



HOUSE BILL 76: Access to Healthcare Options.

2023-2024 General Assembly

Committee:	Senate Health Care. If favorable, re-refer to Finance. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 6, 2023
Introduced by:	Reps. Lambeth, White, Wray, Humphrey	Prepared by:	Jennifer Hillman and Jason Moran-Bates
Analysis of:	Amendment to Second Edition H76-ATR _x fr-7		Staff Attorneys

OVERVIEW: Part I of the amendment would:

- Provide Medicaid coverage through NC Health Works to adults aged 18-64 with incomes up to 133% of the federal poverty level, beginning on the later of (i) the date the Current Operations Appropriations Act for the 2023-2024 fiscal year becomes law or (ii) the federally-approved start date.
- Provide increased Medicaid reimbursements to hospitals through the Healthcare Access and Stabilization Program (HASP) upon federal approval of a request developed and submitted by the Department of Health and Human Services (DHHS).
- Increase hospital assessments to provide funding for the NC Health Works coverage and the HASP program.

Part II of the amendment would enact various workforce development measures to promote employment among Medicaid enrollees.

Part III of the amendment would remove psychiatric beds and facilities, chemical dependency treatment beds and facilities, ambulatory surgical centers in large counties, MRI machines in large counties, certain home care agency treatment for minors, and the first \$3 million worth of replacement and diagnostic center equipment from certificate of need review.

PART I: MEDICAID

BILL ANALYSIS: Part I of the amendment would do all of the following:

- Provide Medicaid coverage through NC Health Works to adults aged 18-64 with incomes up to 133% of the federal poverty level beginning on the later of (i) the date the Current Operations Appropriations Act for the 2023-2024 fiscal year becomes law or (ii) the start date approved by the Centers for Medicare and Medicaid Services (CMS). (**Section 1.1**)
- Trigger the discontinuation of the NC Health Works coverage as follows: (i) if the federal share of the cost of providing the coverage becomes less than 90%, then coverage would end no earlier than the date the lower federal share is effective (**Section 1.2, G.S. 108A-54.3C**); and (ii) coverage would end as expeditiously as possible if, for any fiscal year, the nonfederal share of the cost of

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the NC Health Works coverage cannot be fully funded through the following sources (**Section 1.2, G.S. 108A-54.3B**):

- Increases in revenue from the gross premiums tax due to NC Health Works coverage.
- Increases in intergovernmental transfers due to NC Health Works coverage.
- The hospital health advancement assessments enacted in Section 1.6 of the amendment.
- Savings to the State attributable to NC Health Works coverage that correspond to State General Fund budget reductions to other State programs.
- **Establish an ARPA Temporary Savings Fund** to hold savings realized by the Division of Health Benefits (DHB) from the enhanced federal medical assistance percentage (FMAP) available under the American Rescue Plan Act (ARPA) for states that expand Medicaid. (**Section 1.3**)
- **Authorize increased Medicaid reimbursements to hospitals through the Healthcare Access and Stabilization Program (HASP).** The Department of Health and Human Services (DHHS) would be directed to request approval from the Centers for Medicare and Medicaid Services (CMS) for a new directed payment program, HASP, that would provide reimbursements to hospitals. (**Section 1.4/G.S. 108A-148.1**) Key features of the HASP program would include:
 - HASP reimbursements could begin at the start of the next fiscal quarter after the HASP program is approved by CMS. If allowable and approved, the increased hospital reimbursements could be made for hospital services provided since July 1, 2022.
 - For the 2023-2024 fiscal year, DHHS would request total hospital reimbursements of at least \$3.2 billion for hospital services provided to Medicaid enrollees who are not in NC Health Works. HASP reimbursements would also be made for NC Health Works enrollees, and those amounts would be in addition to the \$3.2 billion.
 - HASP reimbursements would only be made to hospitals through contracts with prepaid health plans.
 - The nonfederal share of HASP reimbursement costs would be funded through hospital assessments. In any quarter where the total of all hospital assessments exceed the permissible federal limit on those assessments, HASP reimbursements would be reduced.
- **Increase hospital assessments to provide funding for the nonfederal share of the cost of NC Health Works coverage and HASP reimbursements,** as follows:
 - A one-time hospital assessment would collect funding in October 2023 to reimburse for the nonfederal share of start-up costs for implementing NC Health Works coverage. (**Section 1.5**)
 - Statutory health advancement assessments on hospitals would generate funding for the nonfederal share of the ongoing costs of adding NC Health Works coverage, including the following costs (**Section 1.6(b)**):
 - Service costs, including the cost of HASP reimbursements. The assessments would collect a presumptive amount of service cost each quarter, and the amount would be reconciled two quarters later based on actual expenditures for services. (**Section 1.6(b)/G.S. 108A-147.5, G.S. 108A-147.6, and G.S. 108A-147.11**)
 - Administrative costs, including county administrative costs. Hospital assessment funds representing the county share of administrative costs of NC Health Works coverage would be paid to the counties. (**Section 1.6(b)/G.S. 108A-147.7**)

