

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 732  
HOUSE BILL 1102

AN ACT TO AUTHORIZE AN EXECUTIVE ADMINISTRATOR FOR THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN, AND TO MAKE TECHNICAL AMENDMENTS TO THE PLAN.

The General Assembly of North Carolina enacts:

Section 1. Section 16 of Chapter 192, Session Laws of 1985 is amended by deleting "G.S. 135-40.8(a)", and substituting "G.S. 135-40.6(7)d."

Sec. 2. Effective August 1, 1985, G.S. 135-39(f) is amended by deleting "two hundred dollars (\$200.00) per day", and substituting "one hundred dollars (\$100.00) per day".

Sec. 3. G.S. 135-39(b) is amended by adding the following at the end:

"The member appointed by the Governor to serve a term beginning July 1, 1985, shall be an employee enrolled in the Plan. Any successor to such member shall also be an employee enrolled in the Plan."

Sec. 4. G.S. 135-39(c) is amended by adding the following at the end:

"One of the members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives may be a retired employee enrolled in the Plan."

Sec. 5. G.S. 135-39(d) is amended by adding the following at the end:

"One of the members appointed by the General Assembly upon the recommendation of the President of the Senate for a term beginning July 1, 1985, shall be an employee enrolled in the Plan. Any successor to such member shall also be an employee enrolled in the Plan."

Sec. 6. Part 2 of Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-39.3A. Advisory Committees.**—(a) There is established an Advisory Committee of Plan Participants. The Committee shall consist of nine persons enrolled in the Plan, three appointed by the Governor, three appointed by the Speaker of the House of Representatives, and three appointed by the President of the Senate. Members shall be appointed for two-year terms beginning July 1, 1985, and biennially thereafter. Members shall receive per diem, allowance, and reimbursement of travel expenses under G.S. 138-5 if not State employees, and shall receive travel allowances as provided by G.S. 138-6 if State employees. The Advisory Committee of Plan Participants shall have such advisory functions as are assigned by the Executive Administrator and Board of Trustees.

(b) There is established an Advisory Committee of Plan Providers. The Committee shall consist of nine persons who provide services under the Plan, three appointed by the Governor, three appointed by the Speaker of the House of Representatives, and three appointed by the President of the Senate. Members shall be appointed for two-year terms beginning July 1, 1985, and biennially thereafter. Members shall receive per diem, allowance, and reimbursement of travel expenses under G.S. 138-5 if not State employees, and shall receive travel allowances as provided by G.S. 138-6 if State employees. The Advisory Committee of Plan Providers shall have such advisory functions as are assigned by the Executive Administrator and Board of Trustees."

Sec. 7. G.S. 135-39.5(14) is repealed.

Sec. 8. G.S. 135-39(g) is amended by adding immediately before the period the words ", except for the designated employees and retired employee appointed under subsections (b) through (d) of this section, provided that such designated persons may not serve on the executive committee".

Sec. 9. G.S. 135-39.5(11) is repealed.

Sec. 10. Part 2 of Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ **135-39.4A. Executive Administrator.**—(a) The Plan shall have an Executive Administrator.

(b) The Executive Administrator shall be appointed by the Commissioner of Insurance, upon the advice of the Committee on Employee Hospital and Medical Benefits, for a two-year term beginning July 1, 1985, and biennially thereafter, subject to confirmation by the General Assembly in joint session or by joint resolution or bill. The Commissioner of Insurance shall, except for the initial appointment, submit the name of the nominee to the General Assembly no later than May 1 of each odd-numbered year.

(c) The Executive Administrator may be removed from office by the Commissioner of Insurance.

(d) Whenever a vacancy in the office of Executive Administrator shall occur (including if the initial appointment is not confirmed by the General Assembly before the 1985 Regular Session adjourns until 1986), other than by expiration of term, the Commissioner of Insurance shall, upon the advice of the Committee on Employee Hospital and Medical Benefits, submit a nominee to the General Assembly, for confirmation in joint session or by joint resolution or bill, to serve the remainder of the unexpired term. If there is such a vacancy in the office of Executive Administrator and the General Assembly is not in session, or has adjourned for more than 10 days, the Commissioner of Insurance may, upon the advice of the Committee on Employee Hospital and Medical Benefits, appoint an Executive Administrator to serve on an interim basis until the twentieth day of legislative session after the appointment is made.

