

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 299*

Senate Health Care Committee Substitute Adopted 5/18/17
Senate Pensions and Retirement and Aging Committee Substitute Adopted 6/22/17

Short Title: State Health Plan Administrative Changes.-AB

(Public)

Sponsors:

Referred to:

March 13, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING AND ADMINISTRATIVE CHANGES TO THE LAWS
RELATING TO THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS
AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.44(a) reads as rewritten:

"§ 135-48.44. **Cessation of coverage.**

(a) Coverage under this Plan of an employee and his or her surviving spouse or eligible dependent children or of a retired employee and his or her surviving spouse or eligible dependent children shall cease on the earliest of the following dates:

...

(6) The last day of the month in which a covered individual is found to have knowingly and willfully made or caused to be made a false statement or false representation of a material fact regarding eligibility or enrollment information or in a claim for reimbursement of medical services under the Plan. The State Treasurer may make an exception to the provisions of this subdivision when persons subject to this subdivision have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subdivision shall be construed to obligate the State Treasurer to make an exception as allowed for under this subdivision.

...."

SECTION 2. G.S. 135-48.40(c)(2) reads as rewritten:

"(2) Employees and members of the General Assembly with 10 but less than 20 years of retirement service credit provided the employees were first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007. For such future retirees, the State shall pay fifty percent (50%) of the Plan's total employer premiums. Individual retirees shall pay the balance of the total premiums not paid by the ~~State~~State, unless prohibited by law. The total premium is the sum of the Plan's total employer premium contribution rate plus the employee or retiree's contribution for individual and dependent coverage."

SECTION 3.(a) G.S. 135-48.42(a) reads as rewritten:

"(a) Except as otherwise required by applicable federal law, new employees must be given the opportunity to enroll or decline enrollment for themselves and their dependents



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1 within 30 days from the date of employment or from first becoming eligible on a partially
2 contributory or other contributory basis. Coverage may become effective on the first day of the
3 month following date of entry on payroll or on the first day of the following month. New
4 employees age 19 and older not enrolling themselves and their dependents age 19 and older
5 within 30 days, or not adding dependents when first eligible as provided herein may enroll
6 during annual enrollment, but may be subject to a 12-month waiting period for preexisting
7 health conditions, except for employees who elect to change their coverage in accordance with
8 rules established by the State Treasurer for optional or alternative plans available under the
9 Plan. Children born to covered employees ~~having coverage type (2) or (3), as outlined in G.S.~~
10 ~~135-48.43(d)~~ shall be ~~automatically covered at the time of birth without any waiting period for~~
11 ~~preexisting health conditions. Children born to covered employees having coverage type (1)~~
12 ~~shall be automatically covered at birth without any waiting period for preexisting health~~
13 ~~conditions~~ so long as the ~~claims processor~~ Plan receives notification within 30 days of the date
14 of birth that the employee desires to change from coverage (1) to coverage type (2) or (3),
15 provided that birth and the employee pays any additional premium required by the coverage
16 type selected retroactive to the first day of the month in which the child was born."

17 **SECTION 3.(b)** This section becomes effective October 1, 2017, and applies to
18 children born to covered employees on or after that date.

19 **SECTION 4.** G.S. 135-48.20 is amended by adding a new subsection to read:

20 "(n) Immunity. – Except to the extent provided under Article 31A of Chapter 143 of the
21 General Statutes and to the extent of insurance coverage purchased pursuant to G.S. 58-32-15,
22 a person serving on the Board of Trustees shall be immune individually from civil liability for
23 monetary damages for any act, or failure to act, arising out of that service, except where any of
24 the following apply:

- 25 (1) The person was not acting within the scope of that person's official duties.
- 26 (2) The person was not acting in good faith.
- 27 (3) The person committed gross negligence or willful or wanton misconduct that
28 resulted in damages or injury.
- 29 (4) The person derived an improper personal financial benefit, either directly or
30 indirectly, from the transaction.
- 31 (5) The person incurred the liability from the operation of a motor vehicle."

32 **SECTION 5.** G.S. 135-48.1 reads as rewritten:

33 **"§ 135-48.1. General definitions.**

34 As used in this Article unless the context clearly requires otherwise, the following
35 definitions apply:

- 36 (1) Authorized representatives who are assisting the State Health Plan Division
37 staff. – Staff of the Department of the State Treasurer, staff of the
38 Department of Justice, or persons providing internal auditing assistance
39 required under G.S. 143-746(b).

- 40 (1a) Benefit period. – The period of time during which charges for covered
41 services provided to a Plan member must be incurred in order to be eligible
42 for payment by the Plan.

