

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 161  
Committee Substitute Favorable 3/2/11

Short Title: Transfer State Health Plan to State Treasurer.

(Public)

Sponsors:

Referred to:

February 23, 2011

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE NORTH CAROLINA STATE HEALTH PLAN FOR  
TEACHERS AND STATE EMPLOYEES TO THE DEPARTMENT OF STATE  
TREASURER.

The General Assembly of North Carolina enacts:

**SECTION 1.** The North Carolina State Health Plan for Teachers and State Employees is transferred to the Department of State Treasurer. This transfer shall have all the elements of a Type II transfer, as defined by G.S. 143A-6.

**SECTION 2.** G.S. 135-43(b) reads as rewritten:

"§ 135-43. **Confidentiality of information and medical records; provider contracts.**

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks.

The terms of a contract between the Plan and its third party administrator or between the Plan and its pharmacy benefit manager are a public record except that the terms in those contracts that contain trade secrets or proprietary or competitive information are not a public record under Chapter 132 of the General Statutes, and any such proprietary or competitive information and trade secrets contained in the contract shall be redacted by the Plan prior to making it available to the public. This subsection shall not be construed to prevent or restrict the release of any information made not a public record under this subsection to the State Treasurer, the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Board of Trustees, and the Plan's Executive ~~Administrator, and the Committee on Employee Hospital and Medical Benefits~~ Administrator solely and exclusively for their use in the furtherance of their duties and responsibilities, and to the Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services. The design, adoption, and implementation of the preferred provider contracts, networks, and optional alternative comprehensive health benefit plans, and programs available under the optional alternative plans, as authorized under G.S. 135-45 are not subject to the requirements of Article 3 of Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the ~~Committee on Employee Hospital and Medical Benefits~~ State Treasurer."

**SECTION 3.** G.S. 135-43.1 is repealed.

**SECTION 4.** G.S. 135-43.2 is repealed.

**SECTION 5.** G.S. 135-43.3 reads as rewritten:



\* H 1 6 1 - V - 2 \*

1 **"§ 135-43.3. Oversight team.**~~**Oversight.**~~

2 (a) ~~The Committee on Employee Hospital and Medical Benefits.~~The General Assembly  
3 may use employees of the Legislative Services Office and may employ contractual services as  
4 ~~approved by the Legislative Services Commission~~ to monitor the Executive Administrator and  
5 Board of Trustees, the Claims Processor, and the ~~Comprehensive Major Medical Plan.~~State  
6 Health Plan for Teachers and State Employees. The Director of the Budget may use employees  
7 of the Office of State Budget and Management to monitor the Executive Administrator and  
8 Board of Trustees, the Claims Processor, and the ~~Comprehensive Major Medical Plan.~~State  
9 Health Plan for Teachers and State Employees. ~~Employees authorized by the Legislative~~  
10 ~~Services Commission and the Director of the Budget to provide assistance to the Committee on~~  
11 ~~Employee Hospital and Medical Benefits and to the Director of the Budget shall comprise an~~  
12 ~~oversight team.~~

13 (b) ~~The oversight team shall, jointly or individually,~~Director of the Budget and the State  
14 Treasurer or their designees and the employees of the Legislative Services Office shall have  
15 access to all records of the Board of Trustees, the Executive Administrator, the Claims  
16 Processor, and the Plan. ~~The oversight team shall, jointly or individually,~~Director of the Budget  
17 and the State Treasurer or their designees and the employees of the Legislative Services Office  
18 shall be entitled to attend all meetings of the Board of Trustees.

19 (c) ~~The oversight team shall report to the Committee on Employee Hospital and~~  
20 ~~Medical Benefits when requested by the Committee."~~

21 **SECTION 6.** G.S. 135-43.6 reads as rewritten:

22 **"§ 135-43.6. Reports to the General Assembly.**

23 The Executive Administrator and Board of Trustees shall report to the General Assembly at  
24 such times and in such forms as shall be designated by ~~the Committee on Employee Hospital~~  
25 ~~and Medical Benefits.~~the President Pro Tempore of the Senate and the Speaker of the House of  
26 Representatives."

