



2023-2024 General Assembly

HOUSE BILL 259: 2023 Appropriations Act, Sec. 9E.23: Agency Requested Changes / Division of Health Benefits

Committee:		Date:	December 18, 2023
Introduced by:		Prepared by:	Jennifer Hillman Staff Attorney
Analysis of:	Sec. 9E.23 of S.L. 2023-134		

OVERVIEW: *Section 9E.23 of S.L. 2023-134 makes technical, clarifying, and conforming updates to various laws relating to Medicaid as requested by the Department of Health and Human Services. See full summary for effective dates.*

BILL ANALYSIS: Sections **9E.23(a1) and (a2)** revise the Medicaid prescription drug lock-in statute (G.S. 108A-68.2) to address issues identified in a recent decision of the Office of Administrative Hearings. The statute establishes the criteria for when a Medicaid beneficiary's choice of prescriber and choice of pharmacy can be limited, also referred to as "lock-in". Key changes to the statute include:

- Prepaid health plans (PHPs) must develop a lock-in program for individuals who meet the criteria specified in the statute. Previously, PHPs had the option to use a lock-in program for those individuals.
- The criteria for placing an individual in a lock-in program are revised as follows:
 - An individual who has filled 10 (was six) or more prescriptions for specified controlled substances within two consecutive months when not medically necessary (was for any reason) is subject to the PHP's lock-in program.
 - An individual who received prescriptions for specified controlled substances from four (was three) or more prescribers within two consecutive months when not medically necessary (was for any reason) is subject to the PHP's lock-in program.
- A beneficiary can select two prescribers and pharmacies when medically necessary.
- The lock-in can last for up to two years upon certain findings by a PHP.

Section 9E.23(b1) extends the Office of Administrative Hearings contested case hearings exemption for prepaid health plans to also apply to prepaid inpatient health plans and primary care case management entities. This subsection applies to disputes arising on or after October 3, 2023.

Section 9E.23(c1) corrects a technical deficiency in G.S. 108A-54.3A around the timing of the applicability of new federal poverty level figures each year. This subsection became effective retroactively June 26, 2020.

Section 9E.23(d1) amends G.S. 108A-55.4 to conform with recently enacted federal legislation regarding the acceptance by third parties of certain Medicaid documentation to satisfy the third party's prior authorization requirements in cases when the third party is liable for the coverage initially provided by Medicaid. This subsection became effective January 1, 2024.

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Section 9E.23(e1) adds explanatory language clearly stating that any work requirements that can be applicable in the future to individuals eligible for Medicaid coverage through NC Health Works under G.S. 108A-54.3A(24) must be federally approved work requirements. This subsection becomes effective December 1, 2023.

Sections 9E.23(f1) and (f2) make technical changes to the Medicaid Modernized Hospital Assessments in Article 7B of Chapter 108A of the General Statutes related to the recent change in ownership of Davis Regional Medical Center. The changes were needed as a result of information provided in a [report](#)¹ from the Department of Health and Human Services to the Joint Legislative Oversight Committee on Medicaid dated July 18, 2023. These subsections are effective January 1, 2024 and apply to assessments imposed on or after that date.

EFFECTIVE DATE: Except as otherwise specified, this section of the act became effective October 3, 2023.

¹ The report can be found online at <https://webservices.ncleg.gov/ViewDocSiteFile/80773>.