**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

**H** **1**

HOUSE BILL 4

Short Title: Health Care Access. (Public)

Sponsors: Representatives Gamble, Green; Joye, Oldham, Gottovi, Luebke, Cummings, and Wright.

Referred to: Health and Human Services.

January 28, 1993

A BILL TO BE ENTITLED

AN ACT TO ENACT THE HEALTH CARE ACCESS AND COST CONTROL ACT.

Whereas, a healthy economic future for North Carolinians depends in large part upon an educated and healthy work force that is comprised of persons of all races and socioeconomic groups; and

Whereas, many North Carolinians have little or no access to health care due to limited financial resources, unavailability of providers in many communities, and inadequate health insurance coverage; and

Whereas, although the responsibility for a healthy citizenry lies primarily with the individual citizen, the State has a responsibility to its citizens to assure that basic and necessary health care services are available and accessible to them; and

Whereas, citizens are entitled to a health service system that is operated efficiently, that provides quality care, and that includes measures for cost containment that assure continual fiscal soundness; and

Whereas, federal law should be enacted by Congress to require every state to provide its citizens with at least minimum basic health care coverage, so that all citizens of the United States have access to adequate health care; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding the following new Article to read:

**"ARTICLE 63.**

**"HEALTH CARE ACCESS AND COST CONTROL ACT.**

"**§ 143-583. Short title; legislative findings and intent.**

(a) This Article shall be known as the Health Care Access and Cost Control Act.

(b) The General Assembly makes the following findings:

(1) That, although the State has made significant strides in addressing rising health service costs and lack of access to health services, major system deficiencies still exist.

(2) The number of North Carolinians without access to health services continues to grow at an alarming rate and health service costs continue to rise at a rate well above the rate of inflation.

(3) Increasing health service costs have had a particularly devastating effect on small businesses, which have been experiencing increases in employee health costs at a rate that far exceeds the rate of inflation. This situation has resulted in a sharp decline in the capacity of employers to provide health care coverage for their employees.

(4) Improvements in health services, cost control, and quality of care are impeded by the lack of administrative efficiency in the current health care system's structure. This structure has numerous payers and administrators, involves a mass of paperwork, and consumes much of a health care provider's time on nonpatient matters. A single administrative structure could greatly reduce overall administrative costs and increase the amount of time a health care provider would have available for patient care.

The General Assembly concludes from these findings that reforms must be systemic, encompassing all major components of health service delivery and finance. Such reforms must also result in appropriate health service coverage for all State residents, promote quality of care, and include effective cost controls.

(c) To address the problems described above, it is the intent of the General Assembly to provide for a statewide health care policy and plan to pay the costs of comprehensive coverage for necessary health care services for all residents of North Carolina. The Health Care Access and Cost Control Plan established under Article 68A of Chapter 58 of the General Statutes is based on the following principles:

(1) Appropriate health services should be available within an integrated system, to all residents of the State, regardless of health condition, age, sex, sexual orientation, race, geographic location, employment, or economic status.

(2) Health service providers are entitled to a fair compensation for their services in a timely and uncomplicated manner.

(3) Health service providers should have the freedom to choose their practice setting, but incentives should be provided for them to participate in cost-effective, managed health service settings and in areas where there is a shortage of providers.

(4) Illness and injury prevention and health promotion programs should be a major part of the health service system.

(5) Quality of care should be promoted through the establishment of the most effective health services, as determined by those providers trained to make such determinations and by the assurance of acceptable standards for health professionals and facilities.

"**§ 143-584. Definitions.**

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

(1) 'Commission' means the North Carolina Health Care Access and Cost Control Commission established under this Article.

(2) 'Covered service' means a health care service that is necessary and appropriate for the maintenance of health or for the diagnosis or treatment of, or rehabilitation following, injury, disability, or disease, pursuant to the provisions of Article 68A of Chapter 58 of the General Statutes, and pursuant to rules adopted by the North Carolina Health Care Access and Cost Control Commission.

