

NC LEGISLATIVE HEALTHWATCH

Volume 8, Number 64

July 29, 2006

2006 SESSION ENDS - SPECIAL EDITION

The North Carolina General Assembly adjourned sine die on July 28, 2006. This special edition summarizes health insurance, pharmaceutical, physician and allied health professional, State Health Plan and related health care legislation covered by *North Carolina Legislative Health Watch* that was enacted by the North Carolina General Assembly during its 2006 short session. Included with each summary is the effective date of the legislation and when it was signed into law. This special edition includes bills that have been ratified by the North Carolina General Assembly, but not yet signed into law by North Carolina Governor Michael F. Easley.

Contents

- Health insurance (1)
 - **H 1987, Health Plans/Changes to Basic and Standard**
 - **S 277, Motor Vehicle Self-Insurers**
 - **S 602, Technical Corrections Act-2**
 - **S 615, Insurance Technical Corrections**
 - Health provisions in **S 1741, Modify Appropriations Act of 2005** (including amendment in **S 198, Revise 2006 Budget Act**)
- Pharmacies and prescription drugs (2)
 - **S 686, Amend Restrictions on the Purchase and Sale of Pseudoephedrine Products**
 - Pharmacy/prescription drug provisions in **S 1741, Modify Appropriations Act of 2005** (including amendment in **S 198, Revise 2006 Budget Act**)
- Physicians and allied health professionals (3)
 - **H 1301, Physical Therapy Board Licensees/Strengthen NC Medical Board/Patient Safety Organizations**
 - **H 2699, Vision Care Program Changes**
 - Physician and allied health professional provisions in **S 1741, Modify Appropriations Act of 2005**
- State Health Plan (4)
 - **H 1059, State Health Plan Changes**
 - **S 602, Technical Corrections Act-2**
- Studies (5)
 - **H 1723, The Studies Act of 2006**

#1

HEALTH INSURANCE

H 1987, HEALTH PLANS/CHANGES TO BASIC AND STANDARD makes the following changes to the North Carolina Small Employer Group Health Coverage Reform Act (Act):

- Amends the small employer/self-employed individual "guaranteed-issue" health insurance coverage requirements in GS 58-50-125, creating a new subsection (a1) and creating a new GS 58-50-126. Currently, a small employer carrier (an insurer operating in the small group health insurance market) must offer the basic and standard health care plans [statutory benefit plans with coverage defined in North Carolina Department of Insurance (NC DOI) rules] to self-employed individuals and must guarantee to other small employers the opportunity to buy any small group benefit plan sold by the insurer. **H 1987** gives a small employer carrier the option of designating other health benefit plans as the carrier's guaranteed-issue products for self-

employed individuals. The carrier still must offer two plans (and file them for NC DOI approval), but they may be the statutory plans, the carrier's two most popular plans by premium volume, or two representative plans that have some actuarial equivalence to plans the carrier sells in the small employer market. Insurers may implement (after NC DOI approval) optional deductible and co-payment levels, including high-deductible options. The bill permits NC DOI to periodically review and update the statutory plans' benefits to address trends in the small group health insurance market (and consult with small employer carriers and representatives of the insurance agent and small employer communities as part of that periodic review).

- Amends GS 58-50-110, 110(5a), and 130(b) to allow a small employer carrier to use "industry" as a demographic factor in rating small employer group health plans, but with a cap of +/- 10%. This rating factor was originally permitted under the Act, but was repealed when adjusted community rating was enacted in 1995.
- Amends GS 58-50-130(b)(1) to expand the risk/rating bands used by insurers in rating small employer group health benefit plans from +/- 20 percent to +/- 25 percent. Currently, after accounting for age, gender and geographic location, insurers can adjust a specific small group's rate up or down (the risk band) by up to 20% based on the group's specific medical risk.
- Amend GS 58-50-130(b)(7) to replace the current demographic rating factor for geographic location with a rating factor for medical care system. Medical care system factors must reflect the relative differences in expected costs, produce rates that are not excessive, inadequate, or unfairly discriminatory in such medical care system areas, and be revenue neutral to the small employer carrier.
- Geography is already a permitted demographic rating factor, but now a health insurer may apply different geographic rating factors within a county to allow an insurer to charge more accurate rates when part of a county is served by a medical system in an adjoining county.
- Amends GS 58-50-125(f) to require that every small employer carrier fairly market all the small group health benefit plans it offers on a guaranteed issue basis to all small employers in the geographic areas in which the carrier makes coverage available to the extent required under that section and GS 58-68-40.