43"

44 **SECTION 6.** Part 1 of Article 3B of Chapter 135 of the General Statutes is
45 amended by adding a new section to read:

46 **"§ 135-48.16. Fraud detection and audit programs.**

47 (a) Access to Persons and Records. – In the course of conducting an investigation or an
48 audit under G.S. 135-48.30(a)(9), the Plan, or authorized representatives who are assisting the
49 State Health Plan Division staff, shall have ready access to the following:

- 50 (1) Persons, books, records, reports, vouchers, correspondence, files, personnel
51 files, investments, and any other documentation of any employing unit. The

1 Plan shall have the authority to examine and make copies of the information
2 described in this subdivision only insofar as it directly relates to a specific
3 investigation or audit. The review of State tax returns shall be limited to
4 matters of official business, and the Plan's report shall not violate the
5 confidentiality provisions of the tax laws. A confidentiality agreement may
6 be put in place with an agency providing documentation to the Plan.

7 (2) Persons, records, papers, reports, vouchers, correspondence, books, and any
8 other documentation that is in the possession of any individual, private
9 corporation, institution, association, board, or other organization that pertain
10 to any benefits received, disbursed, or otherwise handled pursuant to a grant
11 or contract from the federal government that is administered by the State
12 Health Plan, the State, or its political subdivisions. Providers of social and
13 medical services to a beneficiary shall make copies of records they maintain
14 for services provided to the beneficiary.

15 Authorized representatives who are assisting the State Health Plan Division staff must have
16 a HIPAA business associate agreement with the State Health Plan and enter into a HIPAA data
17 sharing agreement with any vendor whose records they are copying.

18 (b) Records of Providers of Social and Medical Services. – Providers of social and
19 medical services who provide ready access to the Plan under subdivision (2) of subsection (a)
20 of this section shall make copies of records they maintain for services provided to a beneficiary
21 available to the Plan or to the authorized representatives who are assisting the State Health Plan
22 Division staff. The Plan, or authorized representatives who are assisting the State Health Plan
23 Division staff, shall request records in writing by providing the name of each beneficiary from
24 whom records are sought, the purpose of the request, the authority for the request, and a
25 reasonable period of time for the production of record copies by the provider. A provider may
26 charge and the Plan, or authorized representatives who are assisting the State Health Plan
27 Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for
28 copies of the records provided.

29 (c) Fraud Detection and Audit Reports and Work Papers. – The Plan shall maintain for
30 10 years a complete file of all compliance investigative reports, fraud investigative reports, and
31 reports of other examinations, investigations, surveys, and reviews issued under the Plan's
32 authority under G.S. 135-48.30(a)(9). Fraud or compliance investigation work papers and other
33 evidence or related supportive material directly pertaining to the work of the State Health Plan
34 Division of the Department of State Treasurer shall be retained according to an agreement
35 between the Plan and State Archives. To promote intergovernmental cooperation and avoid
36 unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel
37 policies to the contrary, pertinent work papers and other supportive material relating to issued
38 fraud or compliance investigation reports may be, at the discretion of the Executive
39 Administrator of the Plan, and unless otherwise prohibited by law, made available for
40 inspection by duly authorized representatives of the State and federal government who desire
41 access to, and inspection of, such records in connection with some matter officially before
42 them, including criminal investigations. Except as provided in this section, or upon an order
43 issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is
44 necessary to a proper administration of justice, fraud investigation work papers and related
45 supportive material shall be kept confidential, including any information developed as a part of
46 the investigation."

47 **SECTION 7.(a)** G.S. 105-259(b) is amended by adding a new subdivision to read:

48 "(39a) To furnish to the Department of State Treasurer periodically upon request
49 the State tax return of a beneficiary, or the wage and income statement of a
50 beneficiary, or the NC-3 information of an employer for the purpose of
51 assisting a fraud or compliance investigation or audit under

1 G.S. 135-48.30(a)(9), or in accordance with G.S. 135-48.16; provided,
2 however, that no federal tax information may be disclosed under this
3 subdivision unless such a disclosure is permitted by section 6103 of the
4 Code."

5 **SECTION 7.(b)** The Department of Revenue and the Department of the State
6 Treasurer shall, within a reasonable time following the effective date of this act but not later
7 than June 30, 2018, enter into a confidential information sharing agreement settling data
8 transfer protocols, required security measures, audit mechanisms, and the like, so that the two
9 departments can thereafter develop and implement the information exchange authorized by this
10 act.

11 **SECTION 8.** G.S. 135-48.41 is amended by adding a new subsection to read:

12 "(k) If a retiree is a prisoner serving an active sentence in the State prison system and
13 covered under G.S. 148-19, then the incarcerated retiree shall not, during the time of
14 incarceration, be eligible for retiree coverage under G.S. 135-48.40(a)(1), 135-48.40(b)(3),
15 135-48.40(c)(2), or 135-48.40(d)(11)."

