 5C of
- 15 Chapter 90 of the General Statutes; and
- 16 l. Licensed marriage and family and therapists.
- 17 (2) The following providers with appropriate substance abuse training and
- 18 experience in the field of alcohol and other drug abuse as determined
- 19 by the mental health case manager are authorized to provide treatment
- 20 for chemical dependency in outpatient practice settings:
- 21 a. Licensed physicians including, but not limited to, physicians
- 22 who are certified in substance abuse by the American Society of
- 23 Addiction Medicine (ASAM);
- 24 b. Licensed ~~or certified~~ psychologists;
- 25 c. Psychiatrists;
- 26 d. Certified substance abuse counselors working under the direct
- 27 supervision of such physicians, psychologists, or psychiatrists;
- 28 e. Licensed psychological associates;
- 29 f. Nurses working under the direct supervision of such physicians,
- 30 psychologists, or psychiatrists;
- 31 g. ~~Certified clinical social workers and licensed clinical social~~
- 32 ~~workers;~~Clinical social workers licensed or certified by the
- 33 North Carolina Social Work Certification and Licensure Board
- 34 under Chapter 90B of the General Statutes.
- 35 h. Certified clinical specialists in psychiatric and mental health
- 36 ~~nursing;~~nursing in accordance with Article 9A of Chapter 90 of
- 37 the General Statutes;
- 38 i. Licensed professional counselors;
- 39 j. ~~Certified fee-based practicing pastoral counselors;~~counselors in
- 40 accordance with Article 26 of Chapter 90 of the General
- 41 Statutes;
- 42 ~~j-k~~ (k) Licensed marriage and family and therapists;
- 43 1. Substance abuse professionals certified under Article 5C of
- 44 Chapter 90 of the General Statutes;and

1 ~~k.~~(m) In the absence of meeting one of the criteria above, the Mental
2 Health Case Manager could consider, on a case-by-case basis, a
3 provider who supplies:

- 4 1. Evidence of graduate education in the diagnosis and
5 treatment of chemical dependency, and
- 6 2. Supervised work experience in the diagnosis and
7 treatment of chemical dependency (with supervision by
8 an appropriately credentialed provider), and
- 9 3. Substantive past and current continuing education in the
10 diagnosis and treatment of chemical dependency
11 commensurate with one's profession.

12 (3) Physicians licensed under Chapter 90 of the General Statutes and
13 certified professionals working under the direct supervision of such
14 physicians.

15 Provided, however, that nothing in this subsection shall prohibit the Plan from
16 requiring the most cost-effective treatment setting to be utilized by the person
17 undergoing necessary care and treatment for chemical dependency.

18 ~~(d)~~(e) Benefits provided under this section shall be subject to a case
19 management program for medical necessity and medical
20 appropriateness consisting of (i) precertification of outpatient visits
21 beyond 26 visits each Plan year, (ii) all electroconvulsive treatment,
22 (iii) inpatient utilization review through preadmission and
23 length-of-stay certification for nonemergency admissions to the
24 following levels of care: inpatient units, partial hospitalization
25 programs, residential treatment centers, chemical dependency
26 detoxification and treatment programs, and intensive outpatient
27 programs, (iv) length-of-stay certification of emergency inpatient
28 admissions, and (v) a network of qualified, available providers of
29 inpatient and outpatient psychiatric and chemical dependency
30 treatment. Care which is not both medically necessary and medically
31 appropriate will be noncertified, and benefits will be denied. ~~Where~~
32 ~~qualified preferred providers of inpatient and outpatient care are~~
33 ~~reasonably available, use of providers outside of the preferred network~~
34 ~~shall be subject to a twenty percent (20%) coinsurance rate up to five~~
35 ~~thousand dollars (\$5,000) per fiscal year to be assessed against each~~
36 ~~covered individual in addition to the general coinsurance percentage~~
37 ~~and maximum fiscal year amount specified by G.S. 135-40.4 and~~
38 ~~G.S. 135-40.6.~~

39 ~~(e)~~(f) For the purpose of this section, "emergency" is the sudden and unexpected
40 onset of a condition manifesting itself by acute symptoms of sufficient severity that, in
41 the absence of an immediate psychiatric or chemical dependency inpatient admission,
42 could imminently result in injury or danger to self or others.

