

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1853*

Short Title: State Health Plan.

(Public)

Sponsors: Senators Rand; Apodaca, Atwater, Clodfelter, Cowell, Forrester, Garrou,
Hagan, Malone, and Stevens.

Referred to: Select Committee on Employee Hospital and Medical Benefits .

May 22, 2008

A BILL TO BE ENTITLED

AN ACT TO REWRITE GENERAL STATUTE PROVISIONS PERTAINING TO
HEALTH AND LONG-TERM CARE BENEFITS FOR TEACHERS, STATE
EMPLOYEES, RETIRED STATE EMPLOYEES, AND THEIR ELIGIBLE
DEPENDENTS, AND PERTAINING TO THE NORTH CAROLINA HEALTH
CHOICE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective July 1, 2008, Article 3 of Chapter 135 of the
General Statutes is recodified as Article 3A of Chapter 135 of the General Statutes.

SECTION 1.(b) Effective July 1, 2008, the title of Article 3A of Chapter
135 of the General Statutes, as enacted by this act, reads as rewritten:

~~Other Teacher, Employee Benefits; Child Health Benefits.~~
Other Benefits for Teachers, State Employees, Retired State Employees, and Child
Health."

SECTION 1.(c) Effective July 1, 2008, Part 1 of Article 3A of Chapter 135
of the General Statutes, as enacted by this act, is recodified as Part 1A of Article 3A of
Chapter 135 of the General Statutes.

SECTION 1.(d) Effective July 1, 2008, G.S. 135-37, as amended by Section
28.22A of S.L. 2007-323, is recodified as G.S. 135-37.1 under Part 1A of Article 3A of
Chapter 135 of the General Statutes, as enacted by this act, and as recodified, reads as
rewritten:

**"§ 135-37.1. Confidentiality of information and medical records; provider
contracts.**

(a) Any information as herein described in this section which is in the possession
of the Executive Administrator and the Board of Trustees of the State Health Plan for
Teachers and State Employees or its Claims Processor under the Plan or the Predecessor
Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the
General Statutes or any other provision requiring information and records held by State

1 agencies to be made public or accessible to the public. This section shall apply to all
2 information concerning individuals, including the fact of coverage or noncoverage,
3 whether or not a claim has been filed, medical information, whether or not a claim has
4 been paid, and any other information or materials concerning a plan participant.
5 Provided, however, such information may be released to the State Auditor, or to the
6 Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of
7 their statutory duties and responsibilities, or to such persons or organizations as may be
8 designated and approved by the Executive Administrator and Board of Trustees of the
9 Plan, but any information so released shall remain confidential as stated above and any
10 party obtaining such information shall assume the same level of responsibility for
11 maintaining such confidentiality as that of the Executive Administrator and Board of
12 Trustees of the State Health Plan for Teachers and State Employees.

13 (b) Notwithstanding the provisions of this Article, the Executive Administrator
14 and Board of Trustees of the State Health Plan for Teachers and State Employees may
15 contract with providers of institutional and professional medical care and services to
16 establish preferred provider networks. The terms pertaining to reimbursement rates or
17 other terms of consideration of any contract between hospitals, hospital authorities,
18 doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or
19 contracts pertaining to the provision of any medical benefit offered under the Plan,
20 including its ~~optional plans or programs~~, optional alternative comprehensive benefit
21 plans, and programs available under the optional alternative plans, shall not be a public
22 record under Chapter 132 of the General Statutes for a period of 30 months after the
23 date of the expiration of the contract. Provided, however, nothing in this subsection
24 shall be deemed to prevent or restrict the release of any information made not a public
25 record under this subsection to the State Auditor, the Attorney General, the Director of
26 the State Budget, the Plan's Executive Administrator, and the Committee on Employee
27 Hospital and Medical Benefits solely and exclusively for their use in the furtherance of
28 their duties and responsibilities. The design, adoption, and implementation of the
29 preferred provider contracts, networks, and ~~optional plans or programs~~ optional
30 alternative comprehensive health benefit plans, and programs available under the
31 optional alternative plans, as authorized under G.S. 135-40 are not subject to the
32 requirements of Chapter 143 of the General Statutes. The Executive Administrator and
33 Board of Trustees shall make reports as requested to the President of the Senate, the
34 President Pro Tempore of the Senate, the Speaker of the House of Representatives, and
35 the Committee on Employee Hospital and Medical Benefits ~~on its progress in~~
36 ~~negotiating the preferred provider contracts.~~ Benefits."

37 **SECTION 1.(e)** Effective July 1, 2008, G.S. 135-38 is recodified as
38 G.S. 135-37.2 under Part 1A of Article 3A of Chapter 135 of the General Statutes, as
39 enacted by this act, and as recodified, reads as rewritten:

40 "**§ 135-37.2. Committee on Employee Hospital and Medical Benefits.**

41 (a) The Committee on Employee Hospital and Medical Benefits shall consist of
42 12 members as follows:

43 (1) The President Pro Tempore of the Senate or a designee thereof;

44 ~~(2a)~~(2)The Speaker of the House of Representatives or a designee thereof;

1 ~~(3a)~~(3) Five members of the Senate appointed by the President Pro Tempore
2 of the Senate; and

3 ~~(4a)~~(4) Five members of the House of Representatives appointed by the
4 Speaker.

