SENATE BILL 808:
Medicaid Funding Act.

2019-2020 General Assembly

Committee:	House Finance	**Date:**	June 23, 2020
Introduced by:	Sens. Brown, Harrington, B. Jackson	**Prepared by:**	Amy Jo Johnson
Analysis of:	Fourth Edition		Jennifer Hillman
			Staff Attorneys

OVERVIEW: Senate Bill 808 appropriates funds for the Dorothea Dix campus relocation project and the child welfare component of NC FAST; appropriates Coronavirus Relief Funds for behavioral health and crisis services; appropriates funds for the Medicaid program and Medicaid transformation; and makes changes related to Medicaid transformation implementation.

The bill makes two finance-related changes, as follows:

- ***Section 15.1 revises the two existing hospital assessments to conform to the managed care delivery system.***
- ***Section 16 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.***

With two exceptions, these updated provisions are substantially the same as language in H966, the 2019 Appropriations Act, and H555, Medicaid Transformation Implementation, as passed by the General Assembly during the 2019 Regular Session.

- ***Because Section 7 of the bill directs that Medicaid transformation will begin no later than July 1, 2021, 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 July 1, 2021.***
- ***In Section 15.1, the percentage rates for the first quarter of the base and supplemental assessments and the State's Annual Medicaid payment amount have been updated.***

REVISE AND UPDATE HOSPITAL ASSESSMENTS

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.

CMS does not allow the State to make the current Medicaid supplemental payments to hospitals in a managed care arrangement. When Medicaid PHP capitation payments begin, 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.
- 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 15.1** replaces the two existing hospital assessments with two revised hospital assessments, each of which utilizes a fixed percentage of hospital costs as of that date. The percentages 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 the Department of Health and Human Services (DHHS) will annually submit proposed adjustments to the rates.

- **Section 15.1(a)** repeals the current assessments, and **Section 15.1(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).
- Because of the uncertainty involved in converting the assessments to prospective fixed rates, **Section 15.2** authorizes the State Controller to transfer funds from the Medicaid Contingency Reserve to cover a shortfall in receipts in the Medicaid program during the 2021-2022 fiscal year.
- **Sections 15.2 and 15.3** address the uncertainty involved in converting the assessments to prospective fixed rate. In the event of a shortfall in receipts, **Section 15.2** authorizes the State Controller to transfer funds from the Medicaid Contingency Reserve to cover that shortfall in receipts in the Medicaid program during the 2021-2022 fiscal year. In the event of an over-realization of receipts, **Section 15.3** creates the Hospital Assessment Fund to hold over collections of hospital assessments to be used to support decreases in the supplement assessment and the base assessment rates for the 2021-2022 taxable year that correspond with the amount in the Fund.

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 July 1, 2021, to align with **Section 7** of the bill, which directs that Medicaid transformation will begin no later than July 1, 2021. **Sections 15.2 and 15.3** are effective when the bill becomes law.

GROSS PREMIUMS TAX/PREPAID HEALTH PLANS

Current Law: Medicaid transformation legislation enacted in 2015 by 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 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

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

Medicaid and Health Choice services for their enrollees on when Medicaid transformation beings, which **Section 7** of the bill directs that Medicaid transformation will be no later than July 1, 2021.

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 regulatory charge established in Section 22.2 of S.L. 2018-5 is 6.5%.

Bill Analysis: **Section 16** 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 30 days after it becomes law and applies to capitation payments received by prepaid health plans on or after that date.