1 ~~(f)~~(g) For purposes of As used in this section, the word "Plan" includes all optional
2 and alternative plans, and programs available under the optional or alternative plans, or
3 plans in effect under the State Health Plan and its successor Plans."

4 **SECTION 3.(o)** G.S. 135-40.10 is recodified as G.S. 135-39.22 under Part
5 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as
6 recodified, reads as rewritten:

7 "**§ 135-39.22. Persons eligible for Medicare. Medicare; optional participation in**
8 **other Medicare products.**

9 (a) Benefits payable for covered expenses under this Plan in
10 ~~G.S. 135-40.5~~G.S. 135-39.18 through ~~G.S. 135-40.9~~G.S. 135-39.22 will be reduced by
11 any benefits payable for the same covered expenses under Medicare, so that Medicare
12 will be the primary carrier except where compliance with federal law specifies
13 otherwise.

14 (b) For those participants eligible for Medicare, the ~~State's plan~~Plan will be
15 administered on a "carve out" basis. The provisions of the ~~plan~~Plan are applied to the
16 charges not paid by Medicare (Parts A & B). In other words, those charges not paid by
17 Medicare would be subject to the deductible and coinsurance of the Plan just as if the
18 charges not paid by Medicare were the total bill.

19 (c) For those individuals eligible for Part A (at no cost to them), benefits under
20 this program will be reduced by the amounts to which the covered individuals would be
21 entitled to under Parts A and B of Medicare, even if they choose not to enroll for Part B.

22 (d) Notwithstanding the foregoing provisions of this section or any other
23 provisions of the Plan, the Executive Administrator and Board of Trustees may enter
24 into negotiations with the ~~Health Care Financing Administration,~~Centers for Medicare
25 and Medicaid Services, U.S. Department of Health and Human Services, in order to
26 secure a more favorable coordination of the Plan's benefits with those provided by
27 Medicare, including but not limited to, measures by which the Plan would provide
28 Medicare benefits for all of its Medicare-eligible members in return for adequate
29 payments from the federal government in providing such benefits. Should such
30 negotiations result in an agreement favorable to the Plan and its Medicare-eligible
31 members, the Executive Administrator and Board of Trustees may, after consultation
32 with the Committee on Employee Hospital and Medical Benefits, implement such an
33 agreement which shall supersede all other provisions of the Plan to the contrary related
34 to its payment of claims for Medicare-eligible members.

35 ~~(e)~~ Notwithstanding subsections (a), (b), and (c) of this section, the Plan may
36 offer an optional Medicare Advantage plan to a Medicare eligible Plan member. A
37 Medicare Advantage plan offered by the Plan shall be an insured product offered
38 through a private insurance carrier authorized by the Centers for Medicare and Medicaid
39 Services to offer Medicare Advantage plans. A Medicare Advantage plan offered by the
40 Plan shall not be a self-funded benefit plan underwritten by the State of North Carolina.
41 Prescription drug benefits shall not be included in the benefits offered under a Medicare
42 Advantage insurance product but shall continue to be provided by the Plan as authorized
43 under G.S. 135-39.18

1 An eligible Plan member may choose to enroll in a Medicare Advantage plan in lieu
2 of any other benefit coverage plan offered under the Plan to Medicare eligible Plan
3 members. A Medicare eligible Plan member must be enrolled in Medicare Part B to
4 participate in an optional Medicare Advantage plan. A non-Medicare eligible dependent
5 of a Medicare Advantage eligible Plan member may enroll on a fully contributory basis
6 in benefit plans offered under the Plan to non-Medicare eligible Plan members. If an
7 enrolled Plan member decides not to re-enroll in an optional Medicare Advantage plan
8 during the Plan's annual enrollment period, the Plan member may at that time re-enroll
9 in other benefit coverage offered by the Plan in accordance with the provisions of
10 subsections (a), (b), and (c) of this section."