27 **SECTION 7.** G.S. 135-44.2 reads as rewritten:

28 **"§ 135-44.2. Executive Administrator.**

29 (a) The Plan shall have an Executive Administrator and a Deputy Executive  
30 Administrator. The Executive Administrator and the Deputy Executive Administrator positions  
31 are exempt from the provisions of Chapter 126 of the General Statutes as provided in  
32 G.S. 126-5(c1).

33 (b) The Executive Administrator shall be appointed by the ~~State Health Plan~~  
34 ~~Administrative Commission.~~State Treasurer. The term of employment and salary of the  
35 Executive Administrator shall be set by the ~~State Health Plan Administrative Commission upon~~  
36 ~~the advice of an executive committee of the Committee on Employee Hospital and Medical~~  
37 ~~Benefits.~~State Treasurer.

38 The Executive Administrator may be removed from office by the ~~State Health Plan~~  
39 ~~Administrative Commission, upon the advice of an executive committee of the Committee on~~  
40 ~~Employee Hospital and Medical Benefits.~~State Treasurer, and any vacancy in the office of  
41 Executive Administrator may be filled by the ~~State Health Plan Administrative Commission~~  
42 ~~with the term of employment and salary set upon the advice of an executive committee of the~~  
43 ~~Committee on Employee Hospital and Medical Benefits.~~State Treasurer.

44 (c) The Executive Administrator shall appoint the Deputy Executive Administrator and  
45 may employ such clerical and professional staff, and such other assistance as may be necessary  
46 to assist the Executive Administrator and the Board of Trustees in carrying out their duties and  
47 responsibilities under this Article. The Executive Administrator may designate managerial,  
48 professional, or policy-making positions as exempt from the State Personnel Act. The  
49 Executive Administrator may also negotiate, renegotiate and execute contracts with third  
50 parties in the performance of the Executive Administrator's duties and responsibilities under  
51 this Article; provided any contract negotiations, renegotiations and execution with a Claims

1 Processor, with an optional alternative comprehensive health benefit plan, or program  
2 thereunder, authorized under G.S. 135-45, with a preferred provider of institutional or  
3 professional hospital and medical care, or with a pharmacy benefit manager shall be done only  
4 after consultation with the ~~Committee on Employee Hospital and Medical Benefits.~~State  
5 Treasurer.

6 (d) The Executive Administrator shall be responsible for:

- 7 (1) Cost management programs;
- 8 (2) Education and illness prevention programs;
- 9 (3) Training programs for Health Benefit Representatives;
- 10 (4) Membership functions;
- 11 (5) Long-range planning;
- 12 (6) Provider and participant relations; and
- 13 (7) Communications.

14 Managed care practices used by the Executive Administrator in cost management programs  
15 are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240,  
16 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

17 (e) The Executive Administrator shall make reports and recommendations on the Plan  
18 to the President of the Senate, the Speaker of the House of ~~Representatives and the Committee~~  
19 ~~on Employee Hospital and Medical Benefits.~~Representatives."

20 **SECTION 7.1.** G.S. 135-44.4(31) reads as rewritten:

21 "**§ 135-44.4. Powers and duties of the Executive Administrator and Board of Trustees.**

22 The Executive Administrator and Board of Trustees of the Teachers' and State Employees'  
23 Comprehensive Major Medical Plan shall have the following powers and duties:

24 ...

- 25 (31) The Plan shall conduct a monthly review of Plan costs as compared to the  
26 same month in the immediately preceding year and a comparison of  
27 projected costs and savings to actual costs and savings. The Plan shall report  
28 the results of the review to the ~~Committee on Employee Hospital and~~  
29 ~~Medical Benefits and the State Health Plan Blue Ribbon Task Force.~~State  
30 Treasurer and the General Assembly at least semiannually."

