

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH70760-LN-299 (5/12)

Short Title: NC Fair Share Health Insurance Access Program. (Public)

Sponsors: Representative Holliman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA FAIR SHARE HEALTH INSURANCE ACCESS PROGRAM AND TO APPROPRIATE FUNDS FOR THIS PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Findings. – This act is the North Carolina Fair Share Health Insurance Access Act of 2006. The General Assembly finds:

- (1) More than one million residents of this State who are under the age of 65 are uninsured for their health care.
- (2) State and federal funds currently used to provide health care through Medicaid, other public benefit programs, and uncompensated care could be better directed to maximize federal funds and improve efficiency in the delivery of and payment for health care services.
- (3) The premium cost for health insurance that provides comprehensive health care benefits is unaffordable to many small employers and to many individuals and their dependents.
- (4) A reasonable approach to lowering the cost of health care coverage includes the requirement that all residents obtain coverage and all employers participate in covering their employees, and that all but the lowest income individuals and families, and the smallest of employers must pay their fair share of the cost of providing coverage.
- (5) In order to provide coverage at an affordable cost requires the cooperation and contribution of insurers, employers, individuals, and the State.

SECTION 1.(b) Intent. – It is the intent of the General Assembly to enact the North Carolina Fair Share Health Insurance Access Program and to make available the resources necessary to implement the Program such that all residents of North

1 Carolina shall have comprehensive, affordable health insurance or other health coverage
2 by the year 2010.

3 **SECTION 2.(a)** Program Established. – There is established the North
4 Carolina Fair Share Health Insurance Access Program. The Program is established for
5 budgetary purposes only in the Department of Administration. Program implementation
6 shall be phased in over a four-year period commencing July 1, 2006. The Program shall
7 be fully implemented not later than July 1, 2010.

8 **SECTION 2.(b)** Program Components. – The Program shall include the
9 following basic components to be implemented in accordance with this act:

- 10 (1) The establishment of the NC Health Link Authority, an independent
11 entity governed by a board of directors to link individuals and small
12 groups with affordable, high-quality health insurance products. NC
13 Health Link shall have responsibility for implementing the Program.
- 14 (2) The requirement that all residents of North Carolina age 18 years and
15 older obtain health insurance coverage through their employer, through
16 NC Health Link, through government-funded health insurance
17 programs such as Medicaid, Medicare, or NC Health Choice, or
18 through other public or private avenues of access. Coverage must be
19 verified on NC Income Tax forms. Failure to obtain coverage will
20 result in a monetary penalty.
- 21 (3) The requirement that all employers with 11 or more employees
22 contribute to or provide health insurance coverage to their employees.
23 Failure to provide coverage will result in a fair-share contribution and
24 free-rider surcharge imposed on the noncomplying employer.
- 25 (4) Expansion of the State Medical Assistance Program to cover children
26 in families with income up to three hundred percent (300%) of the
27 federal poverty level.
- 28 (5) Expansion of the NC Health Choice Program to cover children in
29 families with income up to three hundred percent (300%) of the federal
30 poverty program.
- 31 (6) State subsidized premium assistance to low-income individuals and
32 families.
- 33 (7) Increases in rates provided to hospitals and health care providers for
34 providing care to Medicaid recipients.
- 35 (8) To make available affordable health insurance for young adults, age 19
36 through 26 years through young adult health benefit plans. These plans
37 shall be designed to provide affordable coverage to those young adults
38 who do not otherwise have access to health insurance coverage
39 subsidized by an employer.

40 **SECTION 3.(a)** Definitions.

- 41 (1) 'Authority'. – The North Carolina Health Link Authority.
- 42 (2) 'Board'. – The Board of Directors of the North Carolina Health Link
43 Authority.

- 1 (3) 'Creditable coverage'. – Coverage of an individual under any of the
2 following:
3 a. A group health benefit plan.
4 b. Health insurance coverage.
5 c. Medicare, Medicaid, and NC Health Choice.
6 d. Any other health benefit plan, as defined under G.S. 58-3-167.
7 (4) 'Fund'. – The North Carolina Fair Share Fund.
8 (5) 'Health benefit plan' and 'Insurer' have the meanings applied in
9 G.S. 58-3-167.
10 (6) 'Program'. – The North Carolina Fair Share Health Insurance Access
11 Program.