Effective Date: When enacted. This bill was signed into law on July 23, 2006.

Among other changes to state insurance laws, **S 277, MOTOR VEHICLE SELF-INSURERS** amends Article 2 of Chapter 58 of the General Statutes to provide relief to policyholders and others during a state of disaster and to suspend deadline requirements for NC DOI and others if NC DOI operations are interrupted by unexpected or uncontrollable events.

S 277 creates a new GS 58-2-46 that, among other things, provides that whenever a state of disaster is proclaimed for North Carolina or for an area within the State, or whenever the President of the United States issues a major disaster declaration:

- All insurance companies, including service corporations (e.g., Blue Cross Blue Shield of North Carolina) and health maintenance organizations, must "give their customers who reside within the geographic area designated in the proclamation or declaration the option of deferring premium or debt payments that are due during the time period covered by the proclamation or declaration." This deferral period must be "30 days from the last day the premium or debt payment may be made under the terms of the policy or contract" and also applies "to any statute, rule, or other policy or contract provision that imposes a time limit on an insurer, insured, claimant, or customer to perform any act during the time period covered by the proclamation or declaration, including the transmittal of information, with respect to insurance policies or contracts" when the insurer, insured, claimant or customer resides or is located in the geographic area designated in the proclamation or declaration. The deferral period applies "to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration" and NC DOI may extend the deferral period, "depending on the nature and severity of the proclaimed or declared disaster." No additional rate or contract filing is necessary to effect any deferral period.
- Regarding health benefit plans, after the expiration of a deferral period, "all premiums in arrears" are payable to the insurer. If premiums in arrears are not paid, coverage will lapse as of the date

premiums were paid up, pre-existing conditions will apply as otherwise permitted by law, and the insured will be responsible for all medical expenses incurred since the effective date of the lapse in coverage.

S 277 also creates a new GS 58-2-47 that provides that, regardless of whether a state of disaster exists, whenever an incident beyond the “reasonable control” of NC DOI, “including an act of God, insurrection, strike, fire, power outage, or systematic technological failure” substantially affects the daily business operations of NC DOI, the North Carolina Commissioner of Insurance “may issue an order, effective immediately, to stay the application of any deadlines and deemer provisions imposed by law or rule upon the Commissioner or [NC DOI] or upon persons subject to the Commissioner’s jurisdiction . . .” This order remains in effect for a period not to exceed 30 days and the Commissioner may renew it for successive periods not exceeding 30 days each for as long as NC DOI operations remain “substantially affected,” up to a period of one year from the effective date of the initial order.

Effective Date: When enacted. This bill was signed into law on July 19, 2006.

S 602, 2005 TECHNICAL CORRECTIONS ACT-2 as ratified did not include the provision, included in the version of the bill that the House passed in 2005, that would have amended GS 58-50-30 to give an insured beneficiary under a health benefit plan the right to “redeem a prescription drug benefit at any pharmacy” and require that the insurer or any entity providing the prescription drug benefit for the insurer “reimburse the pharmacy in the same manner, to the same extent, at the same rate, and on the same payment schedule” as the insurer or other entity would to a pharmacy that is a party to a pharmacy provider contract.

Among other changes to state insurance laws, **S 615, INSURANCE TECHNICAL CORRECTIONS** amends:

- GS 58-7-1, in Section 1.2 of the bill, to delete obsolete references to Article 1-64 of Chapter 58.
- GS 58-50-40(i) to correct an inadvertent omission in that statute regarding circumstances where an employer, and not the insurer, terminates a group health insurance policy. State law already provides that, upon termination of a group health insurance contract by the insurer, the insurer must notify every subscriber and certificate holder under the contract of the termination of the contract along with the certification required to be provided under GS 58-68-30(e). Section 1.8 of **S 615** requires that, upon termination of a group health insurance contract by the “insurance fiduciary” (any person, employer, principal, agent, trustee, or third-party administrator who is responsible for the payment of group health or group life insurance premiums or who is responsible for funding a group health plan), the insurance fiduciary must notify every subscriber and certificate holder under the contract of the termination of the contract along with the certification required to be provided under GS 58-68-30(e).
- GS 58-50-100 (in Section 1.9 of the bill) to update the Small Employer Group Health Insurance Coverage Reform Act title and reference to include provisions that have been added to the Act since the original 1991 legislation was enacted.
- GS 58-2-240 to clarify a law enacted in 2005 regarding how NC DOI handles confidential insurance market and financial information. Section 2.4 of **S 615** provides that, notwithstanding GS Chapter 132 (North Carolina’s public records law), all market analysis, documents arising from market conduct action, and financial statement analysis work papers, ratios, programs, findings, and other information in the custody of NC DOI are confidential, are not open for public inspection, and are not discoverable or admissible in evidence in a civil action brought by a party other than NC DOI against a person regulated by NC DOI, its directors, officers, or employees, unless the court finds that the interests of justice require that the documents be discoverable or admissible in evidence or except as provided in G.S. 58-2-128 and G.S. 58-2-132(g) through (j). NC DOI, however, may use market analysis, documents arising from market conduct action, and financial statement analysis work papers in the furtherance of any regulatory or legal action brought as part of the Commissioner’s official duties.
Nothing in the law limits public access to financial or actuarial information or calculations filed by an insurer or other entity for rating purposes, including rate filings, deviation filings, and loss cost filings.

- GS 58-2-245 to provide that, notwithstanding GS 132.1.10(b)(5), NC DOI is not required to redact an employer taxpayer identification number on documents that may be made available to the general public. Notwithstanding identity theft protections in state law, Section 2.5 of **S 615** makes insurance company form/policy/rate submissions accessible to the public.
- GS 58-33-95(a) to add third party administrators. When this statute, regarding the liability of a person who sells insurance for an unauthorized insurer, was revised in 2004, the language applying it to third party administrators was inadvertently deleted. This amendment, in Section 2.8 of **S 615**, corrects that omission and defines “third party administrator.”

Effective Date: When enacted. This bill was signed into law on July 13, 2006.

S 1741, MODIFY APPROPRIATIONS ACT OF 2005 includes provisions affecting health insurance in North Carolina.

Required Data Sharing by Private Health Insurers

Section 10.8 amends Part 1 of Article 50 of Chapter 58 of the General Statutes by adding a new section, GS 58-50-46, to require health insurers to provide certain information to the North Carolina Department of Health and Human Services (NC DHHS), Division of Medical Assistance (DMA). Health insurers and pharmacy benefit managers must provide, with respect to individuals eligible for or who are receiving Medicaid benefits, upon the request of DMA, information about the coverage of eligible individuals, spouses, and dependents and must submit specified information to DMA not more than 12 times a year. Insurers are also required to respond to a request for information from DMA within 90 working days after receipt of written proof of loss or claim for payment for health care services for a Medicaid recipient who is covered by the insurer’s health benefit plan.

Insurers must accept DMA’s right of recovery and the assignment to DMA of any right of an individual or other entity to payment from the party for services for which payment has been made by DMA. An insurer that complies with the requirements of this section is not liable on that account in any civil or criminal actions or proceedings.

S 198, REVISE 2006 BUDGET ACT amended **Section 10.8** to make it effective January 1, 2007.

Increase Health Care Access for Uninsured Persons

Section 10.12(a) requires the NC DHHS Secretary to develop a plan to expand health care access for uninsured North Carolinians through the use of public/private partnerships, federal flexibility and resources, and promotion of charity care by health care providers. The plan’s goals are to help small businesses that want to provide health care coverage, expand health care coverage for working uninsured persons, secure all available federal funds to support the program, and promote charity care by health care providers.

Section 10.12(b) instructs the Secretary, in developing the plan, to:

- 1) Consider findings and recommendations of previous studies on increased access to health care and covering the uninsured to determine their feasibility.
- 2) Draw on the experience of other states that have successfully increased access to health care and covered the uninsured.
- 3) Determine waivers necessary to secure federal funding available through 1115 Demonstration Waivers and other federal waivers to cover the uninsured.
- 4) Explore options such as those available through the Deficit Reduction Act of 2005 (DEFRA) to adjust Medicaid eligibility and benefits to cover the uninsured.
- 5) Consider the use of existing funding that might be used to leverage additional federal matching funds including certified public expenditures, and appropriate federal Disproportionate Share Hospital Program funds.

