

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 65*

Short Title: Continuity of Care.

(Public)

Sponsors: Senators Wellons, Harris, and Dannelly.

Referred to: Insurance and Consumer Protection.

February 6, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CONTINUITY OF CARE IN HMO PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 67 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-67-88. Continuity of care.

(a) Definitions. – As used in this section:

(1) Ongoing special condition. –

a. In the case of an acute illness, a condition that is serious enough to require medical care or treatment to avoid a reasonable possibility of death or permanent harm.

b. In the case of a chronic illness or condition, a disease or condition that is life-threatening, degenerative, disabling; and requires medical care or treatment over a prolonged period of time.

c. Pregnancy.

d. Terminal illness.

(2) Terminal illness. – An individual is considered to have a terminal illness if the individual has a medical prognosis that the individual's life expectancy is six months or less.

(3) Terminated or termination. – Includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by an HMO for failure to meet applicable quality standards or for fraud.

(b) Termination of Provider. – If a contract between an HMO that is not a point-of-service plan and a health care provider is terminated, or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a health benefit plan of an HMO that is not a point-of-service

1 plan, and an individual who is covered by the plan and is terminally ill or undergoing
2 treatment from the provider for an ongoing special condition at the time of the
3 termination, the HMO shall:

4 (1) Notify the individual on a timely basis of the termination and of the
5 right to elect continuation of coverage of treatment by the provider
6 under this section.

7 (2) Subject to subsection (g) of this section, permit the individual to elect
8 to continue to be covered with respect to treatment by the provider of
9 the condition during a transitional period provided under this section.

10 (c) Transitional Period: In General. – Except as otherwise provided in
11 subsections (d), (e), and (f) of this section, the transitional period under this subsection
12 shall extend up to 90 days, as determined by the treating health care provider, after the
13 date of the notice described in subdivision (b)(1) of this section of the provider's
14 termination.

15 (d) Transitional Period: Scheduled Surgery, Organ Transplantation, or
16 Institutional Care. – If surgery, organ transplantation, or institutional care was scheduled
17 for an individual before the date of the announcement of the termination of the provider
18 status under subdivision (b)(1) of this section or if the individual on that date was on an
19 established waiting list or otherwise scheduled to have the surgery, transplantation, or
20 institutional care, the transitional period under this subsection with respect to the
21 surgery, transplantation, or institutional care shall extend beyond the period under
22 subsection (c) of this section through the date of discharge of the individual after
23 completion of the surgery, transplantation, or institutional care, and through
24 postdischarge follow-up care related to the surgery, transplantation, or institutional care
25 occurring within 90 days after the date of discharge.

26 (e) Transitional Period: Pregnancy. – If an insured has entered the second
27 trimester of pregnancy on the date of the announcement of the termination of the
28 provider status under subdivision (b)(1) of this section and the provider was treating the
29 pregnancy before the date of the announcement of the termination, the transitional
30 period with respect to provider's treatment of the pregnancy shall extend through the
31 provision of postpartum care directly related to the delivery.

32 (f) Transitional Period: Terminal Illness. – If an insured was determined to be
33 terminally ill at the time of a provider's termination of participation and the provider
34 was treating the terminal illness before the date of termination, the transitional period
35 shall extend for the remainder of the individual's life with respect to care directly related
36 to the treatment of the terminal illness or its medical manifestations.

37 (g) Permissible Terms and Conditions. – An HMO may condition coverage of
38 continued treatment by a provider under subdivision (b)(2) of this section upon the
39 individual notifying the plan of the election of continued coverage and upon the
40 provider agreeing to the following terms and conditions:

41 (1) The provider agrees to accept reimbursement from the HMO and
42 individual involved, with respect to cost-sharing, at the rates applicable
43 before the start of the transitional period as payment in full.

- 1 (2) The provider agrees to adhere to the quality assurance standards of the
2 HMO responsible for payment under subdivision (1) of this subsection
3 and to provide to the HMO necessary medical information related to
4 the care provided.
- 5 (3) The provider agrees otherwise to adhere to the HMO's established
6 policies and procedures for participating providers, including
7 procedures regarding referrals and obtaining prior authorization,
8 providing services pursuant to a treatment plan, if any, approved by the
9 HMO, and member hold harmless provisions.
- 10 (4) The insured notifies the HMO within 45 days of the date of the notice
11 described in subdivision (b)(1) of this section.
- 12 (h) Construction. – Nothing in this section:
- 13 (1) Requires the coverage of benefits that would not have been covered if
14 the provider involved remained a participating provider.
- 15 (2) Requires an HMO to offer a transitional period when the HMO
16 terminates a provider's contract for reasons relating to quality of care
17 or fraud; and refusal to offer a transitional period under these
18 circumstances is not subject to the grievance review provisions of G.S.
19 58-60-62.
- 20 (3) Prohibits an HMO from extending any transitional period beyond that
21 specified in this section.
- 22 (i) Disclosure of Right to Transitional Period. – Each HMO shall include a clear
23 description of an insured's rights under this section in its evidence of coverage and
24 summary plan description."

25 **SECTION 2.** If any section or provision of this act is declared
26 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the
27 validity of the act as a whole or any part other than the part so declared to be
28 unconstitutional, preempted, or otherwise invalid.

29 **SECTION 3.** This act is effective when it becomes law. This act applies to
30 all health benefit plans that are delivered, issued for delivery, or renewed on or after
31 January 1, 2002.