



HOUSE BILL 76: Access to Healthcare Options.

2023-2024 General Assembly

Committee:		Date:	November 7, 2023
Introduced by:		Prepared by:	Jennifer Hillman
Analysis of:	S.L. 2023-7		Staff Attorney

OVERVIEW: *Part I of the act does the following:*

- *Provides 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.*
- *Provides 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).*
- *Increases hospital assessments to provide funding for the NC Health Works coverage and the HASP program.*

Part II of the act enacts various workforce development measures to promote employment among Medicaid enrollees.

Part III of the act removes 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.

This act has various effective dates. Please see the full summary for more details.

PART I: MEDICAID

BILL ANALYSIS: Part I of the act does all of the following:

- **Provides 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**) Coverage took effect December 1, 2023.
- **Triggers 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 ends no earlier than the date the lower federal share is effective (**Section 1.2, G.S. 108A-54.3C**); and (ii) coverage ends as expeditiously as possible if, for any fiscal year, the nonfederal share of the cost of the NC Health Works coverage cannot be fully funded through the following sources (**Section 1.2, G.S. 108A-54.3B**):

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Legislative Analysis
Division
919-733-2578

House Bill 76

Page 2

- 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 act.
- Savings to the State attributable to NC Health Works coverage that correspond to State General Fund budget reductions to other State programs.
- **Establishes 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**)
- **Authorizes increased Medicaid reimbursements to hospitals through the Healthcare Access and Stabilization Program (HASP).** The Department of Health and Human Services (DHHS) is directed to request approval from the Centers for Medicare and Medicaid Services (CMS) for a new directed payment program, HASP, to provide reimbursements to hospitals. (**Section 1.4/G.S. 108A-148.1**) Key features of the HASP program include:
 - HASP reimbursements can 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 can be made for hospital services provided since July 1, 2022. The HASP program was approved September 28, 2023, and the first HASP payments were made to prepaid health plans in November 2023 to be used by prepaid health plans to reimburse hospitals for services provided during the 2022-2023 State fiscal year.
 - For the 2023-2024 fiscal year, DHHS must 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 can also be made for NC Health Works enrollees, and those amounts would be in addition to the \$3.2 billion.
 - HASP reimbursements can only be made to hospitals through contracts with prepaid health plans.
 - The nonfederal share of HASP reimbursement costs is funded through hospital assessments. In any quarter where the total of all hospital assessments exceed the permissible federal limit on those assessments, HASP reimbursements must be reduced.
- **Increases 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 have collected funding in October 2023 to reimburse for the nonfederal share of start-up costs for implementing NC Health Works coverage; however, this assessment expired on September 30, 2023, without taking effect. (**Section 1.5**)
 - Statutory health advancement assessments on hospitals 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 collect a presumptive amount of service cost each quarter, and the amount is 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**)

House Bill 76

Page 3

- Administrative costs, including county administrative costs. Hospital assessment funds representing the county share of administrative costs of NC Health Works coverage must be paid to the counties. (**Section 1.6(b)/G.S. 108A-147.7**)
- A state retention component of \$10.75 million per quarter (\$43 million annually) offsets 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 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 also is 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 General Assembly's intention is to use the increase in the gross premiums tax revenue to fund NC Health Works coverage and, for each fiscal year, to appropriate to DHB an amount equaling the increase in gross premiums tax revenue for that purpose. (**Section 1.6(d)**)
- Health advancement assessment receipts are 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 are made to the existing modernized hospital assessments related to the addition of the NC Health Works coverage and HASP program. (**Section 1.7**)
- **Allows 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 became effective March 27, 2023. The hospital assessments for the nonfederal share of the HASP directed payments, the health advancement assessments for the nonfederal share of NC Health Works costs, and the Health Advancements Receipts Special Fund became effective April 1, 2023. Except as otherwise provided, the remainder of Part I became effective October 3, 2023.

PART II: CREATING SEAMLESS WORKFORCE DEVELOPMENT OPPORTUNITIES

BILL ANALYSIS: Part II of the act does all of the following:

- Directs 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**)
- Directs 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**)
- Directs 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**)

House Bill 76

Page 4

- Requires 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 can be authorized. (**Section 2.4**)

Part II became effective October 3, 2023.

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 act removes 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 also makes some conforming changes.

This section became effective March 27, 2023.

Section 3.2 of the act exempts ambulatory surgical centers from certificate of need review if those centers (i) are licensed by DHHS, (ii) are located in a county with a population in excess of 125,000, and (iii) commit 4% of their total earned revenue to charity care.

This section becomes effective two years after the first HASP payment is made. The first HASP payment was made November 21, 2023, so this section becomes effective November 21, 2025.

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

This section becomes effective three years after the first HASP payment is made. The first HASP payment was made November 21, 2023, so this section becomes effective November 21, 2026.