- 6) Pursue an agreement with the Centers for Medicare and Medicaid Services (CMS) to develop a methodology for investing Medicare savings realized from the expansion of the scope of Community Care of North Carolina Program to help fund the plan; and
- 7) Determine in conjunction with the Office of State Budget and Management the fiscal impact of the plan for a five-year period.

Section 10.12(c) appropriates \$100,000 to NC DHHS for fiscal year (FY) 2006-2007 to support the development of the plan. The plan must be submitted to the 2007 General Assembly not later than March 1, 2007.

Small Business Health Insurance Credit

Section 24.4 enacts GS 105-129.16E to allow a small business that employs no more than 25 eligible employees and provides health insurance to all of its eligible employees to take a tax credit for its costs in providing health insurance for its employees who earn up to \$40,000 a year. The credit per employee is the lesser of \$250 or the business's cost of providing health benefits for the employee. The tax credit is effective beginning with the 2007 tax year and expires starting with the 2009 tax year.

To qualify for the tax credit, a small business must pay at least 50% of the health insurance premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage described in GS 58-50-125 or the business' employees must have "qualifying existing coverage."

Set Insurance Regulatory Charge

Section 26.2 retains the current rate for the insurance regulatory charge under GS 58-6-25 at 5.5%. The charge is a percentage of each insurance company's gross premiums tax liability.

Effective Date: July 1, 2006, unless otherwise noted. This bill was signed into law on July 10, 2006.

#2

PHARMACIES AND PRESCRIPTION DRUGS

To comply with federal law, **S 686, AMEND RESTRICTIONS ON THE PURCHASE AND SALE OF PSEUDOEPHEDRINE PRODUCTS** amends restrictions on the purchase and sale of pseudoephedrine products contained in Article 5D of Chapter 90 of the General Statutes (The "Methamphetamine Lab Prevention Act of 2005") to make the following changes to state law:

- 1) Amends GS 90-113.52(a) to require that pseudoephedrine products in a tablet, caplet, or gel cap form be offered for sale only in blister packages (was, required that products with a sole active ingredient of 30 milligrams or more per tablet or caplet be offered for sale only in blister packages).
- 2) Amends GS 90-113.53(a) to prohibit the retail purchase or delivery of more than two packages containing a combined total of more than 3.6 grams of any pseudoephedrine products per calendar day (was, prohibited the sale in a single transaction of more than two packages containing a combined total of more than 6 grams of pseudoephedrine products).
- 3) Amends GS 90-113.52(c) to conform the statement required to be placed on the record of disposition of pseudoephedrine products to reflect changes made to GS 90-113.53(a). Further amends the subsection to authorize retailers to provide the required statement to consumers in an electronic format and to require that those retailers display the statement on a sign adjacent to the device used for that purpose and include an additional statement, as described in the section, on the electronic form.
- 4) Amends GS 90-113.54(a) to allow pseudoephedrine retailers to post a sign that contains language substantially similar to that provided for in the subsection.

5) Enacts a new GS 90-113.54(b) to provide that the section does not apply to pseudoephedrine products in liquid, liquid capsule, or gel capsule form, or pediatric products labeled as being intended for administration to children under 12 years of age, except as ordered by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

6) Enacts a new GS 90-113.61, effective September 30, 2006, to provide that although those products described in GS 90-113.54(b) are not subject to the requirements of Article 5D of GS Chapter 90, they are subject to the requirements of the federal Combat Methamphetamine Act of 2005.

Effective Date: When enacted. This bill has been ratified, but not yet signed into law by Governor Easley.

S 1741, MODIFY APPROPRIATIONS ACT OF 2005 includes provisions affecting pharmacies and the delivery of prescription drugs in North Carolina.

