



HOUSE BILL 299: State Health Plan Administrative Changes.

2017-2018 General Assembly

Committee:		Date:	August 29, 2017
Introduced by:		Prepared by:	Theresa Matula Legislative Analyst
Analysis of:	S.L. 2017-135		

S.L. 2017-135 makes administrative changes to statutes governing the North Carolina State Health Plan for Teachers and State Employees (Plan) to: 1) allow revocation of coverage for misrepresentations made by covered individuals regarding eligibility or enrollment; 2) clarify the premium split between the State and certain General Assembly retirees; 3) provide coverage to children newly born to existing covered employees; 4) provide members of the Board of Trustees with immunity from civil liability for most actions taken in their official capacity; 5) add a definition of "authorized representatives who are assisting the State Health Plan Division staff" to the definition section for the Plan; 6) add a new section to the Plan statutes pertaining to fraud and detection audit programs; 7) require the Department of Revenue to furnish certain tax, wage, or income information for a beneficiary to the Department of State Treasurer; 8) require that a retiree who is a prisoner serving an active sentence in the State prison system be covered by the State prison system health services rather than the Plan; and 9) provide for the recoupment of overpaid benefits or erroneous payments.

The section that pertains to coverage for newborns becomes effective October 1, 2017, and applies to children born to covered employees on or after that date. The remainder of the act became effective July 20, 2017.

BILL ANALYSIS:

Section 1 amends the statutes [G.S. 135-48.44(a)(6)] to clarify that an individual would lose coverage under the plan on the last day of the month the individual is found to have made a false representation of a material fact regarding eligibility or enrollment information.

Section 2 amends the law [G.S. 135-48.40(c)(2)] to provide that a retiree's premium for one-half contributory coverage is half of the employer contribution established by the General Assembly plus the employee contribution, clarifying that individual retirees must pay the balance of the total premiums not paid by the State unless prohibited by law. The section also amends the law [G.S. 135-48.40(c)(2)] to define "total premium" as the sum of the Plan's employer contribution rate and the employee or retiree's contribution rate.

Section 3 amends the law [G.S. 135-48.42(a)] pertaining to enrollment to clarify that children born to covered employees will be covered from birth as long as the participants notify the Plan within 30 days of birth and pay premiums retroactive to the first day of the month in which the child was born. This section becomes effective October 1, 2017, and applies to children born to covered employees on or after that date.

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Section 4 amends the law [G.S. 135-48.20] establishing the Board of Trustees to add a new subsection making individual members of the Board of Trustees immune from civil liability for actions taken in their official capacity except when:

- The member was not acting within the scope of the member's duties.
- The member was not acting in good faith.
- The member committed gross negligence or willful or wanton misconduct.
- The member derived an improper personal financial benefit from a transaction.
- The member incurred liability from the operation of a motor vehicle.

The language in this section is substantially similar to the immunity provided for the Teachers' and State Employees' Retirement System (TSERS) Board of Trustees [G.S. 135-6(t)].

Section 5 amends the definitions for the State Health Plan [G.S. 135-48.1] to add a definition for "Authorized representatives who are assisting the State Health Plan Division staff." The definition used is the same as the one in the Local Governmental Employees' Retirement System (LGERS) and TSERS statutes.

Section 6 adds a new section [G.S. 135-48.16] to the State Health Plan laws pertaining to fraud detection and audit programs. Subdivision (a)(1) is substantially similar to those in LGERS and TSERS, would allow the Plan or its representatives to have access to people, books, records, reports, vouchers, correspondence, files, and investments of any employing unit, and the authority to examine and make copies of the information insofar as it directly relates to a specific investigation or audit. It further provides that a confidentiality agreement may be put in place with an agency providing documentation to the Plan. Subdivision (a)(2) would allow the Plan or its representatives to also have access to people, records, papers, reports, vouchers, correspondence, and books in the possession of any person or organization that pertain to benefits handled pursuant to a grant or contract with the federal government that is administered by the State Health Plan, the State, or any political subdivision of the State. Authorized representatives who are assisting the State Health Plan Division staff must have a HIPAA business associate agreement with the State Health Plan and enter into a HIPAA data sharing agreement with any vendor whose records they are copying. Subsection (b) specifies that providers of social and medical services who provide access to the Plan must make copies of records maintained for services provided to beneficiaries and provide those copies to the Plan or its representatives when the Plan requests the documentation in writing. Requests must state the purpose and authority for the request and allow a reasonable time to produce the documents. Subsection (c) would also establish a records retention policy, similar to the LGERS and TSERS policies. The Plan would be required to maintain complete files of investigative reports for ten years, with those files being retained according to an agreement between the Plan and the State Archives. The files must be kept confidential; however, at the discretion of the Executive Administrator of the Plan the records may be made available to a representative of the State or federal government in connection with an official matter or criminal investigation. The records may also be disclosed if an order requiring disclosure is issued in Wake County Superior Court.

Section 7(a) amends the law [G.S. 105-259(b)] pertaining to the disclosure of tax records. An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in G.S. 105-259(b). The amendment allows the Department of State Treasurer to be furnished periodically upon request, the State tax return of a beneficiary, or the wage and income statement of a beneficiary, or the NC-3 information of an employer for the purpose of assisting a fraud or compliance investigation or audit under the authority of the Treasurer to establish and operate fraud and detection audit programs (G.S. 135-48.30(a)(9), or in accordance with the provisions added by Section 6 of the act [G.S. 135-48.16].

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However, no federal tax information may be disclosed unless permitted by federal laws related to the confidentiality of returns and return information (Section 6103 of the Code).

Section 7(b) requires the Department of Revenue and the Department of State Treasurer to enter into a confidential information sharing agreement not later than June 30, 2018.

Section 8 adds a new subsection to G.S. 135-48.41 pertaining to eligibility provisions of the State Health Plan. The new language provides that if a retiree is a prisoner serving an active sentence in the State prison system and covered under G.S. 148-19, then the incarcerated retiree is not eligible for coverage under the State Health Plan but would be covered by health services for the State prison system.

Section 9(a)-(d) amends the TSERS, LGERS, Legislative Retirement System (LRS), and the National Guard Pension Fund by amending existing statutes or adding new statutory language to provide that notwithstanding any provision to the contrary, any overpayment of benefits or erroneous payments to a member in a State-administered retirement system, the Disability Salary Continuation Plan, the Disability Income Plan, including any benefits paid to, or State Health Plan premiums or claims paid on behalf of a member, who is later determined ineligible, may be offset against a retirement allowance, return of contributions, or other right accruing to the person, the person's estate, or designated beneficiary. (S.L. 2017-129 (HB 183) Section 1(a) makes a similar change to the NC Firefighters' and Rescue Squad Workers' Pension Fund.)

EFFECTIVE DATE: Except for Section 3 as outlined above, this act became effective July 20, 2017.

** Jason Moran-Bates contributed to this summary.*