(3) 'Fund' means the North Carolina Health Care Access and Cost Control Trust Fund established under this Article.

(4) 'Global budget' or 'global health budget' means a comprehensive, binding annual budget for a hospital or a nursing home setting forth in advance the aggregate compensation the hospital or nursing home will receive from the Plan for provision of all covered services. Global budgets shall consist of:

a. An operating budget authorized by the Commission to reimburse operating expenses, exclusive of depreciation charges; and

b. An annual capital budget setting forth the capital expenditures authorized by the Commission for the provision of insured health services, regardless of whether the source of funds for the capital expenditure is derived from any of the following:

1. Accumulated depreciation charges;
2. Operating surpluses or retained earnings;
3. Expenditure of accumulated fund balances;
4. Issuance of bonds, notes, debentures, or other evidence of indebtedness;
5. Borrowed funds; or,
6. Any other source, including equity capitalization.

(5) 'Participating provider' means any individual or institution authorized by the Commission to furnish covered services pursuant to this Article and to rules adopted by the Commission.

(6) 'Plan' means the North Carolina Health Care Access and Cost Control Plan established under Article 68A of Chapter 58 of the General Statutes.

(7) 'Primary care provider' means a health care provider licensed to practice in any of the following areas: family practice, internal

medicine, obstetrics-gynecology, pediatrics, and psychiatry; the term also includes persons licensed as a physician's assistant or nurse practitioner and who practice under the supervision of a physician licensed to practice medicine in this State.

"**§ 143-585. North Carolina Health Care Access and Cost Control Commission established; members, terms of office, quorum.**

(a) There is established the North Carolina Health Care Access and Cost Control Commission with the power and duties specified in this Article, including the power and duty to adopt, amend, and repeal rules necessary to carry out this Article and not inconsistent with the laws of the State. The Commission shall be a commission within the Department of Insurance for organizational, budgetary, and administrative purposes only. The Commission shall be responsible for the development, implementation, and administration of the North Carolina Health Care Access and Cost Control Plan in accordance with this Article and with Article 68A of Chapter 58 of the General Statutes.

(b) The Commission shall consist of 21 members, 12 of whom shall be appointed by the Governor, as follows:

(1) Three members who are employers, at least one of whom shall represent a business employing more than 15 persons, and at least one of whom shall represent a business employing 15 or fewer persons;

(2) Three members who are employed in North Carolina, at least one of whom shall represent a State employee organization, and at least one of whom shall represent a local government employee organization; and

(3) Six members who are health service professionals, at least one of whom shall be a clinical teacher of postgraduate medical training; at least two of whom shall be primary care physicians; and one from each of three of the following professional groups: dentists, physician assistants, licensed nurses, nurse practitioners, hospital administrators, public health care providers, and mental health care providers.

Five members shall be as follows:

(4) The Commissioner of Insurance;

(5) The State Treasurer;

(6) The Secretary of Administration;

(7) The Secretary of the Department of Human Resources; and

(8) The Secretary of the Department of Environment, Health, and Natural Resources.

Four members shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate. The members appointed by the General Assembly shall be citizen representatives who are not employers and who have no direct involvement with government, employee organizations, or the provision of health services. Of the members recommended by the Speaker of the House of Representatives, at least one shall be 65 years of age or older, and of the members recommended by the President Pro Tempore of the Senate, at least one shall be a person

who is knowledgeable about the problems of uninsured, low-income persons, or shall be a person whose annual income does not exceed the federal poverty level.

(c) When making appointments to the Commission, the Governor and the General Assembly shall ensure that the membership fairly represents the regions of the State and also fairly represents minority persons and women.

