

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**SESSION LAW 2019-23
HOUSE BILL 70**

AN ACT EXTENDING THE DEADLINES BY WHICH CERTAIN PROVIDERS ARE REQUIRED TO CONNECT TO AND PARTICIPATE IN NORTH CAROLINA'S HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS NC HEALTHCONNEX AND EXPANDING THE MEMBERSHIP OF THE NORTH CAROLINA HEALTH INFORMATION EXCHANGE ADVISORY BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-414.4 reads as rewritten:

"§ 90-414.4. Required participation in HIE Network for some providers.

- (a) Findings. – The General Assembly makes the following findings:
- (1) That controlling escalating health care costs of the Medicaid program and other State-funded health care services is of significant importance to the State, its taxpayers, its Medicaid recipients, and other recipients of State-funded health care services.
 - (2) That the State ~~needs and covered entities in North Carolina need~~ timely access to certain demographic and clinical information pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds in order to assess performance, improve health care outcomes, pinpoint medical expense trends, identify beneficiary health risks, and evaluate how the State is spending money on Medicaid and other State-funded health care services.
 - (3) That making demographic and clinical information available to the State and covered entities in North Carolina by secure electronic means as set forth in subsection (b) of this section ~~will, with respect to Medicaid and other State-funded health care programs,~~ will improve care coordination within and across health systems, increase care quality for such beneficiaries, enable more effective population health management, reduce duplication of medical services, augment syndromic surveillance, allow more accurate measurement of care services and outcomes, increase strategic knowledge about the health of the population, and facilitate health care cost containment.

(a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to the HIE Network and begin submitting data through the HIE Network pertaining to services rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds in accordance with the following time line:

- (1) The following providers of Medicaid services licensed to operate in the State that have an electronic health record system shall begin ~~submitting~~ submitting, at a minimum, demographic and clinical data by June 1, 2018:
 - a. Hospitals as defined in G.S. 131E-176(13).



- b. Physicians licensed to practice under Article 1 of Chapter 90 of the General Statutes, except for licensed physicians whose primary area of practice is psychiatry.
 - c. Physician assistants as defined in 21 NCAC 32S.0201.
 - d. Nurse practitioners as defined in 21 NCAC 36.0801.
- (2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other providers of Medicaid and State-funded health care services shall begin submitting demographic and clinical data by June 1, ~~2019~~2020.
- (3) The following entities shall submit encounter and claims data, as appropriate, in accordance with the following time line:
- a. Prepaid Health Plans, as defined in S.L. 2015-245, by the commencement date of a capitated contract with the Division of Health Benefits for the delivery of Medicaid and NC Health Choice services as specified in S.L. 2015-245.
 - b. Local management entities/managed care organizations, as defined in G.S. 122C-3, by June 1, 2020.
- (4) The following entities shall begin submitting demographic and clinical data by June 1, 2021:
- a. Ambulatory surgical centers as defined in G.S. 131E-146.
 - b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.
 - c. Licensed physicians whose primary area of practice is psychiatry.
 - d. The State Laboratory of Public Health operated by the Department of Health and Human Services.
- (5) The following entities shall begin submitting claims data by June 1, 2021:
- a. Pharmacies registered with the North Carolina Board of Pharmacy under Article 4A of Chapter 90 of the General Statutes.
 - b. State health care facilities operated under the jurisdiction of the Secretary of the Department of Health and Human Services, including State psychiatric hospitals, developmental centers, alcohol and drug treatment centers, neuro-medical treatment centers, and residential programs for children such as the Wright School and the Whitaker Psychiatric Residential Treatment Facility.

