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SENATE BILL 265

Short Title: Transfer State Health Plan to State Treasurer. (Public)

Sponsors: Senators Apodaca, Brunstetter, Hartsell; and Hise.

Referred to: Pensions & Retirement and Aging.

March 9, 2011

A BILL TO BE ENTITLED
AN ACT TO TRANSFER THE NORTH CAROLINA STATE HEALTH PLAN FOR
TEACHERS AND STATE EMPLOYEES TO THE DEPARTMENT OF STATE
TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina State Health Plan for Teachers and State
Employees is transferred to the Department of State Treasurer. This transfer shall have all the
elements of a Type II transfer, as defined by G.S. 143A-6.

SECTION 2. G.S. 135-43(b) reads as rewritten:

§ 135-43. Confidentiality of information and medical records; provider contracts.
(b) Notwithstanding the provisions of this Article, the Executive Administrator and
Board of Trustees of the State Health Plan for Teachers and State Employees may contract with
providers of institutional and professional medical care and services to establish preferred
provider networks.

The terms of a contract between the Plan and its third party administrator or between the
Plan and its pharmacy benefit manager are a public record except that the terms in those
contracts that contain trade secrets or proprietary or competitive information are not a public
record under Chapter 132 of the General Statutes, and any such proprietary or competitive
information and trade secrets contained in the contract shall be redacted by the Plan prior to
making it available to the public. This subsection shall not be construed to prevent or restrict
the release of any information made not a public record under this subsection to the State
Treasurer, the State Auditor, the Attorney General, the Director of the State Budget, the Plan's
Board of Trustees, and the Plan's Executive Administrator, and the Committee on Employee
Hospital and Medical Benefits Administrator solely and exclusively for their use in the
furtherance of their duties and responsibilities, and to the Department of Health and Human
Services solely for the purpose of implementing the transition of NC Health Choice from the
Plan to the Department of Health and Human Services. The design, adoption, and
implementation of the preferred provider contracts, networks, and optional alternative
comprehensive health benefit plans, and programs available under the optional alternative
plans, as authorized under G.S. 135-45 are not subject to the requirements of Article 3 of
Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall
make reports as requested to the President of the Senate, the President Pro Tempore of the
Senate, the Speaker of the House of Representatives, and the Committee on Employee
Hospital and Medical Benefits State Treasurer.”

SECTION 3. G.S. 135-43.1 is repealed.

SECTION 4. G.S. 135-43.2 is repealed.

SECTION 5. G.S. 135-43.3 reads as rewritten:
"§ 135-43.3. Oversight team. Oversight.

(a) The Committee on Employee Hospital and Medical Benefits may use employees of the Legislative Services Office and may employ contractual services as approved by the Legislative Services Commission to monitor the Executive Administrator and Board of Trustees, the Claims Processor, and the Comprehensive Major Medical Plan, State Health Plan for Teachers and State Employees. The Director of the Budget may use employees of the Office of State Budget and Management to monitor the Executive Administrator and Board of Trustees, the Claims Processor, and the Comprehensive Major Medical Plan, State Health Plan for Teachers and State Employees. Employees authorized by the Legislative Services Commission and the Director of the Budget to provide assistance to the Committee on Employee Hospital and Medical Benefits and to the Director of the Budget shall comprise an oversight team.

(b) The oversight team shall, jointly or individually, Director of the Budget and the State Treasurer or their designees and the employees of the Legislative Services Office shall have access to all records of the Board of Trustees, the Executive Administrator, the Claims Processor, and the Plan. The oversight team shall, jointly or individually, Director of the Budget and the State Treasurer or their designees and the employees of the Legislative Services Office shall be entitled to attend all meetings of the Board of Trustees.

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

SECTION 6. G.S. 135-43.6 reads as rewritten:

"§ 135-43.6. Reports to the General Assembly.

The Executive Administrator and Board of Trustees shall report to the General Assembly at such times and in such forms as shall be designated by the Committee on Employee Hospital and Medical Benefits, the President Pro Tempore of the Senate and the Speaker of the House of Representatives."

SECTION 7. G.S. 135-44.2 reads as rewritten:

"§ 135-44.2. Executive Administrator.

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

(b) The Executive Administrator shall be appointed by the State Health Plan Administrative Commission, State Treasurer. The term of employment and salary of the Executive Administrator shall be set by the State Health Plan Administrative Commission upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits, State Treasurer.

The Executive Administrator may be removed from office by the State Health Plan Administrative Commission, upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits, State Treasurer, and any vacancy in the office of Executive Administrator may be filled by the State Health Plan Administrative Commission with the term of employment and salary set upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits, State Treasurer.

(c) The Executive Administrator shall appoint the Deputy Executive Administrator and may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may designate managerial, professional, or policy-making positions as exempt from the State Personnel Act. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of the Executive Administrator's duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims

Processor, with an optional alternative comprehensive health benefit plan, or program thereunder, authorized under G.S. 135-45, with a preferred provider of institutional or professional hospital and medical care, or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits. State Treasurer.

(d) The Executive Administrator shall be responsible for:

1. Cost management programs;
2. Education and illness prevention programs;
3. Training programs for Health Benefit Representatives;
4. Membership functions;
5. Long-range planning;
6. Provider and participant relations; and
7. Communications.

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

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

SECTION 7.1. G.S. 135-44.4(31) reads as rewritten:

"§ 135-44.4. Powers and duties of the Executive Administrator and Board of Trustees.