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- A state retention component of \$10.75 million per quarter (\$43 million annually) would offset the anticipated loss of disproportionate share (DSH) receipts resulting from the addition of NC Health Works coverage and the HASP program. (**Section 1.6(b)/G.S. 108A-147.8**)
- Intergovernmental transfers made by qualified public hospitals would reduce the amount of assessments collected from those hospitals. (**Section 1.6(b)/G.S. 108A-147.9**)
- The amount of assessments collected from hospitals would also be reduced by an estimated amount of the increase in gross premiums tax revenue collected by the State as a result of the NC Health Works program. (**Section 1.6(b)/G.S. 108A-147.12**) The intention would be to use the increase in the gross premiums tax revenue to fund NC Health Works coverage and for the General Assembly to appropriate that amount for each fiscal year to DHB for that purpose. (**Section 1.6(d)**)
- Health advancement assessment receipts would be deposited into a Health Advancement Receipts Special Fund to ensure they are used for their intended purposes. (**Section 1.6(c) and Section 1.6(b)/G.S. 108A-147.13**)
- Technical and conforming changes would be made to the existing modernized hospital assessments related to the addition of the NC Health Works coverage and HASP program. (**Section 1.7**)
- **Allow the federally facilitated marketplace to make Medicaid eligibility determinations for a temporary period of up to 12 months** after NC Health Works coverage begins, to decrease the Medicaid enrollment burden on county departments of social services. (**Section 1.8**)

The authority for the HASP program would become effective when the bill becomes law. The hospital assessments for the nonfederal share of the HASP directed payments would become effective at the start of the next fiscal quarter after the bill becomes law. The health advancement assessments for the nonfederal share of NC Health Works costs and the Health Advancements Receipts Special Fund would also become effective at the start of the next fiscal quarter after the bill becomes law, but would expire if, by June 30, 2024, no Current Operations Appropriations Act for the 2023-2024 fiscal year has become law. Except as otherwise provided, the remainder of Part I would become effective on the date that the Current Operations Appropriations Act for the 2023-2024 fiscal year becomes law and would expire if, by June 30, 2024, no Current Operations Appropriations Act for the 2023-2024 fiscal year has become law.

PART II: CREATING SEAMLESS WORKFORCE DEVELOPMENT OPPORTUNITIES

BILL ANALYSIS: Part II of the amendment would do all of the following:

- Direct the Secretary of Commerce (Commerce) to develop a plan to create a seamless, statewide, comprehensive workforce development program that includes both existing programs and the development of new programs. Commerce is required to develop this plan in collaboration with identified stakeholders. (**Section 2.1**)
- Direct DHHS, in collaboration with Commerce, to develop a referral plan that includes consultation with a workforce development case manager for assessing the employment status and barriers to employment of Medicaid and other social service programs beneficiaries. (**Section 2.2**)

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- Direct DHB to provide Medicaid applicants with information about the Health Insurance Marketplace that includes contact information for the Navigators Consortium. This information must also be provided to all Medicaid enrollees by January 1, 2024, and again each time their Medicaid eligibility is redetermined, and upon their termination from the Medicaid program. (**Section 2.3**)
- Require DHB to negotiate with CMS to obtain approval to add work requirements as a condition of participation in the Medicaid program if there is any indication that work requirements may be authorized. (**Section 2.4**)

Part II would become effective on the date that the Current Operations Appropriations Act for the 2023-2024 fiscal year becomes law. Part II would expire if, by June 30, 2024, no Current Operations Appropriations Act for the 2023-2024 fiscal year has become law.

PART III: CERTIFICATE OF NEED REFORMS

CURRENT LAW: Under current law, the psychiatric beds and facilities, chemical dependency treatment beds and facilities, MRI machines, and ambulatory surgical centers are subject to certificate of need review. Replacement equipment in excess of \$2 million, certain equipment in diagnostic centers in excess of \$2 million, and home care agencies also subject to certificate of need review.

BILL ANALYSIS:

Section 3.1 of the amendment would remove the following from certificate of need review:

- Psychiatric beds and facilities.
- Chemical dependency treatment beds and facilities.
- Replacement equipment up to \$3 million, indexed to inflation.
- Aggregate total of \$3 million for all the equipment at a diagnostic center that individually exceeds \$10,000.
- Early and Periodic Screening, Diagnosis, and Treatment services to children under age 21 at home health agencies in compliance with federal law.

The section would also make some conforming changes.

This section would be effective when the bill becomes law.

Section 3.2 of the amendment would exempt ambulatory surgical centers from certificate of need review if those centers (1) are licensed by DHHS, (2) are located in a county with a population in excess of 125,000, and (3) commit 4% of their total earned revenue to charity care.

This section would be effective two years after the first HASP payment is made.

Section 3.3 of the amendment would remove MRI machines in counties with a population in excess of 125,000 from certificate of need review.

This section would be effective three years after the first HASP payment is made.