

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE DRH80071-LR-32D* (02/10)

Short Title: Smart Card Biometrics Against Medicaid Fraud. (Public)

Sponsors: Representatives Tolson and Johnson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA SMART CARD PILOT PROGRAM
3 TO UTILIZE BIOMETRICS TO COMBAT FRAUD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Definitions. – The following definitions apply in this act:

- 6 (1) Claim. – Any request or demand, whether under a contract or otherwise, for
7 money, property, or services, that is made to the North Carolina Medicaid
8 program, or to any officer, employee, fiscal intermediary, grantee, or
9 contractor of the North Carolina Medicaid program, if the North Carolina
10 Medicaid program provides or will provide any portion of the money or
11 property requested or demanded, or if the North Carolina Medicaid program
12 will reimburse the contractor, grantee, or other recipient for any portion of
13 the money or property requested or demanded. A claim includes a request or
14 demand made orally, in writing, electronically, or magnetically and meets all
15 of the following requirements:
- 16 a. Identifies a product or service provided or purported to have been
17 provided within the State of North Carolina to a recipient as
18 reimbursable under the medical assistance program, without regard
19 to whether the money that is requested or demanded is paid.
 - 20 b. States the income earned or expense incurred by a provider in
21 providing a product or a service and that is used to determine a rate
22 of payment under the medical assistance program.
 - 23 c. Has been generated at the point of transaction and as a result of
24 recipients participating in either biometric or alternative method
25 authentication as defined in this Article.
- 26 (2) Medical assistance card. – Medicaid cards currently used by recipients prior
27 to the implementation of the statewide rollout pursuant to this Article, and
28 which will be replaced by smart cards pursuant to this Article, which shall
29 identify eligible recipients and their account numbers and shall be used by
30 recipients to obtain medical assistance for which payment by the State shall
31 be tendered.
- 32 (3) Multifactor authentication. – A security process in which a user provides
33 multiple means of identification, one of which is a token, such as a smart
34 card, and the other of which is representative of who the user is, such as a
35 fingerprint and photo.



- 1 (4) Point of transaction. – The act of a recipient obtaining a service, product, or
2 both provided by a provider, which service, product, or both is submitted as
3 a claim to be paid for by the State Medicaid program.

4 **SECTION 2.(a)** Smart Card Pilot Program. – There is established under the
5 Department of Health and Human Services the North Carolina Smart Card Pilot Program. The
6 pilot program shall be administered by the Program Integrity Unit of the Division of Medical
7 Assistance. The Department shall determine the scope of the pilot program and may enter into
8 an agreement with a third-party vendor for the purpose of developing and executing the pilot
9 program in accordance with this act. The pilot program shall be initiated for a 12-month period.
10 The pilot program shall involve enrollment, distribution, and use of smart cards by all
11 recipients as replacements for currently used Medicaid assistance cards. The pilot program
12 shall involve the distribution of fingerprint scanners and card readers at each provider location
13 within the designated counties.

14 **SECTION 2.(b)** The pilot program shall be designed to do all of the following:

- 15 (1) Authenticate recipients at the onset and completion of each point of
16 transaction in order to prevent card sharing and other forms of fraud.
17 (2) Deny ineligible persons at the point of transaction.
18 (3) Authenticate providers at the point of transaction to prevent phantom billing
19 and other forms of provider fraud.
20 (4) Secure and protect the personal identity and information of recipients.
21 (5) Reduce the total amount of medical assistance expenditures by reducing the
22 average cost per recipient.

23 **SECTION 2.(c)** The pilot program shall include all of the following:

- 24 (1) Smart cards for storage of recipients' State benefit information, insurance
25 information, and other general health information for the purpose of
26 replacing existing medical assistance cards. The smart cards shall include
27 recipients' prescription history information in order to assist in prevention of
28 drug overutilization and to mitigate costs and risks associated with
29 prescription drugs. Sensitive information to be stored shall be split into
30 multiple parts and encrypted, with one part being stored on the host
31 database.
32 (2) Biometric fingerprint scanners and card readers for the purpose of real-time,
33 multifactor authentication or recipients' fingerprint templates and smart
34 cards. Biometric fingerprint scanners and card readers shall reside at the
35 point of transaction with providers.
36 (3) Biometric fingerprint readers for authentication by providers.
37 (4) A secure finger-imaging system that is compliant with the federal Health
38 Insurance Portability and Accountability Act of 1996, P.L. 104-191. The
39 finger-imaging system shall store a fingerprint template on a central host
40 system for authentication purposes, rather than on the smart card, to allow
41 authentication in the event of lost, stolen, or forgotten cards and to prevent
42 Medicaid fraud associated with card reproduction and card sharing. The
43 system shall take a fingerprint image and convert it into a binary PIN
44 number, known as a fingerprint template, and store the template, rather than
45 the fingerprint image, on the central host system. The fingerprint template
46 shall not be able to be recreated into an actual fingerprint image.
47 (5) An information system for recording and reporting authenticated
48 transactions.
49 (6) An information system that interfaces with the appropriate State databases to
50 determine eligibility of recipients.

- 1 (7) A system that gathers analytical information to be provided to data-mining
2 companies in order to assist in data-mining processes.
- 3 (8) A smart card with the ability to store multiple recipients' information on one
4 card.
- 5 (9) No requirement for preenrollment of recipients.
- 6 (10) An image of the recipient stored on both the smart card and database.