(d) The terms of the initial members appointed by the Governor shall be staggered as specified by the Governor at the time of appointment, as follows: four shall be appointed for a term of five years, four for a term of four years, and four for a term of three years. Thereafter, all terms shall be for a term of four years each. The terms of the initial members appointed by the General Assembly shall be as follows: one member recommended by the Speaker of the House of Representatives shall serve for a five-year term and the other shall serve a four-year term; one member recommended by the President Pro Tempore of the Senate shall serve a five-year term and the other shall serve a four-year term. Thereafter, members appointed by the General Assembly shall serve for a term of four years each. Members appointed by the Governor or by the General Assembly to fill unexpired terms shall be appointed to serve for the remainder of that term. No member may be appointed to serve more than two consecutive terms. Appointments to fill unexpired terms shall be made by the authority that made the initial appointment. Members whose terms have expired may serve until their successors have been appointed, provided that such service shall not extend more than 90 days beyond the expiration of the term.

(e) The Commission shall have the offices of chair and vice-chair, which offices shall each be for a term of two years. The Commission shall elect from its membership persons to serve as chair and vice-chair.

(f) The Commission may appoint an executive committee to take such temporary actions on behalf of the Commission as the Commission deems necessary for carrying out its duties and responsibilities under this Article, provided that all such actions shall be subject to final approval by the Commission.

(g) The first meeting of the Commission shall be called by the Governor. Thereafter, meetings shall be called by the chairperson or by any 11 members. The Commission shall meet at least six times per year. All meetings of the Commission shall be announced in advance and open to the public as required by law.

(h) Eleven members of the Commission shall constitute a quorum. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

"**§ 143-586. Commission; compensation, expenses, office and supplies.**

(a) The members of the Commission shall not receive a salary for service on the Commission, but shall receive per diem and necessary travel and subsistence expenses incurred in the course of conducting the Commission's business, and in accordance with G.S. 138-5.

(b) The expenses of the Commission, including salaries of staff to the Plan, shall be audited and paid out of the State treasury in the manner prescribed for similar salaries and expenses in other departments or branches of the State service. To defray such salaries and expenses, a sufficient appropriation shall be made under the Current

Operations Appropriations Act in the same manner as made to other departments, commissions, and agencies of the State government.

(c) The Department of Insurance shall provide to the Commission office space, furniture, stationery, and other supplies necessary for the Commission to carry out its duties.

"**§ 143-587. Powers and duties of the Commission.**

(a) The Commission shall have the following powers and duties:

(1) Employ and supervise staff to the Plan;

(2) Develop a plan of operation;

(3) Establish budget and policy guidelines for implementation of the Plan;

(4) Conduct necessary investigations and inquiries and compel the submission of information, documents, and records the Commission considers necessary to carry out its duties under this Article;

(5) Adopt rules necessary to administer the Plan and to administer the Fund; such rules shall be adopted in accordance with Chapter 150B of the General Statutes;

(6) Establish subcommittees or ad hoc committees of the Commission, as the Commission deems appropriate and necessary for the effective and timely conduct of its duties and responsibilities under this Article;

(7) Identify the most cost-effective methods of assuring access to comprehensive personal health services to all residents of this State, including increased reliance on primary and preventive care, community-based alternatives to institutional long-term care, and increased emphasis on alternative providers and modes of care;

(8) Establish standards and procedures for negotiating and entering into contracts with participating providers under the Plan;

(9) Negotiate fee schedules and establish copayments under the Plan;

(10) Approve changes in coverage offered by the Plan in accordance with this Article and with Article 68A of Chapter 58 of the General Statutes;

(11) Study means of incorporating long-term care benefits into the Plan and report on the progress of such study to the General Assembly and the Governor;

(12) Study the feasibility of incorporating into the Plan benefits for necessary dental care, including preventive dental care;

(13) Study methods for providing physicians who are under contractual obligation to the State for repayment of professional education loans the option to repay all or part of the loan obligation through service to medically underserved areas in lieu of cash repayment;