12 **SECTION 3.(b)** North Carolina Health Link Authority Established. – There
13 is established the North Carolina Health Link Authority, an independent entity. The
14 Authority shall be governed by a board of directors composed of 11 members, five of
15 whom shall be appointed by the General Assembly upon the recommendation of the
16 Speaker of the House of Representatives, five of whom shall be appointed by the
17 General Assembly upon the recommendation of the President Pro Tempore of the
18 Senate, and one of whom shall be appointed at large by the Governor. The members of
19 the board shall be appointed for four-year terms commencing July 1, 2006, except that
20 four of the initial public appointees by the General Assembly shall serve initial terms of
21 three years. Vacancies in the membership of the board shall be filled by the appointing
22 authority for the unexpired portion of the term. Members of the board shall be subject to
23 removal from office in like manner as are State, county, town, and district officers.
24 Immediately after such appointment, the board shall enter upon the performance of their
25 duties. The board shall annually elect one of its members as chair and another as
26 vice-chair and shall also elect annually a secretary, or a secretary-treasurer, who may or
27 may not be a member of the board. The chair or in the chair's absence, the vice-chair
28 shall preside at all meetings of the board. In the absence of both the chair and vice-chair,
29 the board shall appoint a chair pro tempore, who shall preside at such meetings. Six
30 directors shall constitute a quorum for the transaction of the business of the Authority,
31 and no vacancy in the membership of the board shall impair the right of a quorum to
32 exercise all the rights and perform all the duties of the Authority. The favorable vote of
33 at least a majority of the members of the board present at any meeting is required for the
34 adoption of any resolution or motion or for other official action. The members of the
35 board are entitled to the travel expenses, subsistence allowances, and compensation
36 provided in G.S. 138-5. These expenses and compensation shall be paid from funds
37 provided under this Article, or as otherwise provided.

38 **SECTION 3.(c)** Duties. – The board shall have the following duties:

- 39 (1) Develop a plan of operation for the Authority sufficient to administer
40 the Program in accordance with this act.
41 (2) Certify and offer health insurance products of high value and good
42 quality.
43 (3) Link individuals and small businesses with health insurance products
44 approved by the board.

- 1 (4) Procure health insurance plans that are eligible for premium assistance
2 payments in accordance with criteria set by the board. The criteria
3 shall include consideration of appropriate geographic distribution of
4 providers, set a sliding-scale premium contribution payment schedule
5 for enrollees, and establish procedures for determining eligibility and
6 enrolling residents. No premium shall be charged to individuals that
7 earn less than one hundred percent (100%) of the federal poverty level.
- 8 (5) Propose reform of insurance laws to facilitate provision of health
9 benefit plans at the lowest premium rate while maintaining quality
10 coverage and financial stability.
- 11 (6) Review how indigent care is currently funded in North Carolina and
12 make recommendations for reforms that will promote efficiency and
13 redirect funds to supporting the Program.
- 14 (7) Develop a plan for outreach and education that is designed to reach all
15 residents of this State, particularly low-income populations. In
16 developing this outreach plan, the board shall consult with the Director
17 of the Division of Medical Assistance, representatives of any insurer
18 eligible to receive premium subsidy payments under the Program,
19 representatives of hospitals that serve a high number of uninsured
20 individuals, and representatives of low-income health care advocacy
21 organizations.
- 22 (8) Review on an annual basis the operation of the Program and its
23 effectiveness in ensuring that all residents of this State have access to
24 health care coverage.

25 **SECTION 4.(a)** Eligibility of Residents. – Uninsured residents of the State
26 are eligible to participate in the Program only if:

- 27 (1) An individual or family's household income does not exceed three
28 hundred percent (300%) of the federal poverty level;
- 29 (2) The individual has been a resident of the State for the six months prior
30 to applying for Program benefits;
- 31 (3) The individual is not eligible for Medicare, Medicaid, and NC Health
32 Choice;
- 33 (4) The individual's or family member's employer has not in the last six
34 months preceding application provided insurance coverage for which
35 the individual is eligible and for which the employer covers at least
36 twenty percent (20%) of the annual premium cost of a family health
37 insurance plan, or at least thirty-three percent (33%) of an individual
38 health insurance plan; and
- 39 (5) The individual has not accepted a financial incentive from the
40 individual's employer to decline the employer's subsidized health
41 insurance plan.

42 **SECTION 4.(b)** Premium Assistance. – Premium assistance payments shall
43 be made in accordance with a schedule set annually by the board in consultation with
44 the Division of Medical Assistance. Premium assistance payments shall be supported

1 from appropriations by the General Assembly and shall be made directly by the board
2 to eligible health insurance plans. Premium assistance payments shall be made only on
3 behalf of enrollees who purchase health plans with no annual deductible. Premium
4 assistance payments may be suspended if the board finds that the amounts available for
5 premium assistance are insufficient to meet the projected costs of new enrollees.

6 **SECTION 5.(a) Employer Requirements. –**

7 (1) Effective January 1, 2010, all employers doing business in this State
8 and employing not fewer than 11 full-time employees shall contribute
9 to or arrange for the purchase of health insurance coverage for their
10 employees. Health insurance coverage shall be subject to the approval
11 of the Authority. Employers and their employees shall sign and
12 submit to the Authority Health Insurance Responsibility Disclosure
13 forms indicating whether the employer has offered to pay for or
14 arrange for the purchase of health insurance for its employees and
15 whether the employee has declined or accepted the coverage.
16 Employer contributions for the purchase of health insurance coverage
17 shall be based on wages paid and the number of employees.
18 Contribution rates shall be established by the Authority, based in part
19 on the size of the employer.

