

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1165

Short Title: Maternal/Newborn Health Services.

(Public)

Sponsors: Representative Cromer.

Referred to: Human Resources.

April 11, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE UNIVERSAL ACCESS TO MATERNAL AND NEWBORN
3 HEALTH SERVICES.

4 The General Assembly of North Carolina enacts:

5 Section 1. The General Statutes of North Carolina are amended by adding a
6 new Chapter 130B to read as follows:

7 **“CHAPTER 130B.**

8 **“UNIVERSAL ACCESS TO MATERNAL AND NEWBORN SERVICES.**

9 **“§ 130B-1. Short title.**

10 This Chapter shall be known and may be cited as the Universal Access to Maternal
11 and Newborn Health Services Law of North Carolina.

12 **“§ 130B-2. Declaration of policy and statement of purpose.**

13 The legislature finds that many women in North Carolina are not receiving essential
14 prenatal and newborn services. Women who are not eligible for medical assistance,
15 lack adequate private health insurance coverage, or the personal means to pay for health
16 care services are most likely to lack such care. Financial barriers are compounded by a
17 lack of coordination of available benefits, as well as a lack of incentives among both
18 health care facilities and private practitioners to provide services to low income women.

19 The absence of universally accessible prenatal and newborn care for women in
20 North Carolina contributes to unacceptably high rates of infant mortality and low birth
21 weight in our State. Low birth weight infants are at great risk for physical, neurological
22 and developmental disabilities and often require intensive neonatal medical care or
23 special medical and educational services throughout their lives. The provision of

1 prenatal care can prevent infant deaths and thousands of infants from being born
2 handicapped for life.

3 Therefore, the legislature declares a statewide system of universally accessible
4 prenatal and newborn care services imperative to the alleviation of the enormous human
5 suffering and social cost associated with infant mortality and low birth weight of
6 infants.

7 **"§ 130B-3. Definitions.**

8 As used in this Chapter, unless the context requires otherwise:

- 9 (1) 'Commission' means the Commission for Health Services.
10 (2) 'Health insurance organization' or 'organization' means an insurance
11 company licensed or certified pursuant to Chapter 58 of the General
12 Statutes.
13 (3) 'Newborn' includes newborns and infants up to one month of age.
14 (4) 'Providers of service' means a hospital as defined in Chapter 131E of
15 the General Statutes, a health maintenance organization as defined in
16 Chapter 57B of the General Statutes, a physician or surgeon licensed
17 under Chapter 90 of the General Statutes, and a nurse midwife as
18 defined in Chapter 90 of the General Statutes.
19 (5) 'Recipient' means a pregnant woman who does not have a health
20 insurance plan that provides maternal and newborn coverage and pays
21 for such services in sums equal to at least the usual and customary
22 charges for such services.
23 (6) 'Services' means prenatal care, delivery, and postpartum and newborn
24 care services as set forth in G.S. 130B-6 of this Chapter.
25 (7) 'Universal Access Program' means the program established pursuant to
26 this Chapter providing eligible pregnant women access to prenatal
27 care, delivery, postpartum care services, and newborn care services.

28 **"§ 130B-4. Powers and duties of the Commission.**

29 (a) After consultation with and subject to the approval of the Commissioner of
30 Insurance, and subject to the approval of the Director of the Budget, the Commission
31 may enter into one or more contracts with a health insurance organization or
32 organizations to administer the Universal Access Program pursuant to this Chapter.
33 Any such contract shall contain a description of services to be provided, and provisions
34 for access to services, utilization review, quality assurance, recipient and provider of
35 service enrollment, payment, data collection and reporting.

36 (b) The Commission shall set forth in the contract the number of recipients to be
37 provided services by the health insurance organization. The Commission shall ensure
38 that payments to the organization to carry out its duties and responsibilities pursuant to
39 the contract are made in such a way as to ensure that the Program is administered
40 efficiently, that the organization contracts with a sufficient number of providers of
41 service in a geographical area to provide recipients accessibility to providers, and that
42 providers of service are reimbursed at a sufficient level to assure quality care. If all
43 services contracted for are not being provided to recipients, the Commission may
44 withhold payment to the organization for the services not provided.