(14) Report annually to the General Assembly and the Governor on the Commission's activities and recommend any changes in the insurance and health care laws, including the proposal of legislation, to improve access to and quality of health care for residents of the State;

(15) Disseminate to providers of services and to the public, information concerning the Plan and persons eligible to receive benefits under the Plan;

(16) Monitor, and evaluate at least annually, the operation of the Plan including, but not limited to, the adequacy and quality of services furnished under the Plan, the cost of each type of service, and the effectiveness of cost containment measures under the Plan;

(17) Study the cost of prescription drugs, including generic drugs, and ways of reducing such costs; and

(18) Conduct other activities the Commission considers necessary to carry out the purposes of this Article.

(b) The Commission shall study the effect of the following on access to health care, and shall, where appropriate, recommend to the General Assembly actions that need to be taken to mitigate or eliminate the negative effects on access:

(1) Malpractice insurance premium rates, and the effects of tort reform on premium rates and access to health care;

(2) The feasibility of authorizing area health education centers to ensure that relief services are available for physicians in underserved areas;

(3) The feasibility and desirability of increasing the number of mobile health care units providing services to underserved communities;

(4) Deterioration of the patient-provider relationship and the feasibility of establishing an ombudsman program for helping patients and providers to resolve problems in the relationship; and

(5) Impact of North Carolina's Certificate of Need law on the availability and costs to the consumer of health care facilities and services.

(c) In developing the Plan, the Commission shall study and incorporate where practicable such cost containment practices as:

(1) Managed care;

(2) Elimination of unnecessary treatments and procedures, including overuse or inappropriate use of technology;

(3) Elimination of reliance on emergency room services in nonemergency circumstances;

(4) Simplified and efficient procedures for claims reimbursement, including the use of standardized single-form and electronic media claims forms sufficient to expedite the payment of claims immediately upon receipt of the completed form;

(5) Prior approval of treatments based on diagnoses;

(6) Limitations on the frequency of changes in rules under the Plan;

(7) Community rating strategies for equalizing health care costs;

(8) The establishment of a fee schedule setting maximum fees reimbursable under the Plan for services provided by individual providers; and

(9) The establishment of certificate of need requirements that would control costs related to availability of new medical technologies in

excess of need or demand, and to an excess supply of specialist physicians.

(d) The Commission shall undertake a comprehensive study of the following matters pertaining to the training and availability of health care providers:

(1) Long-range planning to ensure that the establishment and maintenance of physician training programs provided by medical schools, graduate schools, hospitals, and other institutions, particularly with respect to specialty care training, are based primarily upon anticipated patient need for such services throughout the State;

(2) The effectiveness of area health education centers, and other institutions that train health professionals, in providing the kinds of training that meet community needs;

(3) Problems related to the recruitment, training, and retention of health care providers in medically underserved areas;

(4) Whether the number of health care providers delivering primary care services under the Plan is sufficient to meet the need for such services, and if insufficient, make recommendations to the General Assembly for increasing the number of available primary care providers;

(5) Whether there are degree programs in health program administration offered by the appropriate constituent institutions of The University of North Carolina and by the community college system sufficient to meet the need for health program administrators in business, industry, and health care institutions throughout the State; for purposes of this subdivision, 'health program administrator' means a person who is responsible for the administration of an entity's health benefits program; and

(6) Whether communities throughout the State have a sufficient mix of physicians providing specialty and nonspecialty health care services to meet community health care needs.

(e) The Commission, after providing notice to consumers, policyholders, providers, and all other interested parties, may hold public hearings on any action it proposes to take under this Article.

(f) The Commission shall have the power, in the name and on behalf of the Plan, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights, and securities, and may enter into written contracts, all as may be necessary or proper to carry out the purposes of the Health Care Access and Cost Control Act.

(g) The Commission may accept grants, contributions, devises, bequests, and gifts for the purpose of providing financial support to the Plan. Such funds shall be deposited by the Commission into the Fund.

"**§ 143-588. Executive director and other staff of the Health Care Access and Cost Control Plan.**

(a) The Commission shall appoint the executive director of the Plan.

(b) The executive director shall serve as secretary to the Commission and shall perform such duties in the administration of the Plan as the Commission may assign.

(c) The Commission may delegate to the executive director any of its powers, duties, or functions except the adoption, amendment, or repeal of rules, changes in coverage of the Plan, and determination of the availability of funds and their allocation.

(d) The Commission may also employ such clerical or other assistance as it deems necessary, and fix the compensation of all persons so employed, including the executive director, such compensation to be in keeping with the compensation paid to the persons employed to do similar work in other State departments. The executive director and other staff employed by the Commission shall be subject to the State Personnel System.

"**§ 143-589. North Carolina Health Care Access and Cost Control Trust Fund.**

(a) There is established in the State Treasurer's Office the North Carolina Health Care Access and Cost Control Trust Fund which shall consist of the following:

(1) All revenues collected from taxes and other sources enacted for the purpose of funding the Plan;

(2) All federal payments received as a result of any waiver of requirements granted by the United States Secretary of Health and Human Services under health care programs established under Title XIX of the Social Security Act, as amended; and

(3) All moneys appropriated by the North Carolina General Assembly for carrying out the purposes of the Plan.

(b) Moneys shall be deposited to the Fund beginning with the 1995-96 fiscal year and shall be used solely for the following purposes:

(1) To establish and maintain primary care community preventive care programs;

(2) To pay for covered services rendered by participating providers;

(3) To support construction, renovation, and equipping of health care institutions;

(4) To cover transportation and communication costs specified in the Plan in accordance with Article 68A of Chapter 58 of the General Statutes and with rules adopted by the Commission; and

(5) Other purposes for which funds are appropriated in the Current Operations Appropriations Act.

(c) Revenues held in the Fund are not subject to appropriation or allotment by the State or any political subdivision of the State.

(d) The Commission shall administer the Fund and shall conduct a quarterly review of the expenditures from and revenues received by the Fund.

(e) The Commission may invest the funds of the Plan as authorized by State law.

(f) On and after January 1, 1997, the amount of reserves in the Fund at any time shall equal at least the amount of expenditures from the Fund during the entire three preceding months.

"**§ 143-590. Fund accounts established.**

The following accounts are established in the Fund:

(1) The preventive care account. Moneys in this account shall be used solely to establish and maintain primary community preventive care programs, including selective preventive screening tests not performed as part of routine care;

(2) The health services account. Moneys in this account shall be used solely to pay participating providers for covered services rendered in accordance with this Article, with Article 68A of Chapter 58 of the General Statutes, and with rules adopted by the Commission;

(3) The capital account. Moneys in this account shall be used solely to pay for the support of the construction, renovation, and equipping of health care institutions; and

(4) The communication and transportation account. Moneys in this account shall be used solely to cover the transportation of Plan members from one globally funded institution to another for the provision of services covered under Part I of the Plan and otherwise to effect cooperation and communication between globally funded institutions for the delivery of health care services.

"**§ 143-591. Health professional education and training fund established.**

(a) There is established in the State Treasurer's Office the Health Professional Education and Training Fund which shall consist of all moneys received from federal health professional training funds and State funds appropriated for this purpose. Moneys in the Health Professional Education and Training Fund shall be used by the Commission solely to pay for the education and training of health professionals who contract with the Commission to practice in North Carolina for a minimum of five years immediately upon completion of the minimum requirements for licensure by the State Board of Medical Examiners.

(b) In contracting with eligible providers under subsection (a) of this section, the Commission may provide additional incentive funds to primary care providers in accordance with community needs for such providers.

(c) During the five-year period commencing January 1, 1995, and ending December 31, 1999, the annual amount of State expenditures for the education and training of health professionals shall not be reduced below the level of such expenditures in calendar year 1994."