20 (2) If an employer subject to this section does not offer employees health
21 insurance through a group health plan to which the employer makes a
22 fair and reasonable contribution, as determined by the Authority, then
23 the employer shall be assessed a per-employee fair-share contribution.
24 The amount of a "fair and reasonable" contribution determined by the
25 NC Health Link Authority shall not exceed two hundred ninety-five
26 dollars (\$295.00) per employee per year.

27 (3) In addition to the fair-share contribution applicable under subdivision
28 (2) of this section, a "free-rider" surcharge shall be imposed on
29 employers who do not contribute to or arrange for the purchase of
30 health insurance for employees and whose employees use a certain
31 amount of free care during a one-year period. The "free-rider"
32 surcharge does not apply with respect to employees for whom the
33 employer contributes to employees' insurance obtained through the
34 Authority. The Authority shall determine the amount of the
35 "free-rider" surcharge as a percentage of costs to the State of free-care
36 services provided.

37 (4) Effective January 1, 2010, employers with 11 or more full-time
38 employees shall offer to their employees Section 125 cafeteria plans so
39 that employees may purchase health insurance products and other
40 benefits on a pretax basis.

41 **SECTION 5.(b) Individual Requirements. –** Effective January 1, 2010, the
42 following individuals over the age of 18 years shall obtain and maintain creditable
43 coverage:

44 (1) Residents of North Carolina.

1 (2) Individuals who have terminated any prior creditable coverage,
2 provided that creditable coverage is deemed affordable for the
3 individual according to the schedule established by NC Health Link
4 Authority.

5 **SECTION 5.(c) Penalties. –**

6 (1) Individuals. – Every person who files a tax return as a resident of this
7 State, either separately or jointly with a spouse, shall indicate on the
8 return, in a manner prescribed by the Secretary of Revenue, whether
9 the person had creditable coverage in force for each of the 12 months
10 of the taxable year for which the return is filed. If the person fails to
11 indicate or indicates that the person did not have the coverage in force,
12 then a penalty shall be assessed on the return, as provided in
13 subdivision (2) of this subsection. An individual subject to this penalty
14 may seek an exemption from the penalty requirements if imposition of
15 the penalty would create extreme hardship. Criteria for extreme
16 hardship shall be determined by the Authority.

17 (2) For the first tax year of implementation of the Program, the penalty
18 assessed against an individual as provided under subdivision (1) of this
19 subsection shall be the loss of the State personal tax exemption, or
20 one-half of the personal exemption for an individual filing jointly with
21 a spouse. For subsequent tax years, the penalty shall increase to a
22 portion, not to exceed fifty percent (50%) of what the individual would
23 have paid for an affordable premium.

24 **SECTION 6.** Effective January 1, 2008, every insurer authorized to issue or
25 deliver a health benefit plan under Chapter 58 of the General Statutes may contract to
26 sell a health benefit plan policy with an employer only if the policy is offered by the
27 employer to all full-time employees of that employer who live in this State.

28 **SECTION 7.** Medicaid and NC Health Choice Expansion. – It is the intent
29 of the General Assembly to expand eligibility for health care services under the State
30 Medical Assistance Program, and under the NC Health Choice Program to children
31 whose family income does not exceed three hundred percent (300%) of the federal
32 poverty level. The Department of Health and Human Services shall seek necessary
33 waivers from the Centers for Medicare and Medicaid (CMS) and shall submit proposed
34 amendments to the State Medical Assistance Plan to CMS.

35 **SECTION 8.** The Department of Insurance shall work with the Authority to
36 compare Program goals with current insurance laws and shall recommend necessary
37 changes to the law for enactment by the General Assembly.

38 **SECTION 9.** There is established the NC FAIR SHARE FUND in the
39 Office of the State Treasurer. Monies deposited to the Fund from employer
40 contributions, General Fund appropriations, and other sources shall be used exclusively
41 to support the North Carolina Fair Share Health Insurance Access Program. It is the
42 intent of the General Assembly that a portion of the proceeds of the excise tax on
43 alcohol, and the cigarette tax, shall be earmarked for the NC FAIR SHARE FUND.

1 **SECTION 10.** The North Carolina Health Link Authority shall report on its
2 progress in developing the North Carolina Fair Share Health Insurance Access Program
3 not later than April 1, 2007, and annually thereafter. The Authority's report may include
4 recommendations for proposed legislation and funding necessary to carry out the intent
5 of this act.

6 **SECTION 11.** There is appropriated from the General Fund to the
7 Department of Administration the sum of twenty-five thousand dollars (\$25,000) for the
8 2006-2007 fiscal year. These funds shall be allocated for expenses of the North
9 Carolina Health Link Authority.

10 **SECTION 12.** This act is effective when it becomes law.