1 (c) Pursuant to the contract, the Commission may impose a penalty up to the
2 value of the unclaimed revenue on the organization if it fails to pursue payment for
3 services provided to recipients who are eligible for participation in the medical
4 assistance program established pursuant to the social services law or for services
5 provided to recipients who are covered by health insurance.

6 (d) The Commission shall establish a statewide public education campaign to
7 publicize the Universal Access Program, to encourage enrollment in the Program, to
8 emphasize the need for and importance of prenatal care for the health of mothers and
9 newborns and to provide information about the effects of poor nutrition, tobacco,
10 alcohol, and substance abuse on pregnant women.

11 (e) The Commission may set standards for providers of service who may
12 participate in the Universal Access Program including, but not limited to, licensure
13 requirements, quality of care, and accessibility to providers of service. The
14 Commission may establish a program to assure the quality of services provided to
15 recipients.

16 (f) The Commission may promulgate such rules and regulations as may be
17 necessary to implement the provisions of this title.

18 **§ 130B-5. Program eligibility.**

19 (a) Persons eligible for participation in the Universal Access Program shall
20 include pregnant women and their newborns who (i) are eligible for medical assistance
21 under Universal Access Program regulations, or (ii) do not have private health
22 insurance, or (iii) have private health insurance that does not provide full coverage for
23 services defined in G.S. 130B-6, and (iv) who file an application for enrollment in the
24 Universal Access Program with the health insurance organization.

25 (b) When a pregnant woman files an application for enrollment in the Universal
26 Access Program she must advise the health insurance organization of any individual,
27 group, or blanket accident and health insurance policy under which she is covered. If a
28 pregnant woman is covered by an individual, group, or blanket accident and health
29 insurance policy which provides benefits directly to her, upon enrollment in the
30 Universal Access Program, she shall assign any maternity care and newborn infant
31 benefits under such policy to the health insurance organization.

32 (c) A woman residing in this State for at least six months shall be presumed to be
33 eligible for participation in the Universal Access Program from the date that an eligible
34 provider of service as defined in G.S. 130B-3 of this Chapter determines (i) that the
35 woman intends to become pregnant and is in need of preconceptional or genetic
36 counseling, or (ii) that the woman is pregnant. If a recipient is subsequently determined
37 to be ineligible for services, the organization shall pay for the cost of services provided
38 to the recipient by an eligible provider of service during the period of presumed
39 eligibility prior to the determination of ineligibility. Appropriate reimbursement to the
40 organization for the cost of such services shall be included in the contract.

41 **§ 130B-6. Provision of maternal and newborn services.**

42 (a) The health insurance organization shall pay for prenatal care, delivery,
43 postpartum and newborn care services provided to eligible recipients and their
44 newborns by eligible service providers. Prenatal care, delivery, postpartum and

1 newborn care services shall include (i) preconceptional and genetic counseling, (ii)
2 prenatal care as defined by the Commission, (iii) referral for special tests, consultations
3 and hospitalization, (iv) referral for nutrition services, such as programs that provide
4 food, screening to identify nutritional risks and problems, and education about proper
5 diet, (v) delivery services and associated care provided by eligible providers, (vi)
6 postpartum services, as defined by the Commission, for a 60-day period beginning on
7 the last day of the pregnancy, and (vii) medical services for newborns up to six months
8 after birth, and the cost of referral to other programs such as those provided by the
9 Department of Social Services. Referral services shall be covered for an eligible
10 recipient's alcohol, substance abuse, or mental health program only when such are
11 determined to be a factor related to the health of the mother or child. Covered services
12 do not include abortion or abortion referrals unless the mother's life is endangered.

13 (b) Notwithstanding any inconsistent provision of this Chapter or any other law
14 to the contrary, every pregnant woman eligible for or receiving medical assistance in the
15 State shall be provided services as defined in this section only by eligible providers
16 pursuant to the Universal Access Program established by this Chapter, except for good
17 cause as defined by the State Health Director. Participation in the Universal Access
18 Program shall not affect a pregnant recipient's medical assistance eligibility or the
19 scope of available medical services to which she is otherwise entitled, other than for the
20 services defined in G.S. 130B-6.