Sec. 2. Chapter 58 of the General Statutes is amended by adding the following new Article to read:

"**ARTICLE 68A.**

"**NORTH CAROLINA HEALTH CARE ACCESS AND COST CONTROL PLAN.**

"**§ 58-68-21. Purpose.**

The purpose of this Article is to establish a statewide plan to provide comprehensive coverage for necessary health care services to which all residents of North Carolina shall have access. The plan shall be known as the North Carolina Health Care Access and Cost Control Plan.

"**§ 58-68-22. Definitions.**

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

(1) 'Commission' means the North Carolina Health Care Access and Cost Control Commission established under Article 63 of Chapter 143 of the General Statutes.

(2) 'Covered service' means a health care service that is necessary and appropriate for the maintenance of health or for the diagnosis or treatment of, or rehabilitation following, injury, disability, or disease, pursuant to the provisions of this Article and rules adopted by the North Carolina Health Care Access and Cost Control Commission.

(3) 'Eligible person' means every person regardless of preexisting conditions of eligibility who is a resident of this State.

(4) 'Fund' means the North Carolina Health Care Access and Cost Control Trust Fund established under Article 63 of Chapter 143 of the General Statutes.

(5) 'Global budget' or 'global health budget' means a comprehensive, binding annual budget for a hospital or a nursing home setting forth in advance the aggregate compensation the hospital or nursing home will receive from the Plan for provision of all covered services. Global budgets shall consist of:

a. An operating budget authorized by the Commission to reimburse operating expenses, exclusive of depreciation charges; and

b. An annual capital budget setting forth the capital expenditures authorized by the Commission for the provision of insured health services, regardless of whether the source of funds for the capital expenditure is derived from accumulated depreciation charges; operating surpluses or retained earnings; expenditure of accumulated fund balances; issuance of bonds, notes, debentures, or other evidence of indebtedness; borrowed funds; or any other source including equity capitalization.

(6) 'Participating provider' means any individual or institution authorized by the Commission to furnish covered services pursuant to this Article and to rules adopted by the Commission.

(7) 'Plan' means the North Carolina Health Care Access and Cost Control Plan established under this Article.

"**§ 58-68-23. North Carolina Health Care Access and Cost Control Plan established; coverage, eligibility, discrimination prohibited.**

(a) There is established the North Carolina Health Care Access and Cost Control Plan. The Commission shall administer the Plan in accordance with this Article and with the Commission's powers and duties under Article 63 of Chapter 143 of the General Statutes.

(b) The Plan shall consist of two parts, as follows:

(1) Part I shall provide coverage for basic health care services to every resident of the State and shall assure adequate quality of and access to all covered health services.

(2) Part II coverage may include any treatment or procedure deemed appropriate by the Commission. Part II coverage shall be optional and may be purchased from the Plan or from private insurers. Private coverage under Part II may duplicate coverage provided under Part II of the Plan. Premiums for Part II coverage shall be based on actuarial tables and shall cover all costs associated with Part II coverage based on a statewide community rate. There shall be a 12-month waiting period before providing Part II coverage for preexisting conditions.

(c) Eligibility: Persons eligible for Plan benefits are as follows:

(1) Every person regardless of preexisting conditions of eligibility who is a resident of North Carolina is eligible to receive benefits for covered services under the Plan. No person eligible for benefits under the Plan who receives covered services from a participating provider may be charged an additional amount for such services.

(2) Persons who are not residents of this State but who work in North Carolina may receive benefits under the Plan, including benefits for dependents, if all payments, surcharges, and premiums required to be paid by or on behalf of residents under the Plan have been paid to the Plan by or on behalf of such nonresidents.

(3) If a person who is not a resident of this State and is not eligible for Plan benefits pursuant to subdivision (2) of this section receives medical treatment in North Carolina, such person is subordinated to the State of North Carolina for reimbursement from a third-party payer for such medical treatment.