Strategies to Offset the Cost to Pharmacists of Providing Services to Medicaid Recipients Enrolled in Medicare Part D

Section 10.9D(a) states that the General Assembly “recognizes the critical need for pharmacy management services to Medicaid recipients enrolled in Medicare Part D” and because of “the additional costs to pharmacists that provide pharmacy services to Medicaid recipients enrolled in Medicare Part D, and in light of the fact that federal law does not provide federal matching funds under the Medicaid program for these services,” NC DHHS is directed to “study strategies for assisting pharmacists in providing these services to Medicaid recipients enrolled in Medicare Part D.” In its study, NC DHHS must “specifically address the special circumstances of pharmacists that provide pharmacy services to long-term care facilities” and also address “pharmacies adversely affected by the additional costs such that they may remain in business and thus continue to provide pharmacy services throughout the State.” As part of this effort, NC DHHS must also “assess the impact” of DEFRA on the payment for generic drugs under Medicaid.

S 198, REVISE 2006 BUDGET ACT amended **Section 10.9D** putting the language above into a subsection **(a)** that also directed NC DHHS to report its findings and recommended strategies to the House and Senate Appropriations Subcommittees on Health and Human Services and the General Assembly’s Fiscal Research Division not later than February 1, 2007.

S 198 also added a new **Section 10.9D(b)** that provides that if a decrease in the average manufacturer’s price of prescription drugs during the period January 1, 2007 through June 30, 2007 results in “average savings” to the Medicaid program then NC DHHS must “supplement the dispensing fee” that pharmacists receive under Medicaid “by an amount calculated to be budget neutral and not to exceed average savings less administrative costs to the State to implement the supplemental fee.” The supplemental fee must be implemented no earlier than January 1, 2007 and no later than June 30, 2007. If CMS requires an amendment to the State Medicaid Plan in order to implement this supplemental fee, then adding the fee is contingent on receipt of approval of the State Plan amendment prior to June 30, 2007. Subsection **(b)** expires June 30, 2007.

Effective Date: July 1, 2006, unless otherwise noted. This bill was signed into law on July 10, 2006.

#3

PHYSICIANS AND ALLIED HEALTH PROFESSIONALS

H 1301, PHYSICAL THERAPY BOARD LICENSEES/STRENGTHEN NC MEDICAL BOARD/PATIENT SAFETY ORGANIZATIONS rewrites GS 131E-95(c) to provide for limited release of confidential information to patient safety organizations. It also strengthens and expands the authority of the North Carolina Medical Board (Board) by:

- Amending GS 90-14 to:

- 1) Give the Board the specific authority to discipline physicians by placing them on probation with or without conditions, imposing limitations and conditions on their practice, issuing public reprimands, assessing monetary redress, issuing public letters of concern, mandating free medical services, requiring satisfactory completion of treatment programs or remedial or educational training, or imposing fines, in addition to the Board's current authority to "deny, annul, suspend, or revoke a license or other authority to practice medicine in this State."
 - 2) Add a new subdivision (11a) to allow disciplinary action against a physician or physician assistant who has not maintained continued competency for two years before application for an initial license or reactivation, subject to rules to be adopted by the Board.
 - 3) With respect to the disciplinary ground of incompetence, permit the Board to require the physician to submit to inquiries or examinations by anyone as directed by the Board (now, only by members of the Board or licensed physicians).
 - 4) Replace the State Medical Society Physician Health and Effectiveness Committee with the North Carolina Physicians Health Program for referrals of physicians and physician assistants with impairments due to alcohol, drug addiction, or mental illness, and exclude sexual misconduct from the definition of mental illness.
 - 5) Extend the immunity from liability in connection with good faith actions that applied to those who make reports to those involved in investigations and who give medical opinions in connection with licensing actions.
- Replacing the existing GS 90-14.5 governing the Board's use of a trial examiner with the authority to nominate a hearing committee of three or more Board members who may conduct proceedings and make recommendations to the Board.
 - Amending GS 90-14.13 to:
 - 1) Specify the obligation of a hospital, other health care institution, or insurer (including health maintenance organizations, preferred provider organizations, and all other provider organizations that issue credentials to physicians who practice medicine in the State) to report to the Board the following actions involving a physician's privileges to practice in that institution within 30 days of the date that the action takes effect:
 - a. A summary revocation, summary suspension, or summary limitation of privileges, regardless of whether the action has been finally determined.
 - b. A revocation, suspension, or limitation of privileges that has been finally determined by the governing body of the institution.
 - c. A resignation from practice or voluntary reduction of privileges.
 - d. Any action reportable pursuant to Title IV of P.L. 99-660, the Health Care Quality Improvement Act of 1986, as amended, not otherwise reportable under this subsection.
 - 2) Impose a penalty of between \$250 and \$500 by the licensing agency of the institution for failure to report the suspension.
 - 3) Specify that the obligation of an insurance carrier or other fund operated or administered by a provider or hospital authority to report an award of damages or a settlement of a claim applies not just to awards or settlements affecting or involving a physician, but also to awards or settlements in any way implicating the care provided by the physician (or physician's assistant) and adds a monetary penalty of between \$250 and \$500 for failure to make this report. The Board also may "request details about any action covered by this section" and the covered person or entity must "promptly furnish" the requested information. The required reports are privileged and not open to the public.
 - Amending GS 90-21.22(d) to specify that societies subject to peer review agreements must report information about a physician or physician assistant constituting an imminent danger to the public or to him- or herself when the danger is by reason of impairment, mental or physical illness, the commission of professional sexual boundary violations, or any other reason. GS 131E-87, governing reports of disciplinary action by state-licensed hospitals, is amended to include voluntary reductions of privileges.