(e) Whenever there is a vacancy in the office of Executive Administrator, the Commissioner of Insurance shall be ex officio Executive Administrator until the vacancy is filled in accordance with this section.

(f) The Executive Administrator may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Plan Administrator shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits.

(g) The Executive Administrator shall be responsible for:

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

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

Sec. 11. Effective August 1, 1985, G.S. 135-39(f) is amended by deleting "when the Board of Trustees meets or when holding a hearing under G.S. 135-39.7", and substituting "whenever the full Board of Trustees holds a public session", and is further amended by adding the following immediately before the period at the end of the subsection ", except when holding a meeting or hearing where this section does not provide for payment of one hundred dollars (\$100.00) per day".

Sec. 12. G.S. 135-40.1 is amended by adding a new subdivision to read:

"(13a) Plan. The Teachers' and State Employees' Comprehensive Major Medical Plan."

Sec. 13. Effective July 1, 1985, G.S. 135-40.11(c)(1) is amended in the third line by deleting "six" and substituting "twelve"; in the fifth and eighth lines by deleting "second three" and substituting "remaining nine"; in the fourteenth line by deleting "a second extension of up to three months" and substituting "up to three additional extensions of up to three months each"; and in the sixteenth line by deleting "second extension" and substituting "extensions" and by deleting "the second" and substituting "each".

Sec. 14. Effective January 1, 1983, G.S. 135-40.6(5) is amended by adding a new paragraph to read:

"g. Cleft Palate. Notwithstanding G.S. 135-40.6(6)a and G.S. 135-40.7(11), medical treatment and care needed by an individual born with cleft palate, including specialized dental and orthodontic care necessitated by the congenital condition, provided that the individual was covered at the time of birth by the Plan or the Predecessor Plan."

Sec. 15. Effective January 1, 1986, G.S. 135-40.6(2)f., as added by Section 11 of Chapter 192, Session Laws of 1985 is amended in the second sentence by deleting "Failure", and substituting "Effective July 1, 1986, failure".

Sec. 16. Effective July 1, 1985, the last sentence of G.S. 135-40.5(d) as added by Section 12 of Chapter 192, Session Laws of 1985 is amended by deleting "mastectomy and mammoplasty, surgery on the spinal column and/or nerves,".

Sec. 17. Effective July 1, 1985, G.S. 135-40.5(d) is amended by adding the following at the end: "Second surgical opinions for coronary by-pass surgery may be provided by doctors who are Board-qualified in internal medicine when qualified surgeons are not available to provide a second surgical opinion."

Sec. 18. Effective July 1, 1985, G.S. 135-40.5(d) is amended by adding the following at the end: "The Plan Administrator may waive the requirement for obtaining a second surgical opinion required by this subsection or required by G.S. 135-40.8(b) if the location and availability of surgeons qualified to provide second opinions creates an unjust hardship or if the medical condition of the patient would be adversely affected."

Sec. 19. Effective July 1, 1985, G.S. 135-40.1 is amended by adding a new subdivision to read:

"(7a) Fiscal Year. The period beginning July 1 and ending on June 30 of the succeeding calendar year."

Sec. 20. G.S. 135-40.6(1)r is amended by changing the word "calendar" to "fiscal".

Sec. 21. G.S. 135-40.6(7)d is amended by changing the word "calendar" to "fiscal".

Sec. 22. G.S. 135-40.6(8)c is amended by changing the word "calendar" to "fiscal".

Sec. 23. G.S. 135-39.4(d) is recodified as G.S. 135- 39.5(16) and rewritten to read:

"(16) Notwithstanding the provisions of Part 3 of this Article, to formulate and implement cost-containment measures which are not in direct conflict with that Part."

Sec. 24. G.S. 135-39.5 is further amended by adding a new subdivision to read:

"(17) Implementing pilot programs necessary to evaluate proposed cost containment measures which are not in direct conflict with Part 3 of this Article, and expending funds necessary for the implementation of such programs."

Sec. 25. Effective October 1, 1982, G.S. 135-40.1(3)b. is amended by adding the following immediately before the period at the end: "or, the dependent was not covered by the Predecessor Plan at the time the handicap began, but was subsequently covered by the Predecessor Plan and there has been no lapse in coverage since that time".