11 **SECTION 3.(p)** Part 3A of Article 3A of Chapter 135 of the General
12 Statutes, as enacted by this act, is amended by adding the following new section to read:
13 **"§ 135-39.23. Cost-savings initiatives and incentive programs authorized.**

14 (a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The
15 Executive Administrator and Board of Trustees may authorize coverage for
16 over-the-counter medications as recommended by the Plan's pharmacy and therapeutics
17 committee. In approving for coverage one or more over-the-counter medications, the
18 Executive Administrator and Board of Trustees shall ensure that each recommended
19 over-the-counter medication has been analyzed to ensure medical effectiveness and Plan
20 member safety. The analysis shall also address the financial impact on the Plan. The
21 Executive Administrator and Board of Trustees may impose a co-payment to be paid by
22 each covered individual for each packaged over-the-counter medication. The Executive
23 Administrator and Board of Trustees may adopt policies establishing limits on the
24 amount of coverage available for over-the-counter medications for each covered
25 individual over a 12-month period. Prior to implementing policy and co-payment
26 changes authorized under this section, the Executive Administrator and Board of
27 Trustees shall submit the proposed policies and co-payments to the Committee on
28 Employee Hospital and Medical Benefits for its review.

29 (b) Incentive Programs. – For the purposes of helping Plan members to achieve
30 and maintain a healthy lifestyle without impairing patient care, and to increase cost
31 effectiveness in Plan coverage, the Executive Administrator and Board of Trustees may
32 adopt programs offering incentives to Plan members to encourage changes in member
33 behavior or lifestyle designed to improve member health and promote cost-efficiency in
34 the Plan. Participation in one or more incentive programs is voluntary on the part of the
35 Plan member. Before adopting an incentive program, the Executive Administrator and
36 Board of Trustees shall conduct an impact analysis on the proposed incentive program
37 to determine (i) whether the program is likely to result in significant member
38 satisfaction, (ii) that it will not adversely affect quality of care, and (iii) whether it is
39 likely to result in significant cost savings to the Plan. The impact analysis may be
40 conducted by a committee of the Plan, in conjunction with the Plan's consulting actuary,
41 provided that the Plan's medical director participates in the analysis. An approved
42 incentive plan may provide for a waiver of deductibles, co-payments, and coinsurance
43 required under this Article in order to determine the effectiveness of the incentive
44 program in promoting healthy lifestyles for members and increasing cost-effectiveness

1 to the Plan. The Executive Administrator and Board of Trustees shall, before
2 implementing incentive programs authorized under this section, submit the proposed
3 programs to the Committee on Employee Hospital and Medical Benefits for review."

4 **SECTION 3.(q)** G.S. 135-40.11 is recodified as G.S. 135-39.24 under Part
5 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
6 recodified, reads as rewritten:

7 "**§ 135-39.24. Cessation of coverage.**

8 (a) Coverage under this Plan of an employee and his or her surviving spouse or
9 eligible dependent children or of a retired employee and his or her surviving spouse or
10 eligible dependent children shall cease on the earliest of the following dates:

