SENATE BILL 808:
Medicaid Funding Act.

2019-2020 General Assembly

Committee:		**Date:**	June 24, 2020
Introduced by:	Sens. Brown, Harrington, B. Jackson	**Prepared by:**	Amy Jo Johnson***
Analysis of:	Fifth Edition		Staff Attorney

OVERVIEW: Senate Bill 808 appropriates funds for the Dorothea Dix campus relocation project and NC FAST; appropriates Coronavirus Relief Funds for early childhood initiatives, behavioral health and crisis services, and COVID-19 testing, contract tracing, and trends tracking and analysis; appropriates funds for the Medicaid program and Medicaid transformation; and makes changes related to Medicaid transformation implementation.

BILL ANALYSIS:

Part I appropriates funds for planning purposes for the Dorothea Dix relocation project with Department of Health and Human Services (DHHS). The Department of Administration and DHHS are instructed to select a suitable site in Wake County for the relocation project. (Effective July 1, 2020)

Part II appropriates funds from the Medicaid Transformation Reserve to be used for operations and maintenance expenses for the North Carolina Families Accessing Services Through Technology (NC FAST) system and investment in infrastructure modernization, document management, and other critical NC FAST projects. **Part II** also appropriates General Funds for updates and changes to the child welfare case management component of NC FAST, including child welfare program changes in accordance with the federal Family First Prevention Services Act, updates for the Comprehensive Child Welfare Information System (CCWIS), funding for the Independent Verification and Validation (IV&V) contract, and risk assessment tool changes under Rylan's Law. (Effective July 1, 2020)

Part III makes various appropriations from the Coronavirus Relief Fund (CRF) established in Section 2.2 of S.L. 2020-4. (Effective July 1, 2020)

Section 3 appropriates $50,000,000 in nonrecurring funds from the CRF to the Office of State Budget and Management (OSBM) for allocation to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2020-2021 fiscal year, for distribution to local management entities/managed care organizations (LME/MCO's) to fund behavioral health and crisis services in response to the COVID 19 pandemic. It also makes the requirements and limitations of Part I of S.L. 2020-4 applicable to these funds and requires a report on the use of these funds by March 1, 2021. (Effective July 1, 2020)

Section 3A provides $20,000,000 in nonrecurring funds from the CRF to the Department of Health and Human Services, Division of Childhood Development and Early Education, for various early childhood initiatives in response to the COVID-19 pandemic.

Section 3B increases the amount of CRF funds appropriated to the Department of Health and Human Services under subdivision (35) of Section 3.3 of S.L. 2020-4 from $25,000,000 to

$100,000,00, and adds as specifically allowable uses of the funds periodic testing for surveillance and occupational safety and the hiring of temporary staff to augment contact tracing functions performed by local health departments.

Part IV prohibits the Department of Health and Human Services, Division of Health Benefits, from transferring to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, any portion of the certified Medicaid budget surplus calculated for the 2019-2020 fiscal year to offset any reduction in single stream funding. (Effective June 30, 2020)

Part V provides funds for the operation of the Medicaid program. **Section 5.1** specifies that unexpended funds received in the 2019-2020 fiscal year due to the acceleration of the MRI/GAP Plan that are attributable to the quarter July 1 through September 30, 2020, will not revert and will be used for the Medicaid program in the 2020-2021 fiscal year. **Section 5.2** appropriates funds for the implementation of an electronic visit verification (EVV) system for the Medicaid program. **Section 5.3** specifies that $30,000,000 in nonrecurring funds appropriated to the Division of Health Benefits (DHB) will not revert at the end of the 2019-2020 fiscal year and will be used for the 2020-2021 Medicaid rebase. **Section 5.4** appropriates funds from the Medicaid Transformation Reserve to DHB for the Medicaid rebase. **Section 5.5** appropriates funds from the Medicaid Contingency Reserve to DHB for the Medicaid rebase. **Section 5.6** appropriates General Funds to DHB for the Medicaid rebase. (**5.1 and 5.3** are effective June 30, 2020, the remainder of the Part is effective July 1, 2020)