(d) Coverage: Every eligible person is entitled to receive benefits under the Plan for any covered service furnished within this State by a participating provider if the service is necessary and appropriate for the maintenance of health or for the diagnosis or treatment of, or rehabilitation following, injury, disability, or disease. Covered services include, but are not limited to, all of the following:

(1) Prescription medications, subject to copayment.

(2) Ambulatory mental health visits. The Commission shall establish the number of annual visits covered, and may require additional copayments for extended therapy under circumstances determined by the Commission.

(3) Treatment in a facility for substance abuse. Admission to a facility shall be limited to one admission per year. After an insured has been admitted three times, a review committee, appointed by the Commission, shall study individual referrals for subsequent admissions.

(e) Noncovered services: The following services are not covered under the Plan:

(1) Surgery for cosmetic purposes other than for reconstructive surgery.

(2) Medical examinations conducted and medical reports prepared for either of the following purposes:
a. Purchasing or renewing life insurance; or
b. Participating as a plaintiff or defendant in a civil action for the recovery or settlement of damages.
(3) Basic care provided in a nursing home. For purposes of this subsection, the term 'basic care' means room and board and other nonmedical services.

(f) Duplication of coverage: Notwithstanding any other provision of law, insurers, employers, and other health care benefit plans may offer benefits that do not duplicate coverage that is offered by Part I of the Plan, and may offer benefits that duplicate coverage that is offered under optional Part II of the Plan.

(g) Coverage secondary: Coverage and benefits provided under the Plan shall be secondary to any coverage provided under workers' compensation insurance, automobile insurance, or liability insurance.

(h) Copayments: Copayments for services under the Plan shall be as determined by the Commission, provided that copayments shall not be required of persons whose income is below two hundred fifty percent (250%) of the federal poverty guidelines, and further provided that no copayments shall be required if such copayments create a barrier to medically necessary care.

(i) Nondiscrimination: No participating provider may refuse to furnish services to an eligible person on the basis of race, color, income level, national origin, religion, sex, sexual orientation, or other nonmedical criteria.

"**§ 58-68-24. Reimbursement to health care providers.**

(a) The Commission shall pay the expenses of participating institutional providers of inpatient services on the basis of global budgets that are approved by the Commission.

(b) Each participating institutional provider shall negotiate an annual budget with the Plan to cover the provider's anticipated services for the next year based on past performance and projected changes in factor prices and service levels.

(c) Every physician or other participating provider employed by a globally budgeted institutional provider shall be paid through and in a manner determined by the participating institutional provider.

(d) The Plan shall reimburse independent providers of health care services on a fee-for-service basis. The Plan shall annually negotiate the fee schedule with the appropriate professional group. The fee schedule shall be applied to health care services rendered by independent providers throughout the State. The Plan shall provide for prompt reimbursement for claims appropriately submitted and, if reimbursement is denied or the service downcoded, a written explanation giving reasons for the denial or downcoding shall be furnished to the provider.

(e) A participating provider may not charge rates that are higher than the negotiated reimbursement level. A participating provider may not charge separately for covered services under the Plan.

(f) A multispecialty organization of participating providers may elect to be reimbursed on a capitation basis in lieu of the fee-for-service basis. Payment on a capitation basis does not include services rendered for inpatient services by participating institutional providers.

"**§ 58-68-25. Confidentiality of records.**

The confidentiality of communications between a recipient of services under the Plan and the health care provider, and the confidentiality of medical records and communications between the patient and the health care provider, shall remain confidential to the same extent that such records and communications are protected as confidential by other provisions of law of this State."