21 **"§ 130B-7. Program administration.**

22 The responsibilities of the health insurance organization shall be:

- 23 (1) To ensure that all Program services as defined in this Chapter are
24 provided to all eligible recipients enrolled in the Universal Access
25 Program.
- 26 (2) To enroll providers of service or a network of providers of service who
27 are eligible and who meet standards established by the Commission
28 pertaining to accessibility of services and quality of care. The
29 organization shall provide the Commission, upon request, any
30 information, including patient records, pertaining to the quality of
31 service that is provided in the Program.
- 32 (3) To enroll recipients in the Program as early in the pregnancy as
33 possible and to encourage early and continuous prenatal care. The
34 health insurance organization shall be responsible for determining if
35 recipients are eligible to participate in the Program pursuant to the
36 provisions of this Chapter. The organization shall establish procedures
37 regarding an enrolled recipient's right to register complaints about the
38 services provided to her and the process to be followed if such
39 recipient wishes to seek Program services from another eligible
40 provider enrolled in the Universal Access Program. A copy of such
41 procedures shall be given to each recipient upon her enrollment in the
42 Universal Access Program.

- 1 (4) To ensure that arrangements exist between eligible providers of
2 prenatal care services and eligible providers of delivery services so
3 that there is a continuity of care provided to the eligible recipient.
- 4 (5) To coordinate benefits with those insurance companies providing
5 maternity care coverage to pregnant women who are enrolled in the
6 Universal Access Program, and to provide for recoupment of any
7 duplicate reimbursement paid by the organization on behalf of an
8 eligible recipient.
- 9 (6) To provide periodic reports and data, including financial data, as
10 required by the Commission. The organization shall provide
11 information, including patient records, to the Department of Social
12 Services concerning services provided under the Program to recipients
13 who are eligible for medical assistance. Except as otherwise provided
14 in this Chapter, the organization shall be responsible for assuring
15 confidentiality of all information concerning recipients. All
16 information concerning applicants for or recipients of medical
17 assistance shall be kept confidential in accordance with G.S. 108A-80.

18 **"§ 130B-8. Eligible providers of service.**

19 Providers of service are eligible to participate in the Universal Access Program if
20 they (i) satisfy the standards for providing service established by the Commission
21 pursuant to G.S. 130B-3, (ii) have not been disqualified from participation in the
22 medical assistance program, and (iii) agree to provide services to recipients in the
23 Universal Access Program and participate in a quality assurance program.

24 **"§ 130B-9. Payment for services.**

25 (a) The health insurance organization shall be responsible for negotiating the
26 amount of reimbursement to be paid to eligible providers of service for services
27 delivered to recipients enrolled in the Universal Access Program. Notwithstanding any
28 provision of law to the contrary and subject to the provisions of this Chapter, the
29 organization and eligible providers of service may negotiate varying or uniform prices
30 or rates of payment of services provided to eligible recipients in accordance with this
31 Chapter. Subject to the approval of the Commission, the organization may arrange for
32 subcontracts among providers for the provision of appropriate services. The
33 organization shall ensure that reimbursement is not made to providers of service unless
34 the services are delivered to recipients.

35 (b) After consultation with and approval of the Secretary of Human Resources,
36 the Commission shall determine the amount to be paid, subject to the approval of the
37 Director of the Budget, to the health insurance organization for the provision of services
38 to eligible recipients. In determining such amount, the Commission may consider
39 regional differences and incentives to the organization for effectively implementing this
40 Chapter. Upon execution of a contract between the Commission and the health
41 insurance organization, the organization shall be liable for any costs incurred in excess
42 of the contractual provisions.

43 **"§ 130B-10. Universal Access Program Fund created; funding.**

1 The Commission may create a Universal Access Program Fund to pay the health
2 insurance organization pursuant to the terms of a contract for the services provided
3 under this Chapter. The Universal Access Program Fund shall include the following:

- 4 (1) Funds appropriated annually to the prenatal care and nutrition
5 program. All funds which have been allocated to the Program shall be
6 transferred to the Universal Access Program Fund.
- 7 (2) Funds from the federal maternal and child health services block grant,
8 as enacted by the federal omnibus reconciliation act of 1981. Upon
9 approval of the Director of the Budget, funds shall be transferred to the
10 Universal Access Program Fund from such grant in an amount set
11 forth in an expenditure plan prepared by the Commission for the
12 current federal fiscal year for services defined in this Chapter. The
13 amount to be transferred to the Universal Access Program Fund shall
14 not be less than the proportionate amount reflected in the expenditure
15 plan prepared by the Commission for the current federal fiscal year for
16 services defined in G.S. 130B-6. The amount to be transferred to the
17 Universal Access Program Fund shall not be less than the
18 proportionate amount reflected in the expenditure plan prepared by the
19 Commission for the immediately preceding federal fiscal year.
- 20 (3) Private health insurance covering an eligible recipient shall be used
21 before any funds are expended from the Universal Access Program
22 Fund.
- 23 (4) To the extent expenditures are provided to recipients pursuant to the
24 Universal Access Program, the Commission shall be subrogated to any
25 rights such recipient may have to medical support or third party
26 reimbursement. For purposes of this section, the term 'medical
27 support' means the right to support for medical care as determined by a
28 court or administrative order. The right of subrogation does not attach
29 to insurance benefits paid or provided under any health insurance
30 policy prior to the receipt of written notice of the exercise of such
31 subrogation rights by the carrier. No right of subrogation to insurance
32 benefits available under any health insurance policy shall be
33 enforceable unless written notice of the exercise of such subrogation
34 right is received by the carrier within two years from the date services
35 for which benefits are provided under the policy or contract are
36 rendered. The Commission shall also notify the carrier when the
37 exercise of subrogation rights has terminated because a person is no
38 longer receiving Program services under this Chapter. Such carrier
39 shall establish mechanisms to maintain the confidentiality of all
40 individually identifiable information or records to the specific purpose
41 for which such disclosure is made, and shall not further disclose such
42 information or records.
- 43 (5) Notwithstanding any inconsistent provisions of this Chapter or any
44 other law to the contrary, no employer or organization who has a plan

1 providing care and other medical benefits for persons, whether by
2 insurance or otherwise, shall exclude a person from eligibility,
3 coverage or entitlement to benefits under such plan by reason of the
4 eligibility of such person for services under this Chapter, or by reason
5 of the fact that such person would, except for such plan, be eligible for
6 services under this Chapter. Where an eligible recipient has health
7 insurance in force covering care and other medical benefits provided
8 under this Chapter, payment or part-payment of the premium for such
9 insurance may also be made by the Commission when deemed
10 appropriate pursuant to the regulations.

11 (6) Each employer of four or more persons shall pay to the State, in
12 addition to taxes required by law elsewhere, the sum of _____ dollars
13 (\$ _____) per month per employee, to be allocated to the Universal Access
14 Program. Payment shall be made on a quarterly basis for all
15 employees of the employer during the quarter; provided, that each
16 employer shall be entitled to a credit against any payment required by
17 this subsection equal to one dollar and twenty-five cents (\$1.25) for
18 each one dollar (\$1.00) paid by the employer for health insurance
19 premiums paid by the employer if the health insurance provided by the
20 employer provides coverage essentially equal to those services set
21 forth in G.S. 130B-6.

22 (7) No county shall reduce its aggregate expenditures for family health
23 and other public health services below the aggregate level expended by
24 such county during the fiscal year immediately preceding the effective
25 date of this title.

26 **"§ 130B-11. Fund administration.**

27 The Commission may contract with such Fund administrators as the Commission
28 designates to receive funds for the Universal Access Program Fund and to distribute
29 such funds in accordance with this Chapter. In the event a contract with a Fund
30 administrator is effectuated, the Commission shall conduct annual audits of the receipt
31 and distribution of the funds.

32 **"§ 130B-12. Evaluation.**

33 The Commission shall evaluate the effect of the Universal Access Program in
34 reducing the incidence of infant mortality and low birthweight babies born to recipients.
35 The Commission shall also determine the cost effectiveness of the Program and shall
36 consider the impact of prenatal care services on the need for neonatal intensive care
37 services and services provided to developmentally disabled children. In determining
38 cost effectiveness of the Program, the Commission shall include recommendations
39 relating to findings concerning Program cost growth and propose feasible alternatives
40 for addressing such issues. After consultation with the Secretary of Human Resources,
41 the Commission shall submit to the General Assembly and to the Governor an interim
42 report on the evaluation. The interim report shall be submitted one year after this
43 Chapter takes effect. A final report to the General Assembly and the Governor shall be
44 submitted three years after this Chapter takes effect."