- 11 (1) The last day of the month in which an employee or retired employee
12 dies. Provided such surviving spouse or eligible dependent children
13 were covered under the Plan at the time of death of the former
14 employee or retired employee, or were covered on September 30,
15 1986, any such surviving spouse or eligible dependent children may
16 then elect to continue coverage under the Plan by submitting written
17 application to the Claims Processor and by paying the cost for such
18 coverage when due at the applicable fees. Such coverage shall cease
19 on the last day of the month in which such surviving spouse or eligible
20 dependent children die, except as provided by this Article.
- 21 (2) The last day of the month in which an employee's employment with
22 the State is terminated as provided in subsection (c) of this section.
- 23 (3) The last day of the month in which a divorce becomes final.
- 24 (4) The last day of the month in which an employee or retired employee
25 requests cancellation of coverage.
- 26 (5) The last day of the month in which a covered individual enters active
27 military service.
- 28 (6) The last day of the month in which a covered individual is found to
29 have knowingly and willfully made or caused to be made a false
30 statement or false representation of a material fact in a claim for
31 reimbursement of medical services under the Plan. The Executive
32 Administrator and Board of Trustees may make an exception to the
33 provisions of this subdivision when persons subject to this subdivision
34 have had a cessation of coverage for a period of five years and have
35 made a full and complete restitution to the Plan for all fraudulent claim
36 amounts. Nothing in this subdivision shall be construed to obligate the
37 Executive Administrator and Board of Trustees to make an exception
38 as allowed for under this subdivision.
- 39 (7) The last day of the month in which an employee who is
40 Medicare-eligible selects Medicare to be the primary payer of medical
41 benefits. Coverage for a Medicare-eligible spouse of an employee shall
42 also cease the last day of the month in which Medicare is selected to
43 be the primary payer of medical benefits for the Medicare-eligible
44 spouse. Such members are eligible to apply for conversion coverage.

1 (b) Coverage under this Plan as a dependent child ceases when the child ceases to
2 be a dependent child as defined by ~~G.S. 135-40.1(3)~~G.S. 135-39.13 except, coverage
3 may continue under this Plan for a period of not more than 36 months after loss of
4 dependent status on a fully contributory basis provided the dependent child was covered
5 under the Plan at the time of loss of dependent status.

6 ~~(b1)~~(c) Coverage under the Plan as a surviving dependent child whether covered
7 as a dependent of a surviving spouse, or as an individual member (no living parent),
8 ceases when the child ceases to be a dependent child as defined by
9 ~~G.S. 135-40.1(3)~~G.S. 135-39.13, except coverage may continue under the Plan on a
10 fully contributory basis for a period of not more than 36 months after loss of dependent
11 status.

12 ~~(e)~~(d) Termination of employment shall mean termination for any reason,
13 including layoff and leave of absence, except as provided in subdivisions (a)(1) and (2)
14 of this section, but shall not, for purposes of this Plan, include retirement upon which
15 the employee is granted an immediate service or disability pension under and pursuant
16 to a State-supported Retirement System.

17 (1) In the event of termination for any reason other than death, coverage
18 under the Plan for an employee and his or her eligible spouse or
19 dependent children, provided the eligible spouse or dependent children
20 were covered under the Plan at termination of employment may be
21 continued for a period of not more than 18 months following
22 termination of employment on a fully contributory basis. Employees
23 who were covered under the Plan at termination of employment may
24 be continued for a period of not more than 18 months or 29 months if
25 determined to be disabled under the Social Security Act, Title II,
26 OASDI or Title XVI, SSI.

27 ~~(3)~~(2) In the event of approved leave of absence without pay, other than for
28 active duty in the armed forces of the United States, coverage under
29 this Plan for an employee and his or her dependents may be continued
30 during the period of such leave of absence by the employee's paying
31 one hundred percent (100%) of the cost.

32 ~~(4)~~(3) If employment is terminated in the second half of a calendar month
33 and the covered individual has made the required contribution for any
34 coverage in the following month, that coverage will be continued to
35 the end of the calendar month following the month in which
36 employment was terminated.

37 ~~(5)~~(4) Employees paid for less than 12 months in a year, who are terminated
38 at the end of the work year and who have made contributions for the
39 non-work months, will continue to be covered to the end of the period
40 for which they have made contributions, with the understanding that if
41 they are not employed by another State-covered employer under this
42 Plan at the beginning of the next work year, the employee will refund
43 to the ex-employer the amount of the employer's cost paid for them
44 during the non-paycheck months.