H 1301 also directs the North Carolina Medical Board and the North Carolina Board of Nursing and the North Carolina Medical Board and the North Carolina Board of Pharmacy to work jointly to develop rules

to govern the performance of medical acts by registered nurses and clinical pharmacist practitioners respectively. These requirements are effective when the bill becomes law. The North Carolina Medical Board, the Board of Nursing, and the North Carolina Board of Pharmacy must report to the Chairs of the House Committee on Health, the Senate Committee on Health Care, the House Select Committee on Health Care, and the Subcommittee on Patient Safety, Quality and Accountability of the House Select Committee on Health Care on the adoption of the provisions of G.S. 90-14(a) as part of the joint rules governing the practice of medical acts for nurse practitioners and clinical pharmacist practitioners. The boards must file their reports no later than September 1, 2006.

Effective Date: October 1, 2006, except where otherwise noted. This bill was signed into law on July 19, 2006.

H 2699, VISION CARE PROGRAM CHANGES amends GS 130A-440.1 to require every child in this State entering kindergarten, beginning with the 2007-08 school year, to get a vision screening in accordance with vision screening standards adopted by the Governor's Commission on Early Childhood Vision Care (Commission). Within 180 days of the start of the school year, the parent of the child must present to the school a certification that the child has, within the past 12 months, "passed vision screening conducted by a licensed physician, optometrist, physician assistant, nurse practitioner, registered nurse, orthoptist, or a vision screener certified by Prevent Blindness North Carolina, or a comprehensive eye examination performed by an ophthalmologist or optometrist."

A child failing to pass a vision screening must get a comprehensive eye examination, as defined in the statute, from an optometrist or ophthalmologist, but no child will be excluded from attending school because of a parent's failure to obtain a comprehensive eye examination for the child. The Commission must prepare written information for providers to share with parents and guardians stating that "vision screening is not a substitute for a comprehensive eye examination."

The Commission may make funds available to pay for examinations, including corrective lenses, and would establish income eligibility requirements for such financial assistance.

The Commission, located within NC DHHS for administrative and budgetary purposes only, will consist of 10 members appointed as follows:

- Four optometrists, two ophthalmologists, and one general pediatrician or a family physician who provides services to children, each of whom is licensed to practice in this State, and one school nurse who is certified by the Prevent Blindness North Carolina Board, appointed by the Governor. Among the optometrists and ophthalmologists appointed by the Governor, one would be a currently serving member of the Prevent Blindness North Carolina Board.
- One optometrist licensed to practice in this State appointed by the Speaker of the House.
- One ophthalmologist licensed to practice in this State appointed by the Senate President.

H 2699 also directs NC DHHS, Division of Public Health, to study and "determine the methodology of compiling data on the number of children who received comprehensive eye examinations, the types of problems found, and treatments provided . . ." The Division would be required to report its findings to the Commission, the Joint Legislative Health Care Oversight Committee and House and Senate Appropriations Subcommittees on Health and Human Services not later than July 1, 2007.

Effective Date: When enacted. This bill has been ratified, but not yet signed into law by Governor Easley.

S 1741, MODIFY APPROPRIATIONS ACT OF 2005 includes provisions affecting physicians and allied health professionals in North Carolina.