16 **SECTION 9.(a)** G.S. 135-9 reads as rewritten:

17 **"§ 135-9. Exemption from garnishment, attachment, etc.**

18 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
19 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
20 person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
21 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
22 or accruing to any person under the provisions of this Chapter, and the moneys in the various
23 funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any
24 other process whatsoever, and shall be unassignable except as in this Chapter specifically
25 otherwise provided. Application for System approval of a domestic relations order dividing a
26 person's interest under the Retirement System shall be accompanied by an order consistent with
27 the system-designed template order provided on the System's Web site. For orders entered on
28 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic
29 relations order shall be limited to the lifetime of that former spouse and, upon the death of that
30 former spouse, the former spouse's share shall revert to the member. Notwithstanding any
31 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in
32 a State-administered retirement system or the former Disability Salary Continuation Plan or the
33 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan
34 premiums or claims paid on behalf of, any member or beneficiary who is later determined to
35 have been ineligible for those benefits, benefits or unentitled to those amounts, may be offset
36 against any retirement allowance, return of contributions or any other right accruing under this
37 Chapter to the same person, the person's estate, or designated beneficiary."

38 **SECTION 9.(b)** G.S. 128-31 reads as rewritten:

39 **"§ 128-31. Exemptions from execution.**

40 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
41 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
42 person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
43 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
44 or accruing to any person under the provisions of this Article, and the moneys in the various
45 funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any
46 other process whatsoever, and shall be unassignable except as in this Article specifically
47 otherwise provided. Application for System approval of a domestic relations order dividing a
48 person's interest under the Retirement System shall be accompanied by an order consistent with
49 the system-designed template order provided on the System's Web site. For orders entered on
50 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic
51 relations order shall be limited to the lifetime of that former spouse and, upon the death of that

1 former spouse, the former spouse's share shall revert to the member. Notwithstanding any
2 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in
3 a State-administered retirement system, the Disability Salary Continuation Plan, or the
4 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan
5 premiums or claims paid on behalf of, any member who is later determined to have been
6 ineligible for those ~~benefits,~~ benefits or unentitled to those amounts, may be offset against any
7 retirement allowance, return of contributions or any other right accruing under this Chapter to
8 the same person, the person's estate, or designated beneficiary."

9 **SECTION 9.(c)** G.S. 120-4.29 reads as rewritten:

10 **"§ 120-4.29. Exemption from garnishment, attachment.**

11 Except for the applications of the provisions of G. S. 110-136, and in connection with a
12 court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension,
13 annuity, or retirement allowance, to the return of contributions, or to the receipt of the pension,
14 annuity or retirement allowance itself, any optional benefit or any other right accrued or
15 accruing to any person under the provisions of this Article, and the moneys in the various funds
16 created by this Article, are exempt from levy and sale, garnishment, attachment, or any other
17 process whatsoever, and shall be unassignable except as this Article specifically provides.
18 ~~Notwithstanding any provisions to the contrary, any overpayment of benefits to a member in a~~
19 ~~State-administered retirement system or Disability Salary Continuation Plan may be offset~~
20 ~~against any retirement allowance, return of contributions or any other right accruing under this~~
21 ~~Chapter to the same person, the person's estate, or designated beneficiary.~~ Notwithstanding any
22 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in
23 a State-administered retirement system, the Disability Salary Continuation Plan, or the
24 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan
25 premiums or claims paid on behalf of, any member who is later determined to have been
26 ineligible for those benefits or unentitled to those amounts, may be offset against any
27 retirement allowance, return of contributions, or any other right accruing under this Article to
28 the same person, the person's estate, or designated beneficiary."

29 **SECTION 9.(d)** G.S. 127A-40 is amended by adding a new subsection to read:

30 "(j) Except for the applications of the provisions of G.S. 110-136, and in connection with a
31 court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to
32 attachment, garnishments, or judgments against the member or former member of the National
33 Guard entitled to them, nor are any rights in the fund or the pensions or benefits assignable.
34 Notwithstanding any provisions to the contrary, any overpayment of benefits or erroneous
35 payment to a member in a State-administered retirement system, the Disability Salary
36 Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid
37 to, or State Health Plan premiums or claims paid on behalf of, any member who is later
38 determined to have been ineligible for those benefits or unentitled to those amounts, may be
39 offset against any retirement allowance, return of contributions, or any other right accruing
40 under this Article to the same person, the person's estate, or designated beneficiary."

41 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes law.