31 **SECTION 7.2.** G.S. 135-44.6(a) reads as rewritten:

32 "**§ 135-44.6. Premiums set.**

33 (a) The Executive Administrator and Board of Trustees shall, from time to time,  
34 recommend to the General Assembly the establishment or adjustment of premium rates for the  
35 Plan and based on premium rates enacted by the General Assembly shall adopt rules for  
36 payment of the premiums. Premium rates shall be established for coverages where Medicare is  
37 the primary payer of health benefits separate and apart from the rates established for coverages  
38 where Medicare is not the primary payer of health benefits. The amount of State funds  
39 contributed for optional coverage for employees and retirees on a partially contributory basis  
40 shall not be more than the Plan's total noncontributory premium for Employee Only coverage,  
41 with the person selecting the coverage paying the balance of the partially contributory premium  
42 not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for  
43 Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose  
44 a partially contributory premium until after it has consulted on the premium and the optional  
45 coverage design with the ~~Committee on Employee Hospital and Medical Benefits.~~State  
46 Treasurer."

47 **SECTION 8.** G.S. 135-44.7(a) reads as rewritten:

48 "**§ 135-44.7. Administrative review.**

49 (a) If, after exhaustion of internal appeal handling as outlined in the contract with the  
50 Claims Processor any person is aggrieved, the Claims Processor shall bring the matter to the  
51 attention of the Executive Administrator and Board of Trustees, which shall promptly decide

1 whether the subject matter of the appeal is a determination subject to external review under Part  
2 4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board  
3 of Trustees shall inform the aggrieved person and the aggrieved person's provider of the  
4 decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal  
5 that decision as provided in this subsection. If the Executive Administrator and Board of  
6 Trustees decide that the subject matter of the appeal is not a determination subject to external  
7 review, then the Executive Administrator and Board of Trustees may make a binding decision  
8 on the matter in accordance with procedures established by the Executive Administrator and  
9 Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written  
10 summary of the decisions made pursuant to this section to all employing units, all health benefit  
11 representatives, the oversight ~~team~~agencies provided for in G.S. 135-43.3, all relevant health  
12 care providers affected by a decision, and to any other parties requesting a written summary  
13 and approved by the Executive Administrator and Board of Trustees to receive a summary  
14 immediately following the issuance of a decision. A decision by the Executive Administrator  
15 and Board of Trustees that a matter raised on internal appeal is a determination subject to  
16 external review as provided in subsection (b) of this section may be contested by the aggrieved  
17 person under Chapter 150B of the General Statutes. The person contesting the decision may  
18 proceed with external review pending a decision in the contested case under Chapter 150B of  
19 the General Statutes."

20 **SECTION 9.** G.S. 135-44.8 reads as rewritten:

21 **"§ 135-44.8. Rules.**

22 The Executive Administrator and Board of Trustees may adopt rules to implement Parts 2,  
23 3, 4, and 5 of this Article. The Executive Administrator and Board of Trustees shall provide to  
24 all employing units, all health benefit representatives, the oversight ~~team~~agencies provided for  
25 in G.S. 135-43.3, all relevant health care providers affected by a rule, and to any other persons  
26 requesting a written description and approved by the Executive Administrator and Board of  
27 Trustees written notice and an opportunity to comment not later than 30 days prior to adopting,  
28 amending, or rescinding a rule, unless immediate adoption of the rule without notice is  
29 necessary in order to fully effectuate the purpose of the rule. Rules of the Board of Trustees  
30 shall remain in effect until amended or repealed by the Executive Administrator and Board of  
31 Trustees. The Executive Administrator and Board of Trustees shall provide a written  
32 description of the rules adopted under this section to all employing units, all health benefit  
33 representatives, the oversight ~~team~~agencies provided for in G.S. 135-43.3, all relevant health  
34 care providers affected by a rule, and to any other persons requesting a written description and  
35 approved by the Executive Administrator and Board of Trustees on a timely basis. Rules  
36 adopted by the Executive Administrator and Board of Trustees to implement this Article are not  
37 subject to Article 2A of Chapter 150B of the General Statutes."

38 **SECTION 10.** G.S. 135-45.7 reads as rewritten:

39 **"§ 135-45.7. Prior approval procedures.**

40 The Executive Administrator and Board of Trustees may establish procedures to require  
41 prior medical approval and may implement the procedures after consultation with the  
42 ~~Committee on Employee Hospital and Medical Benefits~~State Treasurer."

43 **SECTION 11.** G.S. 135-45.10(d) reads as rewritten:

44 **"§ 135-45.10. Persons eligible for Medicare; optional participation in other Medicare  
45 products.**

46 ...

