HOUSE BILL 966:
2019 Appropriations Act - Part IX-D - HHS Finance Provisions.

2019-2020 General Assembly

Committee:		**Date:**	May 29, 2019
Introduced by:	Reps. Johnson, Lambeth, Saine, McGrady	**Prepared by:**	Jennifer Hillman
Analysis of:	Fifth Edition		Staff Attorney

OVERVIEW: Part IX-D makes two finance-related changes as a result of the upcoming transition to a managed care delivery system for the Medicaid and Health Choice programs, as follows:

- ***Section 9D.18 revises the two existing hospital assessments to conform to the managed care delivery system.***
- ***Section 9D.19 applies the premiums tax levied under G.S. 105-228.5 to Medicaid capitation payments received by prepaid health plans in the same manner in which the tax currently applies to gross insurance premiums.***

SECTION 9D.18: REVISED HOSPITAL ASSESSMENTS, SUPPLEMENTAL PAYMENTS AND DIRECTED PAYMENTS

Current Law: In 2011, the General Assembly put in place two hospital assessments, the "equity assessment" and the "UPL assessment," as a mechanism to draw down increased federal Medicaid dollars to enable the State to pay hospitals additional Medicaid amounts, called "***supplemental payments***," above the revenues earned by hospitals in the form of Medicaid claims payments. A portion of the receipts the State receives from these hospital assessments, called "State retention," is also used to help fund the rest of the State Medicaid program. Each year, the State calculates how much is needed to pay the State share of the supplemental payments to hospitals. That total, combined with the State retention amount, is converted to a percentage of hospital costs, and each hospital is assessed an amount equal to that percentage of the hospital's costs.

In 2015, the General Assembly required the current Medicaid and Health Choice fee-for-service programs to transition to a managed care model.[1] Under a waiver that was recently approved by the federal Centers for Medicare and Medicaid Services (CMS), the State will pay commercial and nonprofit prepaid health plans a monthly per-person capitated rate to cover Medicaid and Health Choice services for their enrollees beginning November 1, 2019.

CMS does not allow the State to make the current Medicaid supplemental payments to hospitals in a managed care arrangement. On October 1, 2019, the NC Department of Health and Human Services (DHHS) plans to ***replace the current supplemental payments*** as follows:

- DHHS will set new hospital claims payments that are intended to be equivalent to the existing claims payments plus the existing supplemental payments.

[1] S.L. 2015-245, as amended.

- The capitated rates that will be set for managed care will be calculated using the new, higher hospital claims payments.

Because the current methodology for calculating the hospital assessments is based on supplemental payments, which are not allowed under managed care, there will be no money collected from the existing hospital assessments.

Bill Analysis: **Section 9D.18** replaces the two existing hospital assessments with two revised hospital assessments, each of which utilizes a fixed percentage of hospital costs. The percentages are intended to provide funding for (1) the State share of Medicaid costs associated with the anticipated increase to the hospital claims payments and (2) the State retention amount. The percentage rates will be set each year by the General Assembly, and DHHS will annually submit proposed adjustments to the rates.

- **Subsection (a)** repeals the current assessments, and **subsection (b)** enacts the revised assessments. The supplemental assessment in new G.S. 108A-141 replaces the equity assessment currently in G.S. 108A-123(b), and the base assessment in new G.S. 108A-142 replaces the UPL assessment currently in G.S. 108A-123(c).
- **Subsections (c)** and **(d)** set the rates for the revised assessments for the first taxable year, which is October 1, 2019, through September 30, 2020. The rate for the supplemental assessment is 2.31% of total hospital costs. The rate for the base assessment is 1.51% of total hospital costs.
- **Subsections (e)** through **(i)** are not related to the assessments.
- Because of the uncertainty involved in converting the assessments to prospective fixed rates, **subsection (j)** authorizes the State Controller to transfer funds from the Medicaid Contingency Reserve to cover a shortfall in receipts in the Medicaid program during the 2019-2020 fiscal year. In the event that the actual receipts from the hospital assessments are higher than expected during the 2019-2020 fiscal year, **subsection (k)** directs that the amount of the over-realized receipts, up to $30 million, shall be transferred to a Hospital Assessment Fund to be used to support a decrease in the hospital assessment rates in the next fiscal year. Before a transfer is executed under subsection (j) or (k), the Office of State Budget and Management must verify the amount of the shortfall or over-realized receipts.
- **Section 9D.20(b)** and **(c)** make the primary teaching hospital for the East Carolina University Brody School of Medicine subject to the equity assessment effective July 1, 2019, and the supplemental assessment effective October 1, 2019.

Effective Date: The repeal of the current hospital assessments, the enactment of the revised hospital assessments, and the assessment rates for the first taxable year are effective October 1, 2019. 9D.18(j) and (k) are effective July 1, 2019.

SECTION 9D.19: GROSS PREMIUMS TAX/PREPAID HEALTH PLANS

Current Law: S.L. 2015-245, as amended, requires the current Medicaid and Health Choice fee-for-services programs to transition to a managed care model. Under a waiver that was recently approved by the federal Centers for Medicare and Medicaid Services (CMS), the State will pay commercial and nonprofit prepaid health plans a monthly per-person capitated rate to cover Medicaid and Health Choice services for their enrollees beginning November 1, 2019.

G.S. 105-228.5 requires insurers and health maintenance organizations to pay a 1.9% tax on gross premiums, due annually and collected in quarterly installments. G.S. 58-6-25 imposes a regulatory charge on the premiums tax liability of entities subject to the gross premiums tax. The current regulatory charge is 6.5%, as established in Section 22.2 of S.L. 2018-5, and will remain at 6.5% for the 2020 calendar year under Section 29.1 of this bill.

Bill Analysis: **Section 9D.19** amends Article 8B of Chapter 105 of the General Statutes, including G.S. 105-228.3 and G.S. 105-228.5, G.S. 105-259, and G.S. 58-6-25, as follows:

- Adds prepaid health plans to the types of organizations subject to the gross premiums tax and the insurance regulatory charge.
- Includes capitation payments for the Medicaid or Health Choice programs received by a prepaid health plan in the tax base on which the gross premiums tax is imposed.
- Establishes a tax rate of 1.9% for prepaid health plan gross premiums, which is the same rate applicable to other insurance contracts.
- Allows a deduction for capitation payments refunded by a prepaid health plan to the State, consistent with the deduction allowed for other gross premiums under the statute.

Effective Date: This section is effective October 1, 2019, and applies to capitation payments received by prepaid health plans on or after that date.