Sec. 26. G.S. 135-40.1(7) is rewritten to read:

"(7) Enrollment. New employees must enroll themselves and their dependents within 30 days from the date of employment. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents within

30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions, except for employees who elect to change their coverage in accordance with rules established by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans. Children born to covered employees having coverage type (2), (3), or (5), as outlined in G.S. 135-40.3(d) shall be automatically covered at the time of birth. Children born to covered employees having coverage type (1) shall be automatically covered at birth so long as the Plan Administrator receives notification within 30 days of the date of birth that the employee desires to change from coverage (1) to coverage type (2), (3), or (5), provided that the employee pays any additional premium required by the coverage type selected retroactive to the first day of the month in which the child was born."

Sec. 27. G.S. 135-40.6(5)a. is amended by adding the following sentence at the end: "For the purpose of this subdivision, the term 'standard services and operations' includes the following organ transplants: corneal, bone marrow, and kidney. All other organ transplants shall be considered nonreimbursable under the Plan. Benefits for the above listed organ transplants shall be payable only in accordance with rules established by the Executive Administrator and Board of Trustees."

Sec. 28. G.S. 135-40.6(6) is amended by adding a new subdivision to read:

"i. No benefits are payable for organ transplants not listed in G.S. 135-40.6(5)a, nor will benefits be payable for surgical procedures determined in the opinion of the Plan Administrator to be experimental."

Sec. 29. G.S. 135-40.6(8)e. is amended by adding the following at the end: "For the purposes of this subdivision, the term 'durable medical equipment' means standard equipment normally used in an institutional setting which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury and is appropriate for use in the home. Decisions of the Plan Administrator, the Executive Administrator and Board of Trustees as to compliance with this definition and coverage under the Plan shall be final."

Sec. 30. G.S. 135-40.12(a) is amended in the first sentence by inserting immediately after the word "Plan" the words "and/or eligibility for group coverage under the Plan".

Sec. 31. Effective October 1, 1985, G.S. 135-40.6(8)f is amended by inserting immediately after the word "accident" at the end of the first paragraph the following: ", nor for appliances for orthodontic treatment when a class of malocclusion, other than orthognathic, or cross bite has been diagnosed. Benefits for temporomandibular joint (TMJ) disfunction appliance therapy are limited to cases where the TMJ disfunction has been diagnosed as solely resulting from accidental means as certified by the attending practitioner and approved by the Plan Administrator".

Sec. 32. Effective October 1, 1985, G.S. 135-40.6(8) is amended by adding a new subdivision to read:

"n. Chiropractic Services: Limited to the alignment of the spine and releasing of pressure by manipulation in accordance with the definitions in G.S. 90-143.1. Maximum benefits for x- rays, manipulations, and modalities shall be one thousand dollars (\$1,000) per fiscal year."

Sec. 33. Effective October 1, 1985, G.S. 135-40.6(8) is amended by adding a new subdivision to read:

"o. Podiatry Services: Surgery performed by a podiatrist on or after October 1, 1985, which charges are in excess of three hundred dollars (\$300.00) shall require a second opinion by a medical doctor. No benefits shall be paid for such surgery performed on or after that date without such a second opinion."

Sec. 34. G.S. 135-40.11(c) is amended by adding a new subdivision to read:

"(6) Any employee receiving disability salary continuation under a program of benefits established under G.S. 135-34, or an employee on leave of absence without pay due to illness or injury for up to 12 months, is entitled to continued coverage under the Plan for the employee and any eligible dependents by the employee's paying one hundred percent (100%) of the cost."

Sec. 35. G.S. 135-40.6(6) is amended by adding a new subdivision to read:

"i. No benefits are payable for radial keratotomy surgical procedures."

Sec. 36. G.S. 135-40.7A(b) is rewritten to read:

"(b) Notwithstanding any other provisions of this Part, the maximum benefit for each covered individual for treatment for chemical dependency is as follows:

30 consecutive day period	\$ 3,000
fiscal year	5,000
lifetime	15,000

Effective October 1, 1985, daily benefits are limited to one hundred dollars (\$100.00) per day except for medical detoxification treatment under rules to be established by the Executive Administrator and Board of Trustees. Expenditures incurred before January 1, 1985, shall not count toward the maximum imposed by this subsection."