Part VI establishes requirements pertaining to Medicaid eligibility redeterminations and post-eligibility verification processes during the nationwide COVID-19 public health emergency. **Section 6(a)** requires county departments of social services (DSSs) to resume Medicaid eligibility redetermination and post-eligibility verification processes by September 1, 2020 and to make a good faith effort to apply those processes to cases that did not go through those processes prior to September 1, 2020. **Section 6(b)** directs that DSSs shall not terminate benefits for a Medicaid beneficiary if doing so would result in the State being ineligible for the increased Medicaid funding available under the Families First Coronavirus Response Act (FFCRA). Instead, those cases should be identified with a uniform identifier established by the Department of Health and Human Services (DHHS). Notices of termination for cases with the identifier shall be sent within 90 days after the expiration of the declared nationwide COVID-19 public health emergency. **Section 6(c)** clarifies that county DSSs shall not be financially responsible for the issuance of Medicaid benefits or Medicaid claims payments under G.S. 108A-25.1A for any beneficiary whose Medicaid eligibility was continued in compliance with the FFCRA. **Section 6(d)** clarifies that this section shall not prevent a county DSS or DHHS from complying with the requirements of any court order or any settlement agreement.

Part VII makes a variety of changes related to Medicaid Transformation.

Section 7 directs that Medicaid transformation will begin no later than July 1, 2021. This section also directs the Department of Health and Human Services to amend the awarded capitated contracts with prepaid health plans (PHP) to cover a period of four years, instead of three, with a one year option to renew, unless the PHP declines the amendment.

Section 8 transfers funds to the Medicaid Transformation Fund and allows those funds to be used for specified qualifying needs related to Medicaid Transformation, as verified by the Office of State Budget and Management. (Effective July 1, 2020)

Section 9 repeals past budget provisions directing the elimination of certain Medicaid graduate medical education reimbursement.

Section 10 requires the Department of Health and Human Services (DHHS) to ensure that its Customer Service hotline is responsive to Medicaid Transformation questions from beneficiaries, providers, and the public.

Section 11 sets a rate floor for durable medical equipment for the first three years of the initial standard benefit plan PHP capitated contracts.

Section 12 allows DHHS to contract with an Indian managed care entity or an Indian health care provider to assist with the provision of health-care related services to certain eligible Medicaid recipients and makes conforming changes.

Section 13 requires DHHS to revise the current supplemental payment program for eligible medical professional providers to conform with managed care.

Section 14 codifies the establishment of the Medicaid Contingency Reserve and the use of funds in the reserve.

Section 15.1 replaces the two existing hospital assessments with two revised hospital assessments, each of which utilizes a fixed percentage of hospital costs, effective July 1, 2021. The percentages provide funding for (1) the State share of Medicaid costs associated with the anticipated increase to hospital per claim reimbursement 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).
- **Sections 15.1(c) and (d)** set the rates for the revised assessments for the first taxable year, which is October 1, 2020, through September 30, 2021. The rate for the supplemental assessment is 2.14% of total hospital costs. The rate for the base assessment is 1.94% of total hospital costs. Since these rates are only in effect for one quarter of the first taxable year, only one-quarter of the amount that would be generated in a full year will be collected.
- **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.

Section 16 is effective 30 days after it becomes law and 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.

Section 17 establishes the Hospital Uncompensated Care Fund as a nonreverting special fund to hold certain disproportionate share hospital adjustment (DSH) receipts to be used for payments related to uncompensated care in accordance with rules established by DHHS.

Section 18 specifies the intent of the General Assembly to enact changes to Medicaid nontax revenue prior to the start of the 2021-2022 fiscal year.

Part VIII contains boilerplate language that (i) provides that the State Budget Act is not superseded by this act, (ii) appropriates departmental receipts for the 2020-2021 fiscal year, (iii) and provides that other bills enacted during the 2019 Regular Session of the General Assembly appropriating funds remain in effect.

EFFECTIVE DATE: Except where provided otherwise, this act is effective when it becomes law.

***Lisa Wilks, Joyce Jones, Matt Meinig, and Jennifer Hillman substantially contributed to this summary.*