



HOUSE BILL 156: Medicaid PHP Licensure/Food Svcs State Bldgs.

2017-2018 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 26, 2017
Introduced by:	Reps. McNeill, Lambeth, Dobson, Brisson	Prepared by:	Jennifer Hillman
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 156 would do the following:*

- *Create a Prepaid Health Plan (PHP) Licensure Act governing the Department of Insurance's licensure of Medicaid PHPs as part of Medicaid transformation. The finance-related provision may be found on page 4, lines 15-21: the Commissioner of the Department of Insurance is authorized to set a license application fee of up to \$2,000 and an annual license continuation fee of up to \$5,000.*
- *Allow the Department of Health and Human Services (DHHS) to operate or contract for the operation of food services at certain State properties or facilities.*

PREPAID HEALTH PLAN LICENSURE ACT: Sections 1 through 3 pertain to the licensure of Medicaid PHPs by the Department of Insurance. S.L. 2015-245, An Act to Transform and Reorganize North Carolina's Medicaid and NC Health Choice Programs, became law on September 23, 2015, and provided a legislative framework for the transformation of North Carolina's Medicaid program to provide budget predictability for the taxpayers of the State while ensuring quality care to those in need. S.L. 2015-245 requires transition of the current Medicaid and NC Health Choice programs to capitated contracts with Prepaid Health Plans (PHPs) under an 1115 waiver, which is currently awaiting approval by the Centers for Medicare and Medicaid Services (CMS). S.L. 2015-245 requires PHPs to hold a PHP license in order to operate.

Section 1 would enact Article 93 of Chapter 58 of the General Statutes – the Prepaid Health Plan Licensing Act (PHP Licensing Act). The PHP Licensing Act provides the requirements for obtaining a PHP license as well as requirements for maintaining that license. Licenses would be granted by the Commissioner of the Department of Insurance. Key components of the new Article 93 include the following:

- In order to obtain a license, an entity would be required to make an application to the Department of Insurance and pay an application fee not to exceed \$2,000.
- Licensed health organizations would not be required to file an application or pay the application fee but would be able to obtain a license upon showing that the licensed health organization meets the requirements of Article 93 of the General Statutes. The new Article 93 defines a licensed health organization as one of the following:
 - A health maintenance organization licensed under Article 67 of Chapter 58.
 - A full service corporation licensed under Article 65 of Chapter 58.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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- An insurer under this Chapter that is required by the Commissioner of Insurance to use the NAIC Health Annual Statement Blank when filing the annual statement in accordance with G.S. 58-2-165.
- The term "licensed health organization" does not include an insurer that (i) is licensed under this Chapter as either a life or health insurer or as a property or casualty insurer and (ii) is otherwise subject to either life or property and casualty risk based capital requirements.
- The PHP license would be issued on an annual basis. The fee for the license could be no more than \$5,000.
- The new Article 93 prescribes the investments a PHP could make, the approval requirements for exclusive management or custodial agreements, and the examinations that may be made by the Commissioner of Insurance.
- The new Article 93 would require PHPs to have a plan for protection against insolvency, as well as a plan for handling insolvency, approved by the Commissioner of Insurance. PHPs would also be required to maintain a minimum capital and surplus equal to the greater of one million dollars or the amount required under the risk-based capital provisions of Chapter 58. All PHPs would be required to make a deposit of at least \$500,000 to be administered in accordance with Article 5 of Chapter 58. The amount could be higher, as determined by the Commissioner of Insurance.
- The new Article 93 outlines actions the Commissioner of Insurance would be able to take if the PHP is in a hazardous financial condition. The new Article 93 also outlines the circumstances under which the Commissioner could suspend or revoke a PHP license, or take any other action against a PHP described in Article 93, and would require the Commissioner to consult with the Secretary of DHHS before taking such actions.
- The new Article 93 also addresses the confidentiality of information shared between the Department of Insurance and DHHS
- The new Article 93 specifies the other provisions of Chapter 58 that are applicable to the operation of PHPs.

Sections 2 and 3 would make conforming changes in Chapter 58.

OPERATION OF FOOD SERVICES AT CERTAIN STATE PROPERTIES OR FACILITIES:
Sections 4 through 6 pertain to the operation of food services at certain State properties or facilities. Article 3 of Chapter 111 of the General Statutes requires State agencies, upon the request of DHHS, to give preference to blind persons for food services operations on State property.

Section 4 would amend Article 3 of Chapter 111, which governs the operations of vending facilities on State property, to add a new section that would allow DHHS to operate or contract for the operation of food services at state properties or facilities that are allocated to the Department of Administration or the Department of Insurance. The net proceeds of these operations would go to the Division of Services for the Blind to be used to support programs that enable blind and visually impaired people to live more independently. This new section creates an exemption to the requirement that State agencies, upon the request of DHHS, give preference to blind persons for food services operations on State property. This exemption is similar to the exemption that already exists in statute for the Department of Natural and Cultural Resources and the Department of the State Treasurer.

Section 5 would amend the statute pertaining to the sale of merchandise or services by governmental units to exempt the operation of food and vending services under Article 3 of Chapter 111 of the General

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Statutes from the prohibition of governmental entities operating restaurants, cafeterias, or other eating places in State buildings. The exemption created in this section broadens an existing exemption for DHHS in the statute.

Section 6 would amend the statute pertaining to the State's lease or sale of real property for less than fair market value to specify that the statute does not apply to leases entered into by DHHS for the operation of food and vending service under Article 3 of Chapter 111 of the General Statutes.

Section 7 would sunset the provisions of Section 4 through 6 after five years.

EFFECTIVE DATE: Sections 4 through 6 of this act would be effective when the act becomes law and would expire five years after that date. The remainder of this act would be effective when it becomes law.

**Amy Jo Johnson, Staff Attorney in the Legislative Drafting Division, substantially contributed to this summary.*