Sec. 37. G.S. 135-39.5B is rewritten to read:

"§ 135-39.5B. **Prepaid plans.**—The Executive Administrator and Board of Trustees may, after consultation with the Committee on Employee Hospital and Medical Benefits, provide for optional prepaid hospital and medical benefits plans. Benefits offered under such optional plans shall be comparable to those offered under the Plan. The amounts of State funds contributed for such optional plans shall not be more than the amounts contributed for each person eligible under G.S. 135-40.2 on a noncontributory basis, with the person selecting an optional plan paying any excess, if necessary. The provisions of G.S. 57B-11 shall not apply to any optional prepaid hospital and medical benefits plans provided for by the Executive Administrator and Board of Trustees."

Sec. 38. G.S. 135-37 is rewritten to read:

"§ 135-37. **Confidentiality.**—Any information as herein described in this section which is in the possession of the Executive Administrator and the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan or its Plan

Administrator under the Teachers' and State Employees' Comprehensive Major Medical Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a Plan Participant. Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan, but any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan."

Sec. 39. G.S. 135-40.3(a)(3) is rewritten to read:

"(3) Employees not enrolling or adding dependents when first eligible in accordance with G.S. 135-40.1(7) may enroll later on the first of any following month but will be subject to a 12- month waiting period for a preexisting health condition, except employees who elect to change their coverage in accordance with rules adopted by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans."

Sec. 40. G.S. 135-40.3(b)(2) is amended by inserting the following immediately before the period at the end: "except as provided in subdivision (a)(3) of this section".

Sec. 41. G.S. 135-40.3(c)(5) is amended by inserting immediately before the period at the end: "except as provided in subdivision (a)(3) of this section".

Sec. 42. Effective June 23, 1982, G.S. 135-39(f) is amended by deleting "a salary of".

Sec. 43. The second sentence of the second paragraph of G.S. 135-39.6(a) is rewritten to read: "Disbursements from the Fund shall include any and all amounts required to pay the benefits and administrative costs of such programs as may be determined by the Executive Administrator and Board of Trustees."

Sec. 44. G.S. 135-40 is amended by adding a new subsection to read:

"(d) Notwithstanding any other provisions of the Plan, the Executive Administrator and Board of Trustees are specifically authorized to use all appropriate means to secure tax qualification of the Plan under any applicable provisions of the Internal Revenue Code of 1954 as amended."

Sec. 45. The second sentence of G.S. 135-38(c) is amended by deleting: "with the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan in connection with the Comprehensive Major Medical Plan, and these two Boards", and substituting, "with the Board of Trustees and the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical

Plan in connection with the Comprehensive Major Medical Plan, and these two Boards and the Executive Administrator".

Sec. 46. G.S. 135-39.1 is amended by inserting immediately after "Trustees", the words " and the Executive Administrator".

Sec. 47. G.S. 135-39.3 is amended by inserting immediately after "Board of Trustees," the first two times those words appear the words "the Executive Administrator,".

Sec. 48. G.S. 135-39.4(c) is amended by deleting "Board of Trustees" and substituting "Executive Administrator and Board of Trustees", by deleting "the Board" and substituting "the Executive Administrator and Board of Trustees", and by deleting "The Board" and substituting "The Executive Administrator and Board of Trustees".

Sec. 49. G.S. 135.39.4(e) is amended by deleting "Board of Trustees" and substituting "Executive Administrator and Board of Trustees", and by deleting "it may", and substituting "they may".

Sec. 50. G.S. 135-39.5 is amended by deleting "Board of Trustees", and substituting "Executive Administrator and Board of Trustees".

Sec. 51. G.S. 135-39.5A is amended by deleting "Board of Trustees", and substituting "Executive Administrator and Board of Trustees".

Sec. 52. G.S. 135-39.6A is amended by deleting "Board of Trustees", and substituting "Executive Administrator and Board of Trustees", and is amended by inserting immediately after the word "Plan" the words "except as they may be established by the General Assembly in the Current Operations Appropriations Act".

Sec. 53. G.S. 135-39.7 is amended by deleting "Board of Trustees" both times those words appear, and substituting "Executive Administrator and Board of Trustees".

Sec. 54. G.S. 135-39.8 is amended by deleting "Board of Trustees", and substituting "Executive Administrator and Board of Trustees", and by adding the following at the end of the section "Rules and regulations of the Board of Trustees shall remain in effect until amended or repealed by the Executive Administrator and Board of Trustees."