5 (b) The President Pro Tempore of the Senate and the Speaker of the House of
6 Representatives, or their designees, shall remain on the Committee for the duration of
7 their terms in those offices. Terms of the other Committee members are for two years
8 and ~~begin on January 15 of each odd numbered year, except the terms of the initial~~
9 ~~members, which begin on appointment and expire January 14, 1997.~~years. Members
10 may complete a term of service on the Committee even if they do not seek reelection or
11 are not reelected to the General Assembly, but resignation or removal from service in
12 the General Assembly constitutes resignation or removal from service on the
13 Committee. Members shall serve until their successors are appointed.

14 (c) The Committee shall review programs of hospital, medical and related care
15 provided by ~~Part 3 and Part 5~~ Parts 3A and 5A of this Article and programs of long-term
16 care benefits provided by ~~Part 4~~ Part 4A of this Article as recommended by the
17 Executive Administrator and Board of Trustees of the Plan. The Executive
18 Administrator and the Board of Trustees shall provide the Committee with any
19 information or assistance requested by the Committee in performing its duties under this
20 Article. The Committee shall meet not less than once each quarter to review the actions
21 of the Executive Administrator and Board of Trustees. At each meeting, the Executive
22 Administrator shall report to the Committee on any administrative and medical policies
23 which have been issued as rules ~~and regulations~~ in accordance with
24 ~~G.S. 135-39.8,~~G.S. 135-38.11 and on any benefit denials, resulting from the policies,
25 which have been appealed to the Board of Trustees.

26 (d) The time members spend on Committee business shall be considered official
27 legislative business for purposes of G.S. 120-3."

28 **SECTION 1.(f)** G.S. 135-38.1, as amended by Section 28.22A(o) of S.L.
29 2007-323, is recodified under Part 1A of Article 3A of Chapter 135 of the General
30 Statutes, as enacted by this act.

31 **SECTION 2.(a)** Effective July 1, 2008, Part 2 of Article 3A of Chapter 135
32 of the General Statutes, as enacted by this act, is recodified as Part 2A of Article 3A of
33 Chapter 135 of the General Statutes.

34 **SECTION 2.(b)** Effective July 1, 2008, G.S. 135-39.3, as amended by S.L.
35 2007-323(o), is recodified as G.S. 135-37.3 under Part 2A of Article 3A of Chapter 135
36 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:
37 "§ **135-37.3. Oversight team.**

38 (a) The Committee on Employee Hospital and Medical Benefits may use
39 employees of the Legislative Services Office and may employ contractual services as
40 approved by the Legislative Services Commission to monitor the Executive
41 Administrator and Board of Trustees, the Claims Processor, and the State Health Plan
42 for Teachers and State Employees. The Director of the Budget may use employees of
43 the Office of State Budget and Management to monitor the Executive Administrator and
44 Board of Trustees, the Claims Processor, and the State Health Plan for Teachers and

1 State Employees. ~~Such assistance~~ Employees authorized by the Legislative Services
2 Commission and the Director of the Budget to provide assistance to the Committee on
3 Employee Hospital and Medical Benefits and to the Director of the Budget shall
4 comprise an oversight team.

5 (b) The oversight team shall, jointly or individually, have access to all records of
6 the Board of Trustees, the Executive Administrator, the Claims Processor, and the
7 ~~Comprehensive Major Medical Plan.~~ They The oversight team shall, jointly or
8 individually, be entitled to attend all meetings of the Board of Trustees.

9 (c) The oversight team shall report to the Committee on Employee Hospital and
10 Medical Benefits when requested by the Committee."

11 **SECTION 2.(c)** G.S. 135-39.9 is recodified as G.S. 135-37.4 under Part 2A
12 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
13 recodified, reads as rewritten:

14 "**§ 135-37.4. Reports to the General Assembly.**

15 (a) The Executive Administrator and Board of Trustees shall report to the
16 General Assembly at such times and in such forms as shall be ~~provided~~ designated by
17 the Committee on Employee Hospital and Medical Benefits."

18 **SECTION 2.(d)** G.S. 135-39.11 is recodified as G.S. 135-37.5 under Part
19 2A of this Article, as enacted by this act, and as recodified, reads as rewritten:

20 "**§ 135-37.5. ~~Contract disputes.~~ Contract disputes not contested case under the**
21 **Administrative Procedure Act, Chapter 150B of the General Statutes.**

22 A dispute involving the performance, terms, or conditions of a contract between the
23 Plan and an entity under contract with the Plan is not a contested case under Article 3 of
24 Chapter 150B of the General Statutes."

25 **SECTION 2.(e)** G.S. 135-39, as amended by Section 28.22A(o) of S.L.
26 2007-323, is recodified as G.S. 135-38.2 under Part 2A of Article 3A of Chapter 135 of
27 the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

28 "**§ 135-38.2. Board of Trustees established.**

29 (a) There is ~~hereby~~ established the Board of Trustees of the State Health Plan for
30 Teachers and State Employees ("Board").

31 ~~(a)~~ (b) The Board shall consist of nine members.

32 ~~(b)~~ (c) Three members shall be appointed by the Governor. ~~Of the initial members,~~
33 ~~one shall serve a term to expire June 30, 1983, and two shall serve terms to expire June~~
34 ~~30, 1984. Subsequent terms~~ Terms shall be for two years. Vacancies shall be filled by
35 the Governor. Of the members appointed by the Governor, one shall be either:

- 36 (1) An employee of a State department, agency, or institution;
- 37 (2) A teacher employed by a North Carolina public school system;
- 38 (3) A retired employee of a State department, agency, or institution; or
- 39 (4) A retired teacher from a North Carolina public school system.

40 ~~(c)~~ (d) Three members shall be appointed by the General Assembly upon the
41 recommendation of the Speaker of the House of Representatives in accordance with
42 G.S. 120-121. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and~~
43 ~~one shall serve a term expiring June 30, 1984.~~ Terms shall be for two years. Vacancies
44 shall be filled in accordance with G.S. 120-122.

1 ~~(d)~~(e) Three members shall be appointed by the General Assembly upon the
2 recommendation of the President Pro Tempore of the Senate in accordance with
3 G.S. 120-121. ~~Of the initial members, two shall serve terms expiring June 30, 1983, and~~
4 ~~one shall serve a term expiring June 30, 1984. Terms shall be for two years.~~ Vacancies
5 shall be filled in accordance with G.S. 120-122.

6 ~~(e)~~(f) ~~The Governor shall have the power to remove any member appointed by him~~
7 ~~under subsection (b). The General Assembly may remove any member appointed under~~
8 ~~subsections (c) or (d). Each appointing authority may remove any member appointed by~~
9 ~~that appointing authority.~~

10 ~~(f)~~(g) The members of the Board of Trustees shall receive one hundred dollars
11 (\$100.00) per day, except employees eligible to enroll in the Plan, whenever the full
12 Board of Trustees holds a public session, and travel allowances under G.S. 138-6 when
13 traveling to and from meetings of the Board of Trustees or hearings under
14 ~~G.S. 135-39.7, G.S. 135-38.10,~~ but shall not receive any subsistence allowance or per
15 diem under G.S. 138-5, except when holding a meeting or hearing where this section
16 does not provide for payment of one hundred dollars (\$100.00) per day.

17 (h) No member of the Board of Trustees may serve more than three consecutive
18 two-year terms.

19 (i) Meetings of the Board of Trustees may be called by the Executive
20 Administrator, the ~~Chairman, Chair,~~ or by any three members."

21 **SECTION 2.(f)** G.S. 135-39.2 is recodified as G.S. 135-38.3 under Part 2A
22 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
23 recodified, reads as rewritten:

24 **"§ 135-38.3. Officers, quorum, meetings.**

25 (a) The Board of Trustees shall elect from its own membership such officers as it
26 sees fit.

27 (b) Six members of the Board of Trustees in office shall constitute a quorum.
28 Decisions of the Board of Trustees shall be made by a majority vote of the Trustees
29 present, except as otherwise provided in this Part.

30 (c) Meetings may be called by the ~~Chairman, Chair,~~ or at the written request of
31 three members."

32 **SECTION 2.(g)** G.S. 135-39.1, as amended by Section 28.22A(o) of S.L.
33 2007-323, is recodified as G.S. 135-38.4 under Part 2A of Article 3A of Chapter 135 of
34 the General Statutes, as enacted by this act.

35 **SECTION 2.(h)** G.S. 135-39.4A, as amended by Section 28.22A of S.L.
36 2007-323, is recodified as G.S. 135-38.5 under Part 2A of Article 3A of Chapter 135 of
37 the General Statutes as enacted by this act, and as recodified, reads as rewritten:

38 **"§ 135-38.5. Executive Administrator.**

39 (a) The Plan shall have an Executive Administrator and a Deputy Executive
40 Administrator. The Executive Administrator and the Deputy Executive Administrator
41 positions are exempt from the provisions of Chapter 126 of the General Statutes as
42 provided in G.S. 126-5(c1).

43 (b) The Executive Administrator shall be appointed by the Commissioner of
44 Insurance. The term of employment and salary of the Executive Administrator shall be

1 set by the Commissioner of Insurance upon the advice of an executive committee of the
2 Committee on Employee Hospital and Medical Benefits.

3 The Executive Administrator may be removed from office by the Commissioner of
4 Insurance, upon the advice of an executive committee of the Committee on Employee
5 Hospital and Medical Benefits, and any vacancy in the office of Executive
6 Administrator may be filled by the Commissioner of Insurance with the term of
7 employment and salary set upon the advice of an executive committee of the Committee
8 on Employee Hospital and Medical Benefits.

9 ~~(f)~~(c) The Executive Administrator shall appoint the Deputy Executive
10 Administrator and may employ such clerical and professional staff, and such other
11 assistance as may be necessary to assist the Executive Administrator and the Board of
12 Trustees in carrying out their duties and responsibilities under this Article. The
13 Executive Administrator may designate managerial, professional, or policy-making
14 positions as exempt from the State Personnel Act. The Executive Administrator may
15 also negotiate, renegotiate and execute contracts with third parties in the performance of
16 ~~his-the Executive Administrator's~~ duties and responsibilities under this Article; provided
17 any contract negotiations, renegotiations and execution with a Claims Processor, with
18 ~~an optional hospital and medical benefit plan or program authorized under~~
19 G.S. 135-40, an optional alternative comprehensive health benefit plan, or program
20 thereunder, authorized under G.S. 135-39.12, with a preferred provider of institutional
21 or professional hospital and medical care, or with a pharmacy benefit manager shall be
22 done only after consultation with the Committee on Employee Hospital and Medical
23 Benefits.

24 ~~(g)~~(d) The Executive Administrator shall be responsible for:

- 25 (1) Cost management programs;
- 26 (2) Education and illness prevention programs;
- 27 (3) Training programs for Health Benefit Representatives;
- 28 (4) Membership functions;
- 29 (5) Long-range planning;
- 30 (6) Provider and participant relations; and
- 31 (7) Communications.

32 Managed care practices used by the Executive Administrator in cost management
33 programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223,
34 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

35 ~~(h)~~(e) The Executive Administrator shall make reports and recommendations on the
36 Plan to the President of the Senate, the Speaker of the House of Representatives and the
37 Committee on Employee Hospital and Medical Benefits."

38 **SECTION 2.(i)** G.S. 135-39.10, as amended by Section 28.22A(d),(o) of
39 S.L. 2007-323, is recodified as G.S. 135-38.6 under Part 2A of Article 3A of Chapter
40 135 of the General Statutes, as enacted by this act.

41 **SECTION 2.(j)** G.S. 135-39.5 is recodified as G.S. 135-38.7 under Part 2A
42 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
43 recodified, reads as rewritten:

1 "§ 135-38.7. Powers and duties of the Executive Administrator and Board of
2 Trustees.

3 The Executive Administrator and Board of Trustees of the Teachers' and State
4 Employees' Comprehensive Major Medical Plan shall have the following powers and
5 duties:

- 6 (1) Supervising and monitoring of the Claims Processor.
- 7 (2) Providing for enrollment of employees in the Plan.
- 8 (3) Communicating with employees enrolled under the Plan.
- 9 (4) Communicating with health care providers providing services under
10 the Plan.
- 11 (5) Making payments at appropriate intervals to the Claims Processor for
12 benefit costs and administrative costs.
- 13 (6) Conducting administrative reviews under
14 ~~G.S. 135-39.7~~. G.S. 135-38.10.
- 15 (7) Annually assessing the performance of the Claims Processor.
- 16 (8) Preparing and submitting to the Governor and the General Assembly
17 cost estimates for the ~~health benefits plan, Plan,~~ including those
18 required by Article 15 of Chapter 120 of the General Statutes.
- 19 (9) Recommending to the Governor and the General Assembly changes or
20 additions to the health benefits ~~program~~ programs and health care cost
21 containment ~~programs,~~ programs offered under the Plan, together with
22 statements of financial and actuarial effects as required by Article 15
23 of Chapter 120 of the General Statutes.
- 24 (10) Working with State employee groups to improve health benefit
25 programs.
- 26 (11) Repealed by Session Laws 1985, c. 732, s. 9.
- 27 (12) Determining basis of payments to health care providers, including
28 payments in accordance with G.S. 58-50-56. ~~The Comprehensive
29 Major Medical Plan and optional plans and programs adopted pursuant
30 to G.S. 135-39.5B shall comply with G.S. 58-3-225.~~
- 31 (13) Requiring bonding of the Claims Processor in the handling of State
32 funds.
- 33 (14) Repealed by Session Laws 1985, c. 732, s. 7.
- 34 (15) In case of termination of the contract under ~~G.S. 135-39.5A,~~
35 subdivision (29) of this section, to select a new Claims Processor, after
36 ~~competitive~~-bidding procedures approved by the Department of
37 Administration.
- 38 (16) Notwithstanding the provisions of ~~Part 3~~ Part 3A of this Article, to
39 formulate and implement cost-containment measures which are not in
40 direct conflict with that Part.
- 41 (17) Implementing pilot programs necessary to evaluate proposed cost
42 containment measures which are not in direct conflict with ~~Part 3~~ Part
43 3A of this Article, and expending funds necessary for the
44 implementation of ~~such~~ the pilot programs.

- 1 (18) Authorizing coverage for alternative forms of care not otherwise
2 provided by the Plan in individual cases when medically necessary,
3 medically equivalent to services covered by the Plan, and when such
4 alternatives would be less costly than would have been otherwise.
- 5 (19) Establishing and operating a hospital and other provider bill audit
6 program and a fraud detection program.
- 7 (20) Determining administrative and medical policies that are not in direct
8 conflict with ~~Part 3~~ Part 3A of this Article ~~upon the advice of~~ after
9 consultation with the Claims Processor and upon the advice of the
10 Plan's consulting actuary when Plan costs are involved.
- 11 (21) Supervising the payment of claims and all other disbursements under
12 this Article, including the recovery of any disbursements that are not
13 made in accordance with the provisions of this Article.
- 14 (22) Implementing and administering a program of long-term care benefits
15 pursuant to ~~Part 4~~ Part 4A of this Article.
- 16 (23) Implementing and administering a program of child health insurance
17 benefits pursuant to ~~Part 5~~ Part 5A of this Article.
- 18 (24) Implementing and administering a case management and disease
19 management ~~program~~ program and a wellness program.
- 20 (25) Implementing and administering a pharmacy benefit management
21 program through a third-party contract awarded after receiving
22 competitive quotes.
- 23 ~~(26) Increasing annually the amount of the annual deductible and annual~~
24 ~~aggregate maximum deductible. The increase shall be established by~~
25 ~~determining the ratio of the CPI Medical Index to such index one year~~
26 ~~earlier. If the ratio indicates an increase in the CPI Medical Index, then~~
27 ~~the amount of the annual deductible and annual aggregate maximum~~
28 ~~deductible may be increased by not more than the percentage increase~~
29 ~~in the CPI Medical Index. As used in this subdivision, the term~~
30 ~~"CPI Medical Index" means the U.S. Consumer Price Index for All~~
31 ~~Urban Consumers for Total Medical Care.~~
- 32 (27) The Executive Administrator may establish pilot programs to measure
33 potential cost savings and improvements in patient care available
34 through local, provider-driven medical management.
- 35 (28) It is the intent of the General Assembly that active employees and
36 retired employees covered under the Plan and its successor Plan shall
37 have several opportunities in each fiscal year to attend presentations
38 conducted by Plan management staff providing detailed information
39 about benefits, limitations, premiums, co-payments, and other
40 pertinent Plan matters. To this end, beginning in 2007 and annually
41 thereafter, the Plan's management staff shall conduct multiple
42 presentations each year to Plan members and association groups
43 representing active and retired employees across all geographic
44 regions of the State. Regional meetings shall be held in locations that

1 afford reasonably convenient access to Plan members. The
2 presentations shall be designed not only to present information about
3 the Plan but also to hear and respond to Plan members' questions and
4 concerns.

5 (29) The Executive Administrator and Board of Trustees may terminate the
6 contract with the Claims Processor ~~as provided in the request for~~
7 ~~proposal in accordance with the terms of the contract."~~

8 **SECTION 2.(k)** G.S. 135-39.5A is recodified as G.S. 135-38.7(29), as
9 enacted by this act.

10 **SECTION 2.(l)** G.S. 135-39.6 is recodified as G.S. 135-38.8 under Part 2A
11 of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
12 recodified reads as rewritten:

13 **"§ 135-38.8. Special Health benefit trust funds created.**

14 (a) There are hereby established two ~~special health benefit trust~~ funds, to be
15 known as the Public Employee Health Benefit Fund and the Health Benefit Reserve
16 Fund for the payment of hospital and medical benefits. As used in this section, the term
17 "health benefit trust funds" refers to the fund type described under
18 G.S. 143C-1-3(a)(10).

19 All premiums, fees, charges, rebates, refunds or any other receipts including, but not
20 limited to, earnings on investments, occurring or arising in connection with health
21 benefits programs established by this Article, shall be deposited into the Public
22 Employee Health Benefit Fund. Disbursements from the Fund shall include any and all
23 amounts required to pay the benefits and administrative costs of such programs as may
24 be determined by the Executive Administrator and Board of Trustees.

25 Any unencumbered balance in excess of prepaid premiums or charges in the Public
26 Employee Health Benefit Fund at the end of each fiscal year shall be used first, to
27 provide an actuarially determined Health Benefit Reserve Fund for incurred but
28 unrepresented claims, second, to reduce the premiums required in providing the benefits
29 of the health benefits programs, and third to improve the plan, as may be provided by
30 the General Assembly. The balance in the Health Benefits Reserve Fund may be
31 transferred from time to time to the Public Employee Health Benefit Fund to provide for
32 any deficiency occurring therein.

33 The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund
34 shall be deposited with the State Treasurer and invested as provided in G.S. 147-69.2
35 and 147-69.3.

36 (b) Disbursement from the Public Employee Health Benefit Fund may be made
37 by warrant drawn on the State Treasurer by the Executive Administrator, or the
38 Executive Administrator and Board of Trustees may by contract authorize the Claims
39 Processors to draw the warrant.

40 (c) Separate and apart from the ~~special health benefit trust~~ funds authorized by
41 subsections (a) and (b) of this section, there shall be a Public Employee Long-Term
42 Care Benefit Fund if the long-term care benefits provided by Part 4 of this Article are
43 administered on a self-insured basis.

1 (d) Separate and apart from the special funds authorized by subsections (a), (b),
2 and (c) of this section, there shall be a Child Health Insurance Fund. All premium
3 receipts or any other receipts, including earnings on investments, occurring or arising in
4 connection with acute medical care benefits provided under the Health Insurance
5 Program for Children shall be deposited into the Child Health Insurance Fund.
6 Disbursements from the Child Health Insurance Fund shall include any and all amounts
7 required to pay the benefits and administrative costs of the Health Insurance Program
8 for Children as may be determined by the Executive Administrator and Board of
9 Trustees."

10 **SECTION 2.(m)** G.S. 135-39.6A, as amended by Section 11 of S.L.
11 2007-345, and as further amended by Section 28.22A(m),(o) of S.L. 2007-323, is
12 recodified as G.S. 135-38.9 under Part 2A of Article 3 of Chapter 135 of the General
13 Statutes, as enacted by this act, and as recodified, reads as rewritten:

14 "**§ 135-38.9. Premiums set.**

15 (a) The Executive Administrator and Board of Trustees shall, from time to time,
16 establish premium rates for the Plan except as they may be established by the General
17 Assembly in the Current Operations Appropriations Act, and establish ~~regulations~~ rules
18 for payment of the premiums. Premium rates shall be established for coverages where
19 Medicare is the primary payer of health benefits separate and apart from the rates
20 established for coverages where Medicare is not the primary payer of health benefits.
21 The amount of State funds contributed for optional coverage for employees and retirees
22 on a partially contributory basis shall not be more than the Plan's total noncontributory
23 premium for Employee Only coverage, with the person selecting the coverage paying
24 the balance of the partially contributory premium not paid by the Plan. The amount of
25 State funds contributed shall not exceed the Plan's cost for Employee Only coverage.
26 The Executive Administrator and Board of Trustees shall not impose a partially
27 contributory premium until after it has consulted on the premium and the optional
28 coverage design with the Committee on Employee Hospital and Medical Benefits.

29 (b) The Executive Administrator and Board of Trustees shall establish separate
30 premium rates for the long-term care benefits provided by ~~Part 4~~ Part 4A of this Article
31 if the benefits are administered on a self-insured basis.

32 (c) The Executive Administrator and Board of Trustees shall establish premium
33 rates for benefits provided under ~~Part 5~~ Part 5A of this Article. The Department of
34 Health and Human Services shall, from State and federal appropriations and from any
35 other funds made available for the Health Insurance Program for Children established
36 under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the
37 State Health Plan for Teachers and State Employees as determined by the Plan for its
38 administration, claims processing, and other services authorized to provide coverage for
39 acute medical care for children eligible for benefits provided under ~~Part 5~~ Part 5A of this
40 Article.

41 (d) In setting premiums for ~~firemen, firefighters,~~ rescue squad workers, and
42 members of the national guard, and their eligible dependents, the Executive
43 Administrator and Board of Trustees shall establish rates separate from those affecting
44 other members of the Plan. These separate premium rates shall include rate factors for

1 incurred but unreported claim costs, for the effects of adverse selection from voluntary
2 participation in the Plan, and for any other actuarially determined measures needed to
3 protect the financial integrity of the Plan for the benefit of its served employees, retired
4 employees, and their eligible dependents.

5 (e) The total amount of premiums due the Plan from charter schools as
6 employing units, including amounts withheld from the compensation of Plan members,
7 that is not remitted to the Plan by the fifteenth day of the month following the due date
8 of remittance shall be assessed interest of one and one-half percent (1 ½%) of the
9 amount due the Plan, per month or fraction thereof, beginning with the sixteenth day of
10 the month following the due date of the remittance. The interest authorized by this
11 section shall be assessed until the premium payment plus the accrued interest amount is
12 remitted to the Plan. The remittance of premium payments under this section shall be
13 presumed to have been made if the remittance is postmarked in the United States mail
14 on a date not later than the fifteenth day of the month following the due date of the
15 remittance."

16 **SECTION 2.(n)** G.S. 135-39.7 is recodified as G.S. 135-38.10 under Part
17 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as
18 recodified, reads as rewritten:

19 "**§ 135-38.10. Administrative review.**

20 (a) If, after exhaustion of internal appeal handling as outlined in the contract with
21 the Claims Processors any person is aggrieved, the Claims Processors shall bring the
22 matter to the attention of the Executive Administrator and Board of Trustees, which
23 shall promptly decide whether the subject matter of the appeal is a determination subject
24 to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes. The
25 Executive Administrator and Board of Trustees shall inform the aggrieved person and
26 the aggrieved person's provider of the decision and shall provide the aggrieved person
27 notice of the aggrieved person's right to appeal that decision as provided in this
28 subsection. If the Executive Administrator and Board of Trustees decide that the subject
29 matter of the appeal is not a determination subject to external review, then the Executive
30 Administrator and Board of Trustees may make a binding decision on the matter in
31 accordance with procedures established by the Executive Administrator and Board of
32 Trustees. The Executive Administrator and Board of Trustees shall provide a written
33 summary of the decisions made pursuant to this section to all employing units, all health
34 benefit representatives, the oversight team provided for in ~~G.S. 135-39.3~~, G.S. 135-37.3,
35 all relevant health care providers affected by a decision, and to any other parties
36 requesting a written summary and approved by the Executive Administrator and Board
37 of Trustees to receive a summary immediately following the issuance of a decision. A
38 decision by the Executive Administrator and Board of Trustees that a matter raised on
39 internal appeal is a determination subject to external review as provided in subsection
40 (b) of this section may be contested by the aggrieved person under Chapter 150B of the
41 General Statutes. The person contesting the decision may proceed with external review
42 pending a decision in the contested case under Chapter 150B of the General Statutes.

43 (b) The Executive Administrator and Board of Trustees shall adopt and
44 implement utilization review and internal grievance procedures that are substantially

1 equivalent to those required under G.S. 58-50-61 and G.S. 58-50-62. External review of
2 determinations shall be conducted in accordance with Part 4 of Article 50 of Chapter 58
3 of the General Statutes. As used in this section, "determination" is a decision by the
4 Executive Administrator and Board of Trustees, ~~the Plan's designated utilization review~~
5 ~~organization, or a self-funded health maintenance organization or the Plan's designated~~
6 utilization review organization administrated by or under contract with the Plan that an
7 admission, availability of care, continued stay, or other health care service has been
8 reviewed and, based upon information provided, does not meet the Plan's requirements
9 for medical necessity, appropriateness, health care setting, or level of care or
10 effectiveness, and the requested service is therefore denied, reduced, or terminated.

11 (c) The Board of Trustees shall make the final agency decision in all cases
12 contested pursuant to Chapter 150B of the General Statutes. The Executive
13 Administrator shall execute the Board's final agency decisions. For purposes of
14 G.S. 150B-44, the Board of Trustees is an agency that is a board or commission."

15 **SECTION 2.(o)** G.S. 135-39.8 is recodified as G.S. 135-38.11 under Part
16 2A of Article 3A of Chapter 135 of the General Statutes as enacted by this act, and as
17 recodified, reads as rewritten:

18 "**§ 135-38.11. ~~Rules and regulations.~~Rules.**

19 The Executive Administrator and Board of Trustees may ~~issue~~ adopt ~~rules and~~
20 ~~regulations~~ to implement Parts ~~2, 3, 4, and 5~~ 2A, 3A, 4A, and 5A of this Article. The
21 Executive Administrator and Board of Trustees shall provide to all employing units, all
22 health benefit representatives, the oversight team provided for in
23 ~~G.S. 135-39.3, G.S. 135-37.3,~~ all relevant health care providers affected by a ~~rule or~~
24 ~~regulation, rule,~~ and to any other persons requesting a written description and approved
25 by the Executive Administrator and Board of Trustees written notice and an opportunity
26 to comment not later than 30 days prior to adopting, amending, or rescinding a ~~rule or~~
27 ~~regulation, rule,~~ unless immediate adoption of the rule ~~or regulation~~ without notice is
28 necessary in order to fully effectuate the purpose of the ~~rule or regulation.~~ rule. Rules
29 ~~and regulations~~ of the Board of Trustees shall remain in effect until amended or
30 repealed by the Executive Administrator and Board of Trustees. The Executive
31 Administrator and Board of Trustees shall provide a written description of the rules ~~and~~
32 ~~regulations issued~~ adopted under this section to all employing units, all health benefit
33 representatives, the oversight team provided for in ~~G.S. 135-39.3, G.S. 135-37.3,~~
34 relevant health care providers affected by a ~~rule or regulation, rule,~~ and to any other
35 persons requesting a written description and approved by the Executive Administrator
36 and Board of Trustees on a timely basis. Rules adopted by the Executive Administrator
37 and Board of Trustees to implement this Article are not subject to Article 2A of Chapter
38 150B of the General Statutes."

39 **SECTION 3.(a)** Effective July 1, 2008, Part 3 of Article 3A of Chapter 135
40 of the General Statutes, as enacted by this act, is recodified as Part 3A of Article 3A of
41 Chapter 135 of the General Statutes.

42 **SECTION 3.(b)** Effective July 1, 2008, G.S. 135-40 is repealed.

43 **SECTION 3.(c)** Part 3A of Article 3A of Chapter 135 of the General
44 Statutes, as enacted by this act, is amended by adding the following new section to read:

1 "§ 135-39.12. Undertaking.

2 (a) The State of North Carolina undertakes to make available a State Health Plan
3 (hereinafter called the "Plan") exclusively for the benefit of eligible employees, eligible
4 retired employees, and certain of their eligible dependents, which will pay benefits in
5 accordance with the terms of this Article. The Plan shall have all the powers and
6 privileges of a corporation and shall be known as the State Health Plan for Teachers and
7 State Employees. The Executive Administrator and Board of Trustees shall carry out
8 their duties and responsibilities as fiduciaries for the Plan. The Plan shall administer one
9 or more group health plans that are comprehensive in coverage and shall provide
10 eligible employees and retired employees coverage on a noncontributory basis under at
11 least one of the group plans with benefits equal to that specified in subsection (g) of this
12 section. The Executive Administrator and Board of Trustees may operate group plans as
13 a preferred provider option, or health maintenance, point-of-service, or other
14 organizational arrangement and may offer the plans to employees and retirees on a
15 noncontributory or partially contributory basis. Plans offered on a partially contributory
16 basis must provide benefits that are additional to that specified in subsection (g) of this
17 section and may not be offered unless approved in an act of the General Assembly.

18 (b) Individuals eligible for coverage under G.S. 135-39.14 on a fully or partially
19 contributory basis are eligible to participate in any plan authorized under this section.

20 (c) The State of North Carolina deems it to be in the public interest for North
21 Carolina firefighters, rescue squad workers, and members of the national guard, and
22 certain of their dependents, who are not eligible for any other type of comprehensive
23 group health insurance or other comprehensive group health benefits, and who have
24 been without any form of group health insurance or other comprehensive group health
25 benefit coverage for at least six consecutive months, to be given the opportunity to
26 participate in the benefits provided by the State Health Plan for Teachers and State
27 Employees. Coverage under the Plan shall be voluntary for eligible firefighters, rescue
28 squad workers, and members of the national guard who elect participation in the Plan
29 for themselves and their eligible dependents.

30 (d) The Plan benefits shall be provided under contracts between the Plan and the
31 claims processors selected by the Plan. The Executive Administrator may contract with
32 a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such
33 contracts shall include the applicable provisions of G.S. 135-39.13 through
34 G.S. 135-39.27 and the description of the Plan in the request for proposal, and shall be
35 administered by the respective claims processor or Pharmacy Benefits Manager, which
36 will determine benefits and other questions arising thereunder. The contracts necessarily
37 will conform to applicable State law. If any of the provisions of G.S. 135-39.13 through
38 G.S. 135-39.27 and the request for proposals must be modified for inclusion in the
39 contract because of State law, such modification shall be made.

40 (e) Payroll deduction shall be available for coverage under this Part for
41 subscribers able to meet the Plan's requirements for payroll deduction.

42 (f) Notwithstanding any other provisions of the Plan, the Executive
43 Administrator and Board of Trustees are specifically authorized to use all appropriate
44 means to secure tax qualification of the Plan under any applicable provisions of the

1 Internal Revenue Code of 1954 as amended. The Executive Administrator and Board of
2 Trustees shall furthermore comply with all applicable provisions of the Internal
3 Revenue Code as amended, to the extent that this compliance is not prohibited by this
4 Article.

5 (g) The Executive Administrator and Board of Trustees shall not change the
6 Plan's comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket
7 expenditures, and lifetime maximums in effect on July 1, 2008, that would result in a
8 net increased cost to the Plan or in a reduction in benefits to Plan members unless and
9 until the proposed changes are directed to be made in an act of the General Assembly."

10 **SECTION 3.(d)** G.S. 135-40.1 is repealed.

11 **SECTION 3.(e)** Part 3A of Article 3A of Chapter 135 of the General
12 Statutes, as enacted by this act, is amended by adding the following new section to read:
13 **"§ 135-39.13. General Definitions.**

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

16 (1) Allowed amount. – The charge that the Plan or its claims processors
17 determines is reasonable for covered services provided to a Plan
18 member. This amount may be established in accordance with an
19 agreement between the provider and the Plan or its claims processor.
20 In the case of providers that have not entered into an agreement with
21 the Plan or its claims processor, the allowed amount will be the lesser
22 of the provider's actual charge or a reasonable charge established by
23 the Plan or its claims processor using a methodology that is applied to
24 comparable providers for similar services under a similar health
25 benefit plan.

26 (2) Benefit period. – The period of time during which charges for covered
27 services provided to a Plan member must be incurred in order to be
28 eligible for payment by the Plan.

29 (3) Chemical dependency. – The pathological use or abuse of alcohol or
30 other drugs in a manner or to a degree that produces an impairment in
31 personal, social, or occupational functioning and which may, but need
32 not, include a pattern of tolerance and withdrawal.

33 (4) Claims Processor. – One or more administrators, third-party
34 administrators, or other parties contracting with the Plan to administer
35 Plan benefits.

36 (5) Clinical trials. – Patient research studies designed to evaluate new
37 treatments, including prescription drugs. Coverage for clinical trials
38 shall be as provided in G.S. 135-39.20.

39 (6) Comprehensive health benefit plan. – Health care coverage that
40 consists of inpatient and outpatient hospital and medical benefits, as
41 well as other outpatient medical services, prescription drugs, medical
42 supplies, and equipment that are generally available in the health
43 insurance market.

1 (7) Covered service; benefit; allowable expense. – Any medically
2 necessary, reasonable, and customary items of service, including
3 prescription drugs, and medical supplies included in the Plan.

4 (8) Deductible. – The dollar amount that must be incurred for certain
5 covered services in a benefit period before benefits are payable by the
6 Plan.

7 The deductible applies separately to each covered individual in
8 each fiscal year, subject to an aggregate maximum per employee and
9 child, employee and spouse, or employee and family coverage contract
10 in any fiscal year.

11 If two or more family members are injured in the same accident,
12 only one deductible is required for charges related to that accident
13 during the benefit period.

14 (9) Dependent. – An eligible Plan member other than the subscriber.

15 (10) Dependent child. – A natural, legally adopted, or foster child or
16 children of the employee and or spouse, unmarried, up to the first of
17 the month following his or her 19th birthday, whether or not the child
18 is living with the employee, as long as the employee is legally
19 responsible for such child's maintenance and support. Dependent child
20 shall also include any child under age 19 who has reached his or her
21 18th birthday, provided the employee was legally responsible for such
22 child's maintenance and support on his or her 18th birthday.
23 Dependent children of firefighters, rescue squad workers, and
24 members of the national guard are subject to the same terms and
25 conditions as are other dependent children covered by this subdivision.
26 Eligibility of dependent children is subject to the requirements of
27 G.S. 135-39.14(d).

28 (11) Employee or State employee. – Any permanent full-time or permanent
29 part-time regular employee (designated as half-time or more) of an
30 employing unit.

31 (12) Employing Unit. – A North Carolina School System; Community
32 College; State Department, Agency, or Institution; Administrative
33 Office of the Courts; or Association or Examining Board whose
34 employees are eligible for membership in a State-Supported
35 Retirement System. An employing unit also shall mean a charter
36 school in accordance with Part 6A of Chapter 115C of the General
37 Statutes whose board of directors elects to become a participating
38 employer in the Plan under G.S. 135-39.17. Bona fide fire
39 departments, rescue or emergency medical service squads, and
40 national guard units are deemed to be employing units for the purpose
41 of providing benefits under this Article.

42 (13) Experimental/Investigational. – Experimental/Investigational Medical
43 Procedures. – The use of a service, supply, drug, or device not
44 recognized as standard medical care for the condition, disease, illness,

- 1 or injury being treated as determined by the Executive Administrator
2 and Board of Trustees upon the advice of the Claims Processor.
- 3 (14) Firefighter. – Eligible firefighters as defined by G.S. 58-86-25 who
4 belong to a bona fide fire department as defined by G.S. 58-86-25 and
5 who are not eligible for any type of comprehensive group health
6 insurance or other comprehensive group health benefit coverage and
7 who have been without any form of group health insurance or other
8 comprehensive group health benefit coverage for at least six months.
9 Firefighter shall also include members of the North Carolina Firