

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 841\*

Short Title: Medicaid Eligibility Timeliness/Funds. (Public)

Sponsors: Senators Hise, Krawiec, Foushee (Primary Sponsors); and Pate.

Referred to: Health Care

May 11, 2016

A BILL TO BE ENTITLED

AN ACT TO SUPPORT IMPROVEMENT IN THE TIMELINESS OF MEDICAID  
ELIGIBILITY DETERMINATIONS, AS RECOMMENDED BY THE JOINT  
LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Department of Health and Human Services, Division of Medical Assistance (DHHS), shall submit a report annually for the 2015-2016 and 2016-2017 fiscal year to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division containing the following information:

- (1) The annual statewide percentage of Medicaid applications processed in a timely manner for the fiscal year.
- (2) The statewide average number of days to process Medicaid applications for each month in the fiscal year.
- (3) The annual percentage of Medicaid applications processed in a timely manner by each county department of social services for the fiscal year.
- (4) The average number of days to process Medicaid applications for each month for each county department of social services.
- (5) The number of months during the fiscal year that each county department of social services met the timely processing standards in Part 10 of Article 2 of Chapter 108A of the General Statutes.
- (6) The number of months during the fiscal year that each county department of social services failed to meet the timely processing standards in Part 10 of Article 2 of Chapter 108A of the General Statutes.
- (7) A description of all corrective action activities conducted by DHHS and county departments of social services in accordance with G.S. 108A-70.36.
- (8) A description of how DHHS plans to assist county departments of social services in meeting timely processing standards for Medicaid applications, for every county in which the performance metrics for processing Medicaid applications in a timely manner do not show significant improvement compared to the previous fiscal year.

The report for the 2015-2016 fiscal year shall be submitted by November 1, 2016, and the report for the 2016-2017 fiscal year shall be submitted by November 1, 2017.

**SECTION 2.(a)** Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read:

"Part 10. Medicaid Eligibility Decision Processing Timeliness.



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1 **"§ 108A-70.31. Applicability.**

2 If a federally recognized Native American tribe within the State has assumed responsibility for  
3 the Medicaid program pursuant to G.S. 108A-25(e), then this Part applies to the tribe in the same  
4 manner as it applies to county departments of social services.

5 **"§ 108A-70.32. Timely decision standards.**

6 The county department of social services shall render a decision on an individual's application  
7 for Medicaid within 45 calendar days from the date of application, except for applications in  
8 which a disability determination has already been made or is needed. For those applications, the  
9 county department of social services shall render a decision on an individual's eligibility within 90  
10 calendar days from the date of application.

11 **"§ 108A-70.33. Timely processing standards.**

12 (a) The Department shall require counties to comply with timely processing standards. The  
13 timely processing standards are the average processing time standards and the percentage  
14 processed timely standards set forth in G.S. 108A-70.34 and G.S. 108A-70.35. The Department  
15 shall monitor county department of social services' compliance with these standards in accordance  
16 with this Part.

17 (b) For purposes of this Part, processing time is the number of days between the date of  
18 application and the date of disposition of the application, except in cases where an eligibility  
19 determination is dependent upon receipt of information related to one or more of the following:

- 20 (1) Medical expenses sufficient to meet a deductible.
- 21 (2) The applicant's need for institutionalization.
- 22 (3) The applicant's plan of care for the home- and community-based waivers.
- 23 (4) The disability decision made by the Disability Determination Services Section  
24 of the Division of Vocational Rehabilitation of the Department.
- 25 (5) Medical records needed to determine emergency dates for nonqualified aliens.
- 26 (6) The applicant's application or other information from the federally facilitated  
27 marketplace.
- 28 (7) The applicant's application or other information in connection with an  
29 application for a Low Income Subsidy for Medicare prescription drug coverage.

30 In these cases, processing time shall exclude the number of days between the date when the  
31 county determines all eligibility criteria other than the criteria in subdivisions (1) through (7) of  
32 this subsection and the date when the county receives the information related to the criteria in  
33 subdivisions (1) through (7) of this subsection.

34 (c) Processing times for the following types of cases shall be excluded from the calculation  
35 of the average processing time and percent processed timely:

- 36 (1) Newborns who are automatically enrolled based on their mother's eligibility.
- 37 (2) Applications for individuals who are presumptively eligible for Medicaid.
- 38 (3) Active cases in which an individual who is eligible for one program is  
39 transferred to another program, regardless of whether the transfer occurs  
40 between allowable or nonallowable program categories.
- 41 (4) Cases in which an individual transfers from an open case to another case,  
42 including establishing a new administrative case for the individual.
- 43 (5) Actions to post eligibility to a terminated or denied case within one year of the  
44 termination or denial.
- 45 (6) Cases that are reopened because they were terminated in error or because  
46 reopening of the terminated case is allowed by policy.
- 47 (7) Cases in which the eligibility decision was appealed and the decision was  
48 reversed or remanded.

49 (d) The Department may, in its discretion, exclude days, other than those required by  
50 subsection (b) of this section, from the calculation of processing time under this section if the  
51 Department determines that the delay was caused by circumstances outside the control of county

1 departments of social services. The Department also may, in its discretion, exclude types of cases,  
2 other than those described in subsection (c) of this section, from the calculation of processing  
3 time. When the Department exercises its discretion pursuant to this subsection, the Department's  
4 determination regarding circumstances outside the control of county departments of social services  
5 and the Department's decision to exclude types of cases shall be applied uniformly to all county  
6 departments of social services.

7 **"§ 108A-70.34. Average processing time standards.**

8 (a) Average processing time is calculated by finding the processing time for each case that  
9 received a disposition during a given month and finding the average of those processing times.

10 (b) The standard for average processing time is 90 days for cases in which the individual  
11 has applied for the Medicaid Aid to the Disabled category (M-AD) and 45 days for all other cases.

12 **"§ 108A-70.35. Percentage processed timely standards.**

13 (a) Percentage processed timely is the percentage of cases that received a timely  
14 disposition in a given month. The percentage processed timely is calculated by expressing the  
15 number of cases during a given month with a processing time equal to or less than the standard set  
16 in G.S. 108A-70.32 as a percentage of the total cases receiving a disposition during that month.  
17 When the deadline for meeting the timely decision standard in G.S. 108A-70.32 falls on a  
18 weekend or holiday, an application that receives a disposition on the first workday following the  
19 deadline shall be considered timely for purposes of calculating the percentage processed timely.

20 (b) The Department is authorized to adopt rules to establish a percentage standard for each  
21 county department of social services that will be the percentage processed timely standard for that  
22 county department of social services. Until the Department adopts rules establishing percentage  
23 standards for each county, the percentage processed timely standards are those established in 10A  
24 NCAC 23C .0203 as of April 2016.

25 **"§ 108A-70.36. Corrective action.**

26 (a) If for any three consecutive months or for any five months out of a period of 12  
27 consecutive months a county department of social services fails to meet either the average  
28 processing time standard or the percentage processed timely standard or both standards, the  
29 Department and the county department of social services shall enter into a joint corrective action  
30 plan to improve the timely processing of applications.

31 (b) A joint corrective action plan entered into pursuant to this section shall specifically  
32 identify the following components:

33 (1) The duration of the joint corrective action plan, not to exceed 12 months. If a  
34 county department of social services shows measurable progress in meeting the  
35 performance requirements in the joint corrective action plan, then the duration  
36 of the joint corrective action plan may be extended by six months, but in no  
37 case shall a joint corrective action plan exceed 18 months.

38 (2) A plan for improving timely processing of applications that specifically  
39 describes the actions to be taken by the county department of social services  
40 and the Department.

41 (3) The performance requirements for the county department of social services that  
42 constitute successful completion of the joint corrective action plan.

43 (4) Acknowledgement that failure to successfully complete the joint corrective  
44 action plan will result in temporary assumption of Medicaid eligibility  
45 administration by the Department, in accordance with G.S. 108A-70.37.

46 **"§ 108A-70.37. Temporary assumption of Medicaid eligibility administration.**

47 (a) If a county department of social services fails to successfully complete its joint  
48 corrective action plan, the Department shall give the county department of social services, the  
49 county manager, and the board of social services or the consolidated human services board created  
50 pursuant to G.S. 153A-77(b) at least 90 days' notice that the Department intends to temporarily

1 assume Medicaid eligibility administration, in accordance with subsection (b) of this section. The  
2 notice shall include the following information:

- 3 (1) The date on which the Department intends to temporarily assume  
4 administration of Medicaid eligibility decisions.
- 5 (2) The performance requirements in the joint corrective action plan that the county  
6 department of social services failed to meet.
- 7 (3) Notice of the county department of social services' right to appeal the decision  
8 to the Office of Administrative Hearings, pursuant to Article 3 of Chapter 150B  
9 of the General Statutes.

10 (b) Notwithstanding any provision of law to the contrary, if a county department of social  
11 services fails to successfully complete its joint corrective action plan, the Department shall  
12 temporarily assume Medicaid eligibility administration for the county upon giving notice as  
13 required by subsection (a) of this section. During a period of temporary assumption of Medicaid  
14 eligibility administration, the following shall occur:

- 15 (1) The Department shall administer the Medicaid eligibility function in the county.  
16 Administration by the Department may include direct operation by the  
17 Department, including supervision of county Medicaid eligibility workers, or  
18 contracts for operation to the extent permitted by federal law and regulations.
- 19 (2) The county department of social services is divested of Medicaid administration  
20 authority.
- 21 (3) The Department shall direct and oversee the expenditure of all funding for the  
22 administration of Medicaid eligibility in the county.
- 23 (4) The county shall continue to pay the nonfederal share of the cost of Medicaid  
24 eligibility administration and shall not withdraw funds previously obligated or  
25 appropriated for Medicaid eligibility administration.
- 26 (5) The county shall pay the nonfederal share of additional costs incurred to ensure  
27 compliance with the timely processing standards required by this Part.
- 28 (6) The Department shall work with the county department of social services to  
29 develop a plan for the county department of social services to resume Medicaid  
30 eligibility administration and perform Medicaid eligibility determinations in a  
31 timely manner.
- 32 (7) The Department shall inform the county board of commissioners, the county  
33 manager, the county director of social services, and the board of social services  
34 or the consolidated human services board created pursuant to G.S. 153A-77(b)  
35 of key activities and any ongoing concerns during the temporary assumption of  
36 Medicaid eligibility administration.

37 (c) Upon the Department's determination that Medicaid eligibility determinations can be  
38 performed in a timely manner based on the standards set forth in G.S. 108A-70.34 and  
39 G.S. 108-70.35 by the county department of social services, the Department shall notify the  
40 county department of social services, the county manager, and the board of social services or the  
41 consolidated human services board created pursuant to G.S. 153A-77(b) that temporary  
42 assumption of Medicaid eligibility administration will be terminated and the effective date of  
43 termination. Upon termination, the county department of social services resumes its full authority  
44 to administer Medicaid eligibility determinations."

45 **SECTION 2.(b)** G.S. 150B-23 is amended by adding a new subsection to read:

46 "(a5) A county that appeals a decision of the Department of Health and Human Services to  
47 temporarily assume Medicaid eligibility administration in accordance with G.S. 108A-70.37 may  
48 commence a contested case under this Article in the same manner as any other petitioner. The case  
49 shall be conducted in the same manner as other contested cases under this Article."

1           **SECTION 2.(c)** The corrective action procedures described in this section supersede  
2 the corrective actions procedures in 10A NCAC 23C .0204 and 10A NCAC 23C .0205 related to  
3 timeliness processing of Medicaid applications by county departments of social services.

4           **SECTION 3.(a)** There is appropriated to the Department of Health and Human  
5 Services, Division of Central Management and Support, for the 2016-2017 fiscal year the sum of  
6 one hundred forty-three thousand two hundred fifteen dollars (\$143,215) in recurring funds to be  
7 used to fund three new Business System Analyst positions within the Operational Support Team  
8 under the Assistant Secretary of Human Services. These funds shall provide a State match for an  
9 estimated one hundred forty-three thousand two hundred fifteen dollars (\$143,215) in recurring  
10 federal funds in the 2016-2017 fiscal year, and those federal funds are hereby appropriated to be  
11 used for the same purpose.

12           **SECTION 3.(b)** There is appropriated to the Department of Health and Human  
13 Services, Division of Social Services, for the 2016-2017 fiscal year the sum of one hundred  
14 fifty-six thousand seven hundred eighty-five dollars (\$156,785) in recurring funds to be used to  
15 fund four new Human Services Evaluator/Planner positions within the Performance Management  
16 Section of the Division of Social Services. These funds shall provide a State match for an  
17 estimated one hundred fifty-six thousand seven hundred eighty-five dollars (\$156,785) in  
18 recurring federal funds in the 2016-2017 fiscal year, and those federal funds are hereby  
19 appropriated to be used for the same purpose.

20           **SECTION 4.** The Department of Health and Human Services may adopt and amend  
21 rules to implement Section 2 of this act.

22           **SECTION 5.** Section 2 of this act becomes effective January 1, 2017, and applies to  
23 monthly timely processing standards beginning on that date. The remainder of this act becomes  
24 effective July 1, 2016.