Inflationary Increases for Medicaid Providers

Section 10.3A requires the NC DHHS Secretary to develop a plan for allocating funds available for inflationary increases among groups of Medicaid providers. The plan must be developed in accordance with the study of Medicaid provider rates authorized in **Section 10.11** (see below). Inflationary increases

become effective January 1, 2007 (or retroactive to January 1, 2007 when the Secretary's plan is approved by the federal government).

Study Medicaid Provider Rate Increases

Section 10.11(a) requires the NC DHHS Secretary to study and develop a proposal for an equitable standard for providing inflationary increases and other cost-related increases to service providers in the Medicaid program.

Section 10.11(b) appropriates \$100,000 for FY 2006-07 to support the study and requires NC DHHS to report back to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than March 1, 2007 on the findings and recommendations of the study.

Eye Exams

S 1741 includes a reduction of \$1.5 million in funding for the Governor's Vision Care Program, the comprehensive eye examination requirement found in Section 10.59F of S.L. 2005-276 (as amended by Section 20 of S.L. 2005-345), G.S. 130A-440.1, and Part 34 of Article 3 of Chapter 143B of the General Statutes.

Effective Date: July 1, 2006, unless otherwise noted. This bill was signed into law on July 10, 2006.

#4

STATE HEALTH PLAN

H 1059, STATE HEALTH PLAN CHANGES makes the following changes concerning the Teachers' and State Employees' Comprehensive Major Medical Plan (State Health Plan or Plan):

- 1) Amends GS 135-39.5(12) to require that the optional plans and programs adopted pursuant to GS 135-39.5B (authorizing optional hospital and medical benefits plans, including a PPO plan) comply with GS 58-3-225 (requiring prompt payment of claims under health benefit plans).
- 2) Authorizes the Plan to cover over-the-counter (OTC) medications as recommended by the Plan's pharmacy and therapeutics committee. The Plan must ensure that recommended medications are analyzed for medical effectiveness and safety, and that the analysis addresses the financial impact on the Plan. Also, a co-payment may be imposed for OTC medications and policies must be adopted placing annual coverage limits on OTC drugs. The Plan's Executive Administrator must submit proposed policies and co-payments to the Legislative Committee on Employee Hospital and Medical Benefits for review prior to implementation.
- 3) Authorizes the Plan to offer incentives to Plan members to encourage them to make lifestyle or behavior changes to reduce Plan costs. Prior to implementing any incentives, the Executive Administrator must submit the proposed programs to the Legislative Committee on Employee Hospital and Medical Benefits for review.
- 4) Amends GS 135-40.5(g) to provide that the Plan will pay \$25.00 for each "preferred" branded prescription, \$40.00 for each "preferred" branded prescription with a generic equivalent drug, and \$50.00 for each "non-preferred" branded or generic prescription.
- 5) Authorizes the Plan's Executive Administrator to hire 8 new full-time employees to improve Plan efficiency and cost-effectiveness.
- 6) Rewrites GS 135-39.5B(b) to provide that if a pharmacy benefit is not provided under the optional hospital and medical benefits program (including a PPO) program, the pharmacy benefit under GS 135-40.59(g) shall apply.

Effective Date: July 1, 2006. This bill has been ratified, but not yet signed into law by Governor Easley.

Among other statutory changes, **S 602, 2005 TECHNICAL CORRECTIONS ACT-2** amends GS 135-40.13A (State Health Plan subrogation rights) to give the Plan subrogation rights to recover provider expenses and to clarify that the Plan's subrogation rights extend to expenses related to an injury caused

by a liable third party. Enacts a new GS 135-40.13A(d) to limit the Plan's lien to 50% of the total damages recovered from a third party, exclusive of the Plan member's reasonable costs of collection. The Plan's determination as to the reasonable costs of collection is not a "final agency decision" for purposes of a contested case under GS Chapter 150B. The Plan's lien or right to recovery is presumed when a Plan member is represented by an attorney, and the Plan member's attorney must disburse proceeds pursuant to the statute.

Effective Date: This section of S 602 is effective when enacted and applies to payments made by the Plan after July 20, 2004, for which reimbursement is sought on or after the effective date. This bill has been ratified, but not yet signed into law by Governor Easley.