(a2) Extensions of Time for Establishing Connection to the HIE Network. – The Department of Information Technology, in consultation with the Department of Health and Human ~~Services, Services and the State Health Plan for Teachers and State Employees,~~ may establish a process to grant limited extensions of the time for providers and entities to connect to the HIE Network and begin submitting data as required by this section upon the request of a provider or entity that demonstrates an ongoing good-faith effort to take necessary steps to establish such connection and begin data submission as required by this section. The process for granting an extension of time must include a presentation by the provider or entity to the Department of Information ~~Technology and Technology,~~ the Department of Health and Human ~~Services Services,~~ and the State Health Plan for Teachers and State Employees on the expected time line for connecting to the HIE Network and commencing data submission as required by this section. Neither the Department of Information ~~Technology nor Technology,~~ the Department of Health and Human ~~Services Services,~~ nor the State Health Plan for Teachers and State ~~Employees~~ shall grant an extension of time (i) to any provider or entity that fails to provide this information to both ~~Departments, Departments,~~ and the State Health Plan for Teachers and State ~~Employees,~~ (ii) that would result in the provider or entity connecting to the HIE Network and commencing data submission as required by this section later than June 1, 2020, or (iii) that would result in any provider or entity specified in subdivisions (4) and (5) of subsection (a1) of this section connecting to the HIE Network and commencing data submission as required by this

section later than June 1, ~~2021~~, 2022. The Department of Information Technology shall consult with the Department of Health and Human Services and the State Health Plan for Teachers and State Employees to review and decide upon a request for an extension of time under this section within 30 days after receiving a request for an extension.

(a3) Exemptions from Connecting to the HIE Network. – The Secretary of Health and Human Services, or the Secretary's designee, shall have the authority to grant exemptions to classes of providers of Medicaid and other State-funded health care services for whom acquiring and implementing an electronic health record system and connecting to the HIE Network as required by this section would constitute an undue hardship. The Secretary, or the Secretary's designee, shall promptly notify the Department of Information Technology of classes of providers granted hardship exemptions under this subsection. Neither the Secretary nor the Secretary's designee shall grant any hardship exemption that would result in any class of provider connecting to the HIE Network and submitting data later than December 31, 2022.

...

(e) Voluntary Connection for Certain Providers. – Notwithstanding the mandatory connection and data submission requirements in subsections (a1) and (b) of this section, the following providers of Medicaid services or other State-funded health care services are not required to connect to the HIE Network or submit data but may connect to the HIE Network and submit data voluntarily:

- (1) Community-based long-term services and supports providers, including personal care services, private duty nursing, home health, and hospice care providers.
- (2) Intellectual and developmental disability services and supports providers, such as day supports and supported living providers.
- (3) Community Alternatives Program waiver services (including CAP/DA, CAP/C, and Innovations) providers.
- (4) Eye and vision services providers.
- (5) Speech, language, and hearing services providers.
- (6) Occupational and physical therapy providers.
- (7) Durable medical equipment providers.
- (8) Nonemergency medical transportation service providers.
- (9) Ambulance (emergency medical transportation service) providers.
- (10) Local education agencies and school-based health providers.

(f) Confidentiality of Data. – All data submitted to or through the HIE Network containing protected health information, personally identifying information, or a combination of these, that are in the possession of the Department of Information Technology or any other agency of the State are confidential and shall not be defined as public records under G.S. 132-1. This subsection shall not be construed to prohibit the disclosure of any such data as otherwise permitted under federal law."

SECTION 2. G.S. 90-414.10(d) reads as rewritten:

"(d) Except as otherwise permitted in ~~G.S. 90-414.9(a)(3)~~, ~~G.S. 90-414.11(a)(3)~~, or as required by law, the protected health information of an individual who has exercised the right to opt out may not be made accessible or disclosed to covered entities or any other person or entity through the HIE Network for any purpose."

SECTION 3. Notwithstanding any provision of law to the contrary, a provider subject to G.S. 90-414.4(a1)(2) that fails to meet the June 1, 2019, deadline for connecting to the HIE Network and initiating the submission of demographic and clinical data shall not be (i) denied payment for any otherwise allowable Medicaid claims or claims for other State-funded health care services submitted between June 1, 2019, and May 31, 2020, or (ii) subjected to any other penalties, as long as that provider meets the June 1, 2020, deadline enacted by this act for submission of such data.

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 4th day of June, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Sarah S. Stevens
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:15 p.m. this 6th day of June, 2019