Sec. 55. G.S. 135-39.9(a) and (c) are amended by deleting "Board of Trustees" each time those words appear, and substituting "Executive Administrator and Board of Trustees".

Sec. 55.1. G.S. 135-39.9(b) is repealed.

Sec. 56. G.S. 135-40.12 is amended by deleting "Board of Trustees" each time those words appear, and substituting "Executive Administrator and Board of Trustees", and by deleting "its sole discretion", and substituting "their sole discretion".

Sec. 57. Part 2 of Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-39.10. Meaning of 'Executive Administrator and Board of Trustees'.—**Whenever in this Article the words 'Executive Administrator and Board of Trustees' appear, they mean that the Executive Administrator shall have the power, duty, right, responsibility, privilege or other function mentioned, after consulting with the Board of



Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan, or its Executive Committee."

Sec. 58. Sections 20, 21, 22, and 36 of this act provide for certain limitations to be imposed on a fiscal year rather than a calendar year basis. Notwithstanding the prior law and Section 19 of this act (new G.S. 135-40.1(7a)), January 1, 1985, through July 31, 1985, shall be considered a calendar year and August 1, 1985, through June 30, 1986, shall be considered a fiscal year for the purpose of Sections 20, 21, 22, and 36 of this act.

Sec. 59. G.S. 135-39 is amended by adding a new subsection to read:

"(i) Meetings of the Board of Trustees may be called by the Executive Administrator, the Chairman, or by any three members."

Sec. 60. G.S. 135-39(d1) is repealed.

Sec. 61. G.S. 135-40(c) is amended by inserting immediately after the word "Part" the words, "or under G.S. 135- 39.5B".

Sec. 62. G.S. 135-40.14 is amended by deleting "this Part", and substituting "Parts 2 and 3 of this Article".

Sec. 63. G.S. G.S. 135-39.6(b) is amended by deleting "Commission" the first time that word appears and substituting "Executive Administrator", and by deleting "Commission" the second time that word appears, and substituting "Executive Administrator and Board of Trustees".

Sec. 64. The last paragraph of G.S. 135-40.4, as added by Section 13 of Chapter 192, Session Laws of 1985, is amended by deleting "Board of Trustees" both places those words appear, and substituting "Executive Administrator and Board of Trustees".

Sec. 65. Effective January 1, 1986, G.S. 135-40.6(2)f. as added by Section 11 of Chapter 192, Session Laws of 1985 is amended by deleting "Board of Trustees", and substituting "Executive Administrator and Board of Trustees".

Sec. 66. Effective October 1, 1985, G.S. 135-40.6(8) is amended by adding a new subdivision to read:

"m. Cardiac Rehabilitation: Charges, not to exceed six hundred fifty dollars (\$650.00) per fiscal year, for cardiac exercise therapy and cardiac exercise testing when determined medically necessary by an attending physician and approved by the Plan Administrator for patients with a medical history of myocardial infarction, angina pectoris, arrhythmias, cardiovascular surgery, hyperlipidemia, or hypertension, provided such charges are incurred in a hospital."

Sec. 67. G.S. 135-39.3(a) is rewritten to read:

"(a) The Committee on Employee Hospital and Medical Benefits may use employees of the Legislative Services Office and may employ contractual services as approved by the Legislative Services Commission to monitor the Executive Administrator and Board of Trustees, the Plan Administrator, and the Comprehensive Major Medical Plan. The Director of the Budget may use employees of the Office of State Budget and Management to monitor the Executive Administrator and Board of Trustees, the Plan Administrator, and the Comprehensive Major Medical Plan. Such

assistance to the Committee on Employee Hospital and Medical Benefits and to the Director of the Budget shall comprise an oversight team."

Sec. 68. The Executive Administrator, after consulting with the Committee on Employee Hospital and Medical Benefits, may, not later than October 31, 1985, extend the contract between the present Plan Administrator and the State of North Carolina for a period of time not to exceed December 31, 1987. If the contract between the present Plan Administrator and the State of North Carolina is terminated for any reason or if that contract is not extended beyond September 30, 1986, then the Executive Administrator, after consulting with the Committee on Employee Hospital and Medical Benefits and after competitive bidding procedures upon advice of the Committee on Employee Hospital and Medical Benefits, shall select a new Plan Administrator for a period of time which shall expire not later than December 31, 1989.

Sec. 69. Except as otherwise provided, this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of July, 1985.