#5

STUDIES

H 1723, THE STUDIES ACT OF 2006 authorizes the Legislative Research Commission to study assisting small businesses with health insurance, high-risk health insurance, naturopathic registration, men's health, Hepatitis C, and pharmacy benefits manager regulation, among many other study topics.

H 1723 also:

- 1) Authorizes the Joint Legislative Health Care Oversight Committee to study and recommend legislation on the following topics (among others):
 - Approaches to find medical cost savings and to ensure quality of medical care provided to the citizens of the State.
 - Regulation of nurse practitioner practice including issues surrounding the practice parameters of advanced practice registered nurses (APRNs), the relationship between APRNs and physicians, and whether APRNs should be regulated through the North Carolina Board of Nursing or the North Carolina Medical Board.
 - The feasibility of establishing an Office of Prescription Drug Cost Management in the Department of Administration or other appropriate State agency to manage the cost of prescription drugs incurred by State agencies and programs that cover or provide prescription drugs. The responsibilities of the Office would include negotiating prescription drug price discounts with participating pharmaceutical manufacturers and pharmacists for prescription drugs paid for, in whole or in part, with State funds.
 - Alternatives to the State Health Plan for the University of North Carolina system.
- 2) Authorizes the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to study mental health parity.
- 3) Creates the Joint Legislative Commission on Health Insurance Accessibility to study the legal, fiscal, and policy implications of various means of increasing accessibility to health insurance and report its findings to the 2007 North Carolina General Assembly. The Commission may study the creation of a North Carolina Health Insurance Risk Pool (**H 1535**), a North Carolina Fair Share Health Insurance Access Program (**H 2860**), and a Healthy North Carolina access to health insurance program (**S 255**). The study shall specifically address strategies for increasing health insurance accessibility for small employers, self-employed individuals and persons who are employed but uninsured. The study shall include:
 - A review of the number of small employers (50 or fewer employees) in this State, grouped by industry and volume of business; the number of small employers that offer comprehensive health insurance coverage to their employees; and the average premium charged for comprehensive health insurance coverage available to small employer groups in this State, as compared to premiums for comparable coverage in the Southeast region and other areas of the United States.
 - A review of the participation rates, premiums and cost-sharing, and coverage options offered under the North Carolina Small Employer Group Health Coverage Reform Act.
 - An analysis of the Healthy New York Program administered by the State of New York, or a similar program, that combines the provision of a standardized, streamlined benefit package with state-funded reinsurance in the form of a stop-loss fund that would reimburse insurers for the costs of claims within a defined claims corridor. The analysis shall also review the

amount in state funds appropriated for Healthy New York since its inception, and corresponding participation rates by employers and eligible individuals.

- An analysis of giving additional tax benefits to small businesses providing health insurance coverage for their employees.
- 4) Not later than January 1, 2007, requires NC DHHS to conduct a survey of pharmacy providers participating in the Medicaid program to determine the cost of dispensing a Medicaid prescription in North Carolina. In place of the survey, the Department of Health and Human Services may use a recently conducted national survey of a statistically relevant sample of pharmacies. NC DHHS must report its findings to the Senate and House Appropriations Subcommittees on Health and Human Services and the Fiscal Research Division not later than March 1, 2007.

Effective Date: When enacted. This bill has been ratified, but not yet signed into law by Governor Easley.

END OF JULY 29, 2006 EDITION

© Copyright 2006 by Harrison J. Kaplan, Attorney at Law PA. Any reproduction or retransmission of **North Carolina Legislative Health Watch**, in whole or in part, is a violation of federal law and strictly prohibited without the consent of Harrison J. Kaplan.

All rights reserved.

Summaries and reporting provided by Harrison J. Kaplan, Attorney at Law and Senior Vice President of State Government Relations for McGuireWoods Consulting, Raleigh.

North Carolina Legislative Health Watch
A Publication of the Insider State Government News Service

www.ncinsider.com -- www.nchealthwatch.com
P.O. Box 191, Raleigh, North Carolina, 27602-9150
CUSTOMER SERVICE (919) 836-2804
LEGISLATURE (919) 832-8358 / FAX (919) 836-2814
E-mail at: info@nchealthwatch.com

© Copyright 2009 The Insider. Any reproduction or retransmission of The Insider North Carolina State Government News Service, in whole or in part, is a violation of federal law and strictly prohibited without permission. All rights reserved.