47 (d) Notwithstanding the foregoing provisions of this section or any other provisions of  
48 the Plan, the Executive Administrator and Board of Trustees may enter into negotiations with  
49 the Centers for Medicare and Medicaid Services, U.S. Department of Health and Human  
50 Services, in order to secure a more favorable coordination of the Plan's benefits with those  
51 provided by Medicare, including but not limited to, measures by which the Plan would provide

1 Medicare benefits for all of its Medicare-eligible members in return for adequate payments  
2 from the federal government in providing such benefits. Should such negotiations result in an  
3 agreement favorable to the Plan and its Medicare-eligible members, the Executive  
4 Administrator and Board of Trustees may, after consultation with the ~~Committee on Employee~~  
5 ~~Hospital and Medical Benefits~~, State Treasurer, implement such an agreement which shall  
6 supersede all other provisions of the Plan to the contrary related to its payment of claims for  
7 Medicare-eligible members."

8 **SECTION 12.** G.S. 135-45.11 reads as rewritten:

9 **"§ 135-45.11. Cost-savings initiatives and incentive programs authorized.**

10 (a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The  
11 Executive Administrator and Board of Trustees may authorize coverage for over-the-counter  
12 medications as recommended by the Plan's pharmacy and therapeutics committee. In approving  
13 for coverage one or more over-the-counter medications, the Executive Administrator and Board  
14 of Trustees shall ensure that each recommended over-the-counter medication has been analyzed  
15 to ensure medical effectiveness and Plan member safety. The analysis shall also address the  
16 financial impact on the Plan. The Executive Administrator and Board of Trustees may impose a  
17 co-payment to be paid by each covered individual for each packaged over-the-counter  
18 medication. The Executive Administrator and Board of Trustees may adopt policies  
19 establishing limits on the amount of coverage available for over-the-counter medications for  
20 each covered individual over a 12-month period. Prior to implementing policy and co-payment  
21 changes authorized under this section, the Executive Administrator and Board of Trustees shall  
22 submit the proposed policies and co-payments to the ~~Committee on Employee Hospital and~~  
23 ~~Medical Benefits~~ State Treasurer for its review.

24 (b) Incentive Programs. – For the purposes of helping Plan members to achieve and  
25 maintain a healthy lifestyle without impairing patient care, and to increase cost effectiveness in  
26 Plan coverage, the Executive Administrator and Board of Trustees may adopt programs  
27 offering incentives to Plan members to encourage changes in member behavior or lifestyle  
28 designed to improve member health and promote cost-efficiency in the Plan. Participation in  
29 one or more incentive programs is voluntary on the part of the Plan member. Before adopting  
30 an incentive program, the Executive Administrator and Board of Trustees shall conduct an  
31 impact analysis on the proposed incentive program to determine (i) whether the program is  
32 likely to result in significant member satisfaction, (ii) that it will not adversely affect quality of  
33 care, and (iii) whether it is likely to result in significant cost savings to the Plan. The impact  
34 analysis may be conducted by a committee of the Plan, in conjunction with the Plan's  
35 consulting actuary, provided that the Plan's medical director participates in the analysis. An  
36 approved incentive plan may provide for a waiver of deductibles, co-payments, and  
37 coinsurance required under this Article in order to determine the effectiveness of the incentive  
38 program in promoting the health of members and increasing cost-effectiveness to the Plan. The  
39 Executive Administrator and Board of Trustees shall, before implementing incentive programs  
40 authorized under this section, submit the proposed programs to the ~~Committee on Employee~~  
41 ~~Hospital and Medical Benefits~~ State Treasurer for review."

42 **SECTION 13.** G.S. 135-45.13(b) reads as rewritten:

43 **"§ 135-45.13. Conversion.**

44 ...

45 (b) The Executive Administrator and Board of Trustees shall provide for the  
46 continuation of conversion privilege exercised under the predecessor plan, on a fully  
47 contributory basis. The Executive Administrator and Board of Trustees shall consult with the  
48 ~~Committee on Employee Hospital and Medical Benefits~~ State Treasurer before taking action  
49 under this subsection."

50 **SECTION 14.** This act becomes effective September 1, 2011.