Sec. 3. The Commission shall make its first report to the General Assembly, the Governor, and the Fiscal Research Division of the Legislative Services Office not later than October 1, 1994. This report shall include the Commission's findings and recommendations on the following:

(1) Implementation of the plan, including whether phased-in implementation is recommended and details on the phase-in;

(2) The amount of dollars that will be needed to implement the Plan as a whole and, if applicable, the amount that will be needed to implement each phase; and

(3) Sources of revenue for the Plan that may be additional to those sources being explored and provided by the General Assembly.

Sec. 4. It is the intent of the General Assembly to provide sources of revenue for deposit into the Health Care Access and Cost Control Trust Fund either by continuing appropriation or by earmarking tax revenues designated by the General Assembly for the purpose of funding the Health Care Access and Cost Control Trust Fund. It is also the intent of the General Assembly to provide funding for the Health Care Access and Cost Control Trust Fund beginning with the 1995-96 fiscal year.

Sec. 5. (a) Not later than 30 days after the effective date of this section, the North Carolina Department of Human Resources shall do the following:

(1) Apply to the United States Secretary of Health and Human Services for all waivers of requirement under health care programs established under Title XIX of the Social Security Act, as amended, that are necessary to enable this State to deposit all federal payments under such programs in the State treasury to the credit of the North Carolina Health Care Access and Cost Control Trust Fund created in this act and amendments thereto and to allow the State to be the supplemental payor of benefits for persons receiving Medicare benefits; and

(2) Identify any other federal programs that provide federal funds for payment of health care services to individuals. The Department of Human Resources shall comply with any requirements under those programs and shall apply for any waivers of those requirements that are necessary to enable this State to deposit such federal funds to the credit of the North Carolina Health Care Access and Cost Control Trust Fund.

(3) Apply to the United State Secretary of the Treasury or the United States Secretary of Labor, as appropriate, for a waiver from the requirements of the federal Employee Retirement and Income Security Act, 29 U.S.C. 1001, **et seq.**

(b) The Secretary of Human Resources shall prepare, in cooperation with the State Treasurer, the Office of State Budget and Management, and the Departments of Administration, Insurance, Revenue, and Environment, Health, and Natural Resources, a report identifying and evaluating the probable effects on the quality and costs of health care in this State that would result from requiring that all money that local governmental agencies raise through locally imposed taxes and currently spend for local health care be deposited instead in the North Carolina Health Care Access and Cost Control Trust Fund. The Department of Human Resources shall serve as lead agency and shall provide staff services and office facilities as needed for preparation of the report. The Secretary of Human Resources shall present the report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on or before December 1, 1994.

Sec. 6. The Department of Insurance shall prepare and present for consideration and action by the General Assembly all changes to Chapter 58, other than Article 68A of that Chapter, necessary to make relevant sections of Chapter 58 conform to and be consistent with the requirements of the Health Care Access and Cost Control Act and amendments thereto. The Department shall present the recommended changes to the General Assembly upon the convening of the next session following the enactment of the Health Care Access and Cost Control Act.

Sec. 7. The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall prepare and present for consideration and action by the General Assembly all changes to Chapter 135 of the General Statutes necessary to make relevant sections of that Chapter conform to and be consistent with the requirements of the Health Care Access and Cost Control Act and amendments thereto. The Board shall present the recommended changes to the General Assembly upon the convening of the next session following the enactment of the Health Care Access and Cost Control Act.

Sec. 8. There is appropriated from the General Fund to the Department of Insurance the sum of two hundred fifty thousand dollars ($250,000) for the 1993-94 fiscal year and the sum of two hundred fifty thousand dollars ($250,000) for the 1994-95 fiscal year for allocation to the Health Care Access and Cost Control Commission to carry out the purposes of the Commission authorized under Section 1 of this act.

Sec. 9. The Governor and the General Assembly shall make their respective appointments to the North Carolina Health Care Access and Cost Control Commission within 60 days of ratification of this act.

Sec. 10. Section 8 of this act becomes effective July 1, 1993. Section 2 of this act becomes effective July 1, 1995. The remainder of this act is effective upon ratification.