1 Sec. 2. Chapter 108A of the General Statutes is amended by adding new
2 sections to read:

3 **"§ 108A-67. Universal Access Program.**

4 (a) Notwithstanding any inconsistent provision of this Chapter or any other law
5 to the contrary, the Department is authorized to participate in the Universal Access
6 Program established pursuant to Chapter 130B of the General Statutes. Subject to the
7 approval of the Director of the Budget, the Department may apply for the appropriate
8 waivers under federal law and regulation.

9 (b) For the purposes of determining eligibility for medical assistance under this
10 Chapter for pregnant women enrolled in the Universal Access Program, the estimated
11 cost of prenatal care, delivery, postpartum and newborn care services shall be deducted
12 from household income.

13 (c) Every pregnant woman receiving medical assistance pursuant to this Chapter,
14 or eligible for medical assistance under this section, shall be provided services as
15 defined in G.S. 130B-6 only by eligible providers of service participating in the
16 Universal Access Program established pursuant to Chapter 130B of the General Statutes
17 except for good cause as defined by the Department. Participation in the Universal
18 Access Program shall not affect a pregnant woman's medical assistance eligibility or the
19 scope of available medical services to which she is otherwise entitled pursuant to this
20 Chapter except as provided in this section.

21 (d) After consultation with Commission, the Department may pay for the cost of
22 services, as determined pursuant to G.S. 130B-6, provided to recipients eligible for
23 medical assistance enrolled in the Universal Access Program pursuant to Chapter 130B.
24 The Commission may reduce such payments for the cost of services provided to a
25 recipient eligible for medical assistance in the amount that maternity care benefits are
26 available from health insurance or other third party reimbursement under which such
27 recipient is covered. If all services paid for are not being provided to recipients enrolled
28 in the Universal Access Program, the Department may, after consultation with the
29 Commission of Health Services withhold payment to the organization for the services
30 not provided.

31 **"§ 108A-68. Special medical assistance.**

32 (a) Special medical assistance shall be provided to pregnant women and infants
33 younger than one year old who are not otherwise eligible for medical assistance
34 pursuant to this section.

35 (b) The General Assembly shall establish a special income eligibility standard for
36 pregnant women and infants younger than one year old. This income eligibility
37 standard may equal, but may not exceed, the comparable nonfarm federal poverty level
38 for a family of the same size. Pregnant women and infants younger than one year old
39 may receive medical assistance care and services if their family income does not exceed
40 this income eligibility standard. Family income shall be determined for purposes of this
41 subsection by use of the same methodology used to determine eligibility for aid to
42 dependent children benefits. Pregnant women and infants younger than one year old
43 whose family income exceeds the income eligibility standard authorized by this
44 subsection may not become eligible for medical assistance pursuant to this subsection

1 by incurring medical expenses sufficient to reduce their income to this eligibility
2 standard. In determining eligibility pursuant to this subsection, resources available to
3 pregnant women or infants younger than one year old shall not be considered nor
4 required to be applied toward the payment or part payment of the cost of medical
5 assistance care and services available under this paragraph.

6 (c) Pregnant women and infants younger than one year old who are eligible for
7 medical assistance pursuant to subsection (b) of this section may receive medical
8 assistance care and services as follows:

9 (1) Eligible pregnant women may receive only pregnancy-related services
10 during their pregnancies and for 60 days after their pregnancies end.
11 Pregnancy-related services include prenatal, delivery, and postpartum
12 services as well as services related to conditions that complicate
13 pregnancy.

14 (2) Eligible infants younger than one year old may receive all medical
15 assistance care and services authorized pursuant to this Chapter."

16 Sec. 3. G.S. 58-251.2 of the General Statutes is amended by adding a new
17 subsection to read:

18 "(h) No terms of any policy or contract which directly or indirectly prevent or
19 prohibit the assignment of rights under any policy or contract shall prevent the
20 Commission from claiming benefits to which it shall be subrogated under Chapter 130B
21 of the General Statutes. The right of subrogation attaches to any benefits paid or
22 provided under any policy, plan or contract upon receipt of written notice of the
23 exercise of such subrogation rights."

24 Sec. 4. This act shall become effective July 1, 1989.