HOUSE BILL 337*

Short Title:	Smart Card Biometrics Against Medicaid Fraud.	(Public)
Sponsors:	Representatives Tolson and Johnson (Primary Sponsors). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Health and Human Services, if favorable, Appropriations.	

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SMART CARD PILOT PROGRAM TO UTILIZE BIOMETRICS TO COMBAT FRAUD.

The General Assembly of North Carolina enacts:

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

(1) Claim. – Any request or demand, whether under a contract or otherwise, for money, property, or services, that is made to the North Carolina Medicaid program, or to any officer, employee, fiscal intermediary, grantee, or contractor of the North Carolina Medicaid program, if the North Carolina Medicaid program provides or will provide any portion of the money or property requested or demanded, or if the North Carolina Medicaid program will reimburse the contractor, grantee, or other recipient for any portion of the money or property requested or demanded. A claim includes a request or demand made orally, in writing, electronically, or magnetically and meets all of the following requirements:
   a. Identifies a product or service provided or purported to have been provided within the State of North Carolina to a recipient as reimbursable under the medical assistance program, without regard to whether the money that is requested or demanded is paid.
   b. States the income earned or expense incurred by a provider in providing a product or a service and that is used to determine a rate of payment under the medical assistance program.
   c. Has been generated at the point of transaction and as a result of recipients participating in either biometric or alternative method authentication as defined in this Article.

(2) Medical assistance card. – Medicaid cards currently used by recipients prior to the implementation of the statewide rollout pursuant to this Article, and which will be replaced by smart cards pursuant to this Article, which shall identify eligible recipients and their account numbers and shall be used by recipients to obtain medical assistance for which payment by the State shall be tendered.

(3) Multifactor authentication. – A security process in which a user provides multiple means of identification, one of which is a token, such as a smart card, and the other of which is representative of who the user is, such as a fingerprint and photo.

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

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

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

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

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

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

(7) A system that gathers analytical information to be provided to data-mining companies in order to assist in data-mining processes.

(8) A smart card with the ability to store multiple recipients' information on one card.

(9) No requirement for preenrollment of recipients.

(10) An image of the recipient stored on both the smart card and database.

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

(1) Have an alternative method of authentication of recipients when biometric fingerprint images cannot be used and to address specific mandates needed to obtain a waiver or authorization from the federal Centers for Medicare and Medicaid Services.

(2) Enter and store billing codes, deductible amounts, and bill confirmations.

(3) Allow electronic prescribing services and prescription database integration and tracking in order to prevent medical error through information sharing and to reduce pharmaceutical abuse and lower health care costs.

(4) Implement quick-pay incentives for providers when electronic prescribing services, electronic health records, electronic patient records, or computerized patient records used by providers automatically synchronize with recipients' smart cards and electronically submit a claim.

(5) Allow the program, including, but not limited to, smart cards, fingerprint scanners, and card readers, to be adapted for use by other State programs administered by the Department and the Department of Human Services in order to reduce costs associated with the necessity of multiple cards per recipient.

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

(1) Establishment of base figures. – Gather claims data for a first sample set, which shall include all claims for the recipients within the pilot program area and the average cost per recipient by provider type and county from at least the prior year for the exact time period for all areas in the pilot program.

(2) Adjusted base figures for increase or decrease in cost of services. – In order to evaluate increases or decreases in the cost of services, a second sample set shall be gathered and adjusted to the base figures of the first sample set. The second sample set of claims data shall represent a rural area and an urban area not participating in the pilot program, with as close as possible demographics as the population of recipients in the pilot program areas, including specific data relating to sex, age, race, and ethnicity, county similarities, number of providers, and the average cost per recipient. This sample set shall be analyzed against the prior year's figures and compared to current year figures for the same time frame and area to determine an increase or decrease in cost of services. This sample shall not have any major changes from the prior year to the current year that would change the comparison, such as the introduction of managed care in the area. The increase or decrease in cost per recipient from this sampling shall be factored

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

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

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

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

(1) The handling of lost, forgotten, or stolen cards or situations in which a fingerprint match cannot be confirmed.

(2) Enrolling all recipients, regardless of age, for participation in the program.

(3) Distributing and activating smart cards for all recipients.

(4) Distributing and installing fingerprint scanners and card readers within provider locations. The procedures shall include shipping the equipment to providers and providing simple step-by-step instructions for installation of the equipment.

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

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

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

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