



# SENATE BILL 93: Assisting NC Families in Crisis.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2021-2022 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	March 3, 2021
<b>Introduced by:</b>	Sens. Britt, Burgin, Krawiec	<b>Prepared by:</b>	Jennifer Hillman
<b>Analysis of:</b>	Second Edition		Staff Attorney

**OVERVIEW:** SB 93 would direct the Department of Health and Human Services (DHHS) to seek federal approval to allow a parent to retain Medicaid eligibility while their child is being served temporarily by the foster care program, if the parent is participating in, and making reasonable efforts to comply with, court-ordered treatment or counseling for a substance use disorder or other mental health disorder.

### CURRENT LAW:

G.S. 108A-54.3A specifies the eligibility categories and income thresholds for coverage under the NC Medicaid program. In order to be eligible for Medicaid, an individual must meet both an eligibility category and the income threshold for that category. One eligibility category is "families," which includes parents with children. The "families" eligibility category does not cover parents whose children are placed in foster care. As a result, parents whose children are placed in foster care can lose their Medicaid coverage when they no longer qualify under the eligibility category of "families."

42 U.S.C. 1396a(a)(10) specifies the coverage that is allowable under a state's Medicaid state plan. It includes mandatory eligibility categories that must be covered by the Medicaid program as well as optional eligibility categories that a state may choose to cover. A state may not include coverage in its state plan for eligibility categories that are not specified under the federal law. However, 42 U.S.C. 1315 (Section 1115 of the Social Security Act) allows the Centers for Medicare and Medicaid Services (CMS) to waive certain requirements of federal law applicable to the Medicaid program. A state may seek to add coverage for individuals who do not qualify under either a mandatory eligibility category or an optional eligibility category by requesting CMS approval of an 1115 waiver.

S.L. 2015-245, as amended, directed the Department of Health and Human Services (DHHS) to request federal approval of an 1115 Medicaid waiver to implement a managed care delivery system. Section 9A of that law authorized DHHS to request federal approval in that 1115 waiver to allow parents to retain Medicaid eligibility while their child is being served temporarily by the foster care program. Although Section 9A authorized DHHS to seek approval of this coverage, it did not authorize the coverage.

### BILL ANALYSIS:

Section 1 would make the following changes to Section 9A of S.L. 2015-245, as amended:

- It would require, instead of authorize, DHHS to seek approval for the specified extension of coverage.
- It would allow DHHS to seek the approval through an 1115 waiver that is separate from the 1115 waiver pertaining to the managed care delivery system.

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- It would direct DHHS to seek approval to allow parents to retain their Medicaid eligibility while their child or children are temporarily placed in the foster care, only if the parent is participating in, and making reasonable efforts to comply with, court-ordered treatment or counseling for a substance use disorder or other mental health disorder.

The requirement to seek approval for this coverage would become effective when funds for the coverage are appropriated by the General Assembly.

**Section 2** would authorize the coverage of this new group of parents who retain Medicaid eligibility and would add the group to the list of Medicaid eligibility categories in G.S. 108A-54.3A. The new group would be added to the statute effective on the same date that the federal approval of the coverage is effective.

**EFFECTIVE DATE:** The requirement to seek approval for the coverage described in Section 1 would become effective when funds for the coverage are appropriated. The Medicaid coverage in Section 2 would be effective on the same date that the federal approval of the coverage is effective. The remainder of the bill would be effective when it becomes law.