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

…

(31) The Plan shall conduct a monthly review of Plan costs as compared to the same month in the immediately preceding year and a comparison of projected costs and savings to actual costs and savings. The Plan shall report the results of the review to the Committee on Employee Hospital and Medical Benefits and the State Health Plan Blue Ribbon Task Force, State Treasurer and the General Assembly at least semiannually."

SECTION 7.2. G.S. 135-44.6(a) reads as rewritten:

"§ 135-44.6. Premiums set.

(a) The Executive Administrator and Board of Trustees shall, from time to time, recommend to the General Assembly the establishment or adjustment of premium rates for the Plan and based on premium rates enacted by the General Assembly shall adopt rules for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits. The amount of State funds contributed for optional coverage for employees and retirees on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits, State Treasurer."

SECTION 8. G.S. 135-44.7(a) reads as rewritten:

"§ 135-44.7. Administrative review.

(a) If, after exhaustion of internal appeal handling as outlined in the contract with the Claims Processor any person is aggrieved, the Claims Processor shall bring the matter to the attention of the Executive Administrator and Board of Trustees, which shall promptly decide
whether the subject matter of the appeal is a determination subject to external review under Part
4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board
of Trustees shall inform the aggrieved person and the aggrieved person's provider of the
decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal
that decision as provided in this subsection. If the Executive Administrator and Board of
Trustees decide that the subject matter of the appeal is not a determination subject to external
review, then the Executive Administrator and Board of Trustees may make a binding decision
on the matter in accordance with procedures established by the Executive Administrator and
Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written
summary of the decisions made pursuant to this section to all employing units, all health benefit
representatives, the oversight team agencies provided for in G.S. 135-43.3, all relevant health
care providers affected by a decision, and to any other parties requesting a written summary
and approved by the Executive Administrator and Board of Trustees to receive a summary
immediately following the issuance of a decision. A decision by the Executive Administrator
and Board of Trustees that a matter raised on internal appeal is a determination subject to
external review as provided in subsection (b) of this section may be contested by the aggrieved
person under Chapter 150B of the General Statutes. The person contesting the decision may
proceed with external review pending a decision in the contested case under Chapter 150B of
the General Statutes."

SECTION 9. G.S. 135-44.8 reads as rewritten:
"§ 135-44.8. Rules.
The Executive Administrator and Board of Trustees may adopt rules to implement Parts 2,
3, 4, and 5 of this Article. The Executive Administrator and Board of Trustees shall provide to
all employing units, all health benefit representatives, the oversight team agencies provided for
in G.S. 135-43.3, all relevant health care providers affected by a rule, and to any other persons
requesting a written description and approved by the Executive Administrator and Board of
Trustees written notice and an opportunity to comment not later than 30 days prior to adopting,
amending, or rescinding a rule, unless immediate adoption of the rule without notice is
necessary in order to fully effectuate the purpose of the rule. Rules of the Board of Trustees
shall remain in effect until amended or repealed by the Executive Administrator and Board of
Trustees. The Executive Administrator and Board of Trustees shall provide a written
description of the rules adopted under this section to all employing units, all health benefit
representatives, the oversight team agencies provided for in G.S. 135-43.3, all relevant health
care providers affected by a rule, and to any other persons requesting a written description and
approved by the Executive Administrator and Board of Trustees on a timely basis. Rules
adopted by the Executive Administrator and Board of Trustees to implement this Article are not
subject to Article 2A of Chapter 150B of the General Statutes."

SECTION 10. G.S. 135-45.7 reads as rewritten:
"§ 135-45.7. Prior approval procedures.
The Executive Administrator and Board of Trustees may establish procedures to require
prior medical approval and may implement the procedures after consultation with the
Committee on Employee Hospital and Medical Benefits, State Treasurer."

SECTION 11. G.S. 135-45.10(d) reads as rewritten:
"§ 135-45.10. Persons eligible for Medicare; optional participation in other Medicare
products.

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

**SECTION 12.** G.S. 135-45.11 reads as rewritten:

"§ 135-45.11. Cost-savings initiatives and incentive programs authorized.

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

(b) Incentive Programs. – For the purposes of helping Plan members to achieve and maintain a healthy lifestyle without impairing patient care, and to increase cost effectiveness in Plan coverage, the Executive Administrator and Board of Trustees may adopt programs offering incentives to Plan members to encourage changes in member behavior or lifestyle designed to improve member health and promote cost-efficiency in the Plan. Participation in one or more incentive programs is voluntary on the part of the Plan member. Before adopting an incentive program, the Executive Administrator and Board of Trustees shall conduct an impact analysis on the proposed incentive program to determine (i) whether the program is likely to result in significant member satisfaction, (ii) that it will not adversely affect quality of care, and (iii) whether it is likely to result in significant cost savings to the Plan. The impact analysis may be conducted by a committee of the Plan, in conjunction with the Plan's consulting actuary, provided that the Plan's medical director participates in the analysis. An approved incentive plan may provide for a waiver of deductibles, co-payments, and coinsurance required under this Article in order to determine the effectiveness of the incentive program in promoting the health of members and increasing cost-effectiveness to the Plan. The Executive Administrator and Board of Trustees shall, before implementing incentive programs authorized under this section, submit the proposed programs to the Committee on Employee Hospital and Medical Benefits, State Treasurer for review."

**SECTION 13.** G.S. 135-45.13(b) reads as rewritten:


(b) The Executive Administrator and Board of Trustees shall provide for the continuation of conversion privilege exercised under the predecessor plan, on a fully contributory basis. The Executive Administrator and Board of Trustees shall consult with the Committee on Employee Hospital and Medical Benefits, State Treasurer before taking action under this subsection."

**SECTION 14.** This act becomes effective September 1, 2011.