1 ~~(6)~~(5) Any employee receiving benefits pursuant to Article 6 of this Chapter
2 when the employee has less than five years of retirement membership
3 service, or an employee on leave of absence without pay due to illness
4 or injury for up to 12 months, is entitled to continued coverage under
5 the Plan for the employee and any eligible dependents by the
6 employee's paying one hundred percent (100%) of the cost.

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

11 ~~(e)~~(d) A legally divorced spouse and any eligible dependent children of a covered
12 employee or retired employee may continue coverage under this Plan for a period of not
13 more than 36 months following the first of the month after a divorce becomes final on a
14 fully contributory basis, provided the former spouse and any eligible dependent children
15 were covered under the Plan at the time a divorce became final.

16 ~~(f)~~(e) A legally separated spouse of a covered employee or retired employee may
17 continue coverage under this Plan for a period not to exceed 36 months from the
18 separation date on a fully contributory basis, provided the separated spouse was covered
19 under the Plan at the time of separation and provided the covered employee's or retired
20 employee's actions result in the loss of coverage for the separated spouse. Eligible
21 dependent children may also continue coverage if covered under the Plan at time of
22 separation, provided the employee's or retired employee's actions result in the loss of
23 coverage for the dependent children.

24 ~~(g)~~(f) Whenever this section gives a right to continuation coverage, such coverage
25 must be elected ~~no later than a date set by the Executive Administrator and Board of~~
26 Trustees, within the time allowed by applicable federal law.

27 ~~(h)~~(g) Continuation coverage under this Plan shall not be continued past the
28 occurrence of any one of the following events:

- 29 (1) The termination of the Plan.
- 30 (2) Failure of a Plan member to pay monthly in advance any required
31 premiums.
- 32 (3) A person becomes a covered employee or a dependent of a covered
33 employee under any group health plan and that group health plan has
34 no restrictions or limitations on benefits.
- 35 (4) A person becomes eligible for Medicare benefits on or after the
36 effective date of the continuation coverage.
- 37 (5) The person was determined to be no longer disabled, provided the
38 18-month coverage was extended to 29 months due to having been
39 determined to be disabled under the Social Security Act, Title II,
40 OASDI or Title XVI, SSI.
- 41 (6) The person reaches the maximum applicable continuation period of 18,
42 29, or 36 months.

43 ~~(i)~~(h) Notice requirements concerning continuation coverage shall be developed by
44 the Executive Administrator and Board of Trustees.

1 Ⓣ(i) The spouse and any eligible dependent children of a covered employee may
2 continue coverage under the Plan on a fully contributory basis for a period not to exceed
3 36 months from the date the employee becomes eligible for Medicare benefits which
4 results in a loss of coverage under the Plan, provided that the spouse and eligible
5 dependent children were covered under the Plan at the time the employee became
6 eligible for Medicare benefits which results in a loss of coverage under the Plan."

7 **SECTION 3.(r)** G.S. 135-40.12 is recodified as G.S. 135-39.25 under Part
8 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

9 **SECTION 3.(s)** G.S. 135-40.13 is recodified as G.S. 135-39.26 under Part
10 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

11 **SECTION 3.(t)** G.S. 135-40.13A is recodified as G.S. 135-39.27 under Part
12 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

13 **SECTION 3.(u)** G.S. 135-40.14 is recodified as G.S. 135-39.28 under Part
14 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

15 **SECTION 4.(a)** Parts 4 and 5 of Article 3 of Chapter 135 of the General
16 Statutes are recodified as Parts 4A and 5A, respectively, under Article 3A of Chapter
17 135 of the General Statutes, as enacted by this act.

18 **SECTION 4.(b)** G.S. 135-41, as amended by Section 28.22A(o) of S.L.
19 2007-323, is recodified under Part 4A of Article 3A of Chapter 135 of the General
20 Statutes, as enacted by this act.

21 **SECTION 4.(c)** G.S. 135-41(b), as recodified by this act, and as amended by
22 Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

23 " (b) The long-term care benefits provided by this Part shall be made available
24 through the State Health Plan for Teachers and State Employees pursuant to Article 2A
25 and 3A of this Chapter (hereinafter called the "Plan") and administered by the Plan's
26 Executive Administrator and Board of Trustees. In administering the benefits provided
27 by this Part, the Executive Administrator and Board of Trustees shall have the same
28 type of powers and duties that are provided under ~~Part 3~~Part 3A of this Article for
29 hospital and medical benefits. The benefits provided by this Part may be offered by the
30 Plan on a self-insured basis, in which case a third-party claims processor shall be chosen
31 through competitive ~~bids in accordance with State law,~~bids, or through a contract of
32 insurance, in which case a carrier licensed to do business in North Carolina shall be
33 selected on a competitive bid basis in accordance with State law."

34 **SECTION 4.(d)** G.S. 135-41.1 is recodified under Part 4A of Article 3A of
35 Chapter 135 of the General Statutes, as enacted by this act.

36 **SECTION 4.(e)** The lead paragraph of G.S. 135-41.1, as recodified by this
37 act under Part 4A of this Article, reads as rewritten:

38 "**§ 135-41.1. Long-term care benefits.**

39 Long-term care benefits provided by this Part are subject to elimination periods,
40 coinsurance provisions, and other limitations separate and apart from those provided for
41 in ~~Part 3~~Part 3A of this Article. No limitation on out-of-pocket expenses are provided
42 for the benefits covered by this section. Long-term care benefits are as follows:"

43 **SECTION 5.(a)** G.S. 135-42 is recodified under Part 5A of Article 3A of
44 Chapter 135 of the General Statutes, as enacted by this act.

1 **SECTION 5.(b)** Effective July 1, 2008, G.S. 135-42, as amended by Section
2 28.22A of S.L. 2007-323, and as recodified by this act, reads as rewritten:

3 **"§ 135-42. Undertaking.**

4 (a) The State of North Carolina undertakes to make available a health insurance
5 program for children (hereinafter called the "Program") to provide comprehensive acute
6 medical care to low-income, uninsured children who are residents of this State and who
7 meet the eligibility requirements established for the Program under Part 8 of Article 2 of
8 Chapter 108A of the General Statutes. The Executive Administrator and Board of
9 Trustees of the State Health Plan for Teachers and State Employees (hereinafter called
10 the "Plan") shall administer the Program under this Part and shall carry out their duties
11 and responsibilities in accordance with ~~Parts 2 and 3~~ Parts 2A and 3A of this Article and
12 with applicable provisions of Part 8 of Article 2 of Chapter 108A. The Plan shall not
13 incur any financial obligations for the Program in excess of the amount of funds that the
14 Plan receives for the Program.(b) The benefits provided under the Program shall be
15 equivalent to and made available through the Plan pursuant to Articles 2 and ~~3~~ 3A of
16 this Chapter and as provided under G.S. 108A-70.21(b) and administered by the Plan's
17 Executive Administrator and Board of Trustees. To the extent there is a conflict
18 between the provisions of Part 8 of Article 2 of Chapter 108A and ~~Part 3~~ Part 3A of this
19 Article pertaining to eligibility, fees, deductibles, copayments, and other cost-sharing
20 charges, the provisions of Part 8 of Article 2 of Chapter 108A shall control. In
21 administering the benefits provided by this Part, the Executive Administrator and Board
22 of Trustees shall have the same type of powers and duties that are provided under ~~Part~~
23 3Part 3A of this Article for hospital and medical benefits.

24 (c) The benefits authorized by this Part are available only to children who are
25 residents of this State and who meet the eligibility requirements established for the
26 Program under Part 8 of Article 2 of Chapter 108A of the General Statutes."

27 **SECTION 5.(c)** It is the intent of the General Assembly that administration
28 of The North Carolina Health Choice Program ("Program") shall be as provided by law.
29 The Program shall continue to provide comprehensive acute medical care to
30 low-income, uninsured children who are residents of this State and who meet the
31 eligibility requirements established for the Program under Part 8 of Article 2 of Chapter
32 108A of the General Statutes.

33 **SECTION 5.(d)** Effective January 1, 2009, G.S. 108A-70.20 reads as
34 rewritten:

35 **"§ 108A-70.20. Program established.**

36 The Health Insurance Program for Children is ~~established~~ established and may be
37 cited as NC Health Choice. The Program shall be ~~administered~~ administered, including
38 claims processing, by the Department of Health and Human Services in accordance with
39 this Part as provided by law and as required under Title XXI and related federal rules
40 and regulations. The benefits authorized by this Part are available only to children who
41 are residents of this State and who meet the eligibility requirements established for the
42 Program under Part 8 of Article 2 of Chapter 108A of the General Statutes."

43 ~~Administration of Program benefits and claims processing shall be as provided~~
44 ~~under Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

1 **SECTION 5.(e)** Effective January 1, 2009, Part 5A of Article 3A of Chapter
2 135 of the General Statutes, as amended by this act, is repealed.

3 **SECTION 5.(f)** Effective January 1, 2009, G.S. 108A-70.24 is repealed.

4 **SECTION 5.(g)** Effective January 1, 2009, G.S. 108A-70.27(c) is repealed.

5 **SECTION 6.(a)** Effective July 1, 2008, G.S. 150B-1(d)(7), as amended by
6 Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

7 "(7) The State Health Plan for Teachers and State Employees in
8 administering the provisions of ~~Parts 2, 3, 4, and 5 of Article 3~~Parts
9 2A, 3A, 4A, and 5A of Article 3A of Chapter 135 of the General
10 Statutes."

11 **SECTION 6.(b)** Effective July 1, 2009, G.S. 150B-1(d)(7), as amended by
12 this act, reads as rewritten:

13 "(7) The State Health Plan for Teachers and State Employees in
14 administering the provisions of Parts 2A, 3A, 4A, ~~and 5A~~and 4A
15 of Article 3A of Chapter 135 of the General Statutes."

16 **SECTION 6.(c)** G.S. 150B-38(a) reads as rewritten:

17 "(a) The provisions of this Article shall apply to:

- 18 (1) Occupational licensing agencies.
- 19 (2) The State Banking Commission, the Commissioner of Banks, and the
20 Credit Union Division of the Department of Commerce.
- 21 (3) The Department of Insurance and the Commissioner of Insurance.
- 22 (4) The State Chief Information Officer in the administration of the
23 provisions of Article 3D of Chapter 147 of the General Statutes.
- 24 (5) The North Carolina State Building Code Council.
- 25 (6) The State Health Plan for Teachers and State Employees for purposes
26 of G.S. 150B-44."

27 **SECTION 7.** Section 31.24 of S.L. 2004-124 is repealed.

28 **SECTION 8.** Effective through December 31, 2008, deductible and
29 coinsurance amounts applicable under the State Health Plan for Teachers and State
30 Employees shall be fifty percent (50%) of the annual deductible and coinsurance
31 amounts to reflect the Plan Year change from a fiscal year to a calendar year effective
32 January 1, 2009.

33 **SECTION 9.** Section 6 of S.L. 2006-249 reads as rewritten:

34 "**SECTION 6.** Effective Date. – Sections 1 through 5 of this act become effective
35 July 1, 2006. ~~Section 1 of this act expires July 1, 2009.~~ The remainder of this act is
36 effective when it becomes law."

37 **SECTION 10.** This act becomes effective July 1, 2008.
38