7 **SECTION 2.(d)** In implementing the pilot program, the Department may do the
8 following:

- 9 (1) Have an alternative method of authentication of recipients when biometric
10 fingerprint images cannot be used and to address specific mandates needed
11 to obtain a waiver or authorization from the federal Centers for Medicare
12 and Medicaid Services.
- 13 (2) Enter and store billing codes, deductible amounts, and bill confirmations.
- 14 (3) Allow electronic prescribing services and prescription database integration
15 and tracking in order to prevent medical error through information sharing
16 and to reduce pharmaceutical abuse and lower health care costs.
- 17 (4) Implement quick-pay incentives for providers when electronic prescribing
18 services, electronic health records, electronic patient records, or
19 computerized patient records used by providers automatically synchronize
20 with recipients' smart cards and electronically submit a claim.
- 21 (5) Allow the program, including, but not limited to, smart cards, fingerprint
22 scanners, and card readers, to be adapted for use by other State programs
23 administered by the Department and the Department of Human Services in
24 order to reduce costs associated with the necessity of multiple cards per
25 recipient.

26 **SECTION 2.(e)** The pilot program shall be considered a success if it meets the
27 minimum criteria defined by this act and reduces the average monthly cost of recipients within
28 the pilot program area by a minimum of three percent (3%). In the event that the pilot program
29 does not meet the minimum criteria to be considered a success, the Department may extend and
30 revise the pilot program as necessary and reevaluate the results. In order to evaluate the average
31 monthly cost of recipients within the pilot program and develop the strategy necessary to target
32 the highest rate of savings to the State plan, four sample sets of figures shall be analyzed for the
33 pilot program, including the following:

- 34 (1) Establishment of base figures. – Gather claims data for a first sample set,
35 which shall include all claims for the recipients within the pilot program area
36 and the average cost per recipient by provider type and county from at least
37 the prior year for the exact time period for all areas in the pilot program.
- 38 (2) Adjusted base figures for increase or decrease in cost of services. – In order
39 to evaluate increases or decreases in the cost of services, a second sample set
40 shall be gathered and adjusted to the base figures of the first sample set. The
41 second sample set of claims data shall represent a rural area and an urban
42 area not participating in the pilot program, with as close as possible
43 demographics as the population of recipients in the pilot program areas,
44 including specific data relating to sex, age, race, and ethnicity, county
45 similarities, number of providers, and the average cost per recipient. This
46 sample set shall be analyzed against the prior year's figures and compared to
47 current year figures for the same time frame and area to determine an
48 increase or decrease in cost of services. This sample shall not have any
49 major changes from the prior year to the current year that would change the
50 comparison, such as the introduction of managed care in the area. The
51 increase or decrease in cost per recipient from this sampling shall be factored

1 into the data set determined pursuant to subdivision (1) of this subsection to
2 derive at an adjusted base figure or average cost per recipient per month.

3 (3) Comparison of base figures to current figures. – A third sample set of data
4 shall be gathered reflecting the claims data of the recipients and the average
5 cost per recipient on a monthly basis during the pilot program by provider
6 type. A comparison of the adjusted base figures arrived at by the prior
7 sampling with the actual figures from this third sample set shall be made to
8 determine how much the State saved by provider type. Recipients leaving
9 the pilot program area to avoid fraud detection will be noted, thus the third
10 sample set will be adjusted by claims derived outside of the pilot program
11 area.

12 (4) Recipient surveying. – A fourth sample set of data shall be obtained by
13 sampling two percent (2%) of Medicaid recipients in the pilot program area
14 and shall be surveyed prior to the start of the pilot program to acknowledge
15 services used, frequency of services used, and satisfaction of services used.
16 This survey shall be taken again at the completion of the pilot program to
17 rate the level of satisfaction of the pilot program.

18 **SECTION 2.(f)** The pilot program shall not be expanded unless the General
19 Assembly provides for its continuation or expansion. During the pilot program, the Department
20 may consider the feasibility of expanding the pilot program, including the need to develop rules
21 and policies related to the following:

- 22 (1) The handling of lost, forgotten, or stolen cards or situations in which a
23 fingerprint match cannot be confirmed.
- 24 (2) Enrolling all recipients, regardless of age, for participation in the program.
- 25 (3) Distributing and activating smart cards for all recipients.
- 26 (4) Distributing and installing fingerprint scanners and card readers within
27 provider locations. The procedures shall include shipping the equipment to
28 providers and providing simple step-by-step instructions for installation of
29 the equipment.

30 **SECTION 3.** Reports. – By June 30, 2012, the Department shall submit a detailed
31 written report on the implementation and success of the smart card pilot program to the
32 Governor, to the Speaker of the House of Representatives, to the President Pro Tempore of the
33 Senate, to the Chairs of the Senate and House of Representatives Appropriations Committees,
34 and to the Fiscal Research Division.

35 **SECTION 4.** Compliance and Prosecutions. – This act shall be construed
36 consistent with the federal Social Security Act, and any provision of this article found to be in
37 conflict with the federal Social Security Act shall be deemed to be void and of no effect. If,
38 before implementing any provision of this act, the Department determines that a waiver or
39 authorization from a federal agency is necessary for implementation of that provision, the
40 Department shall request the waiver or authorization as soon as practicable. If, in connection
41 with the pilot program, the Department has reason to believe medical assistance fraud has been
42 committed, the Department shall refer such matters to the Attorney General or to the local
43 district attorney for prosecution, as appropriate.

44 **SECTION 5.** Funds appropriated to the Department of Health and Human Services
45 for the 2010-2011 fiscal year for the purpose of fraud prevention shall not revert at the end of
46 the fiscal year and shall be carried forward to the 2011-2012 fiscal year to carry out the
47 purposes of this act.

48 **SECTION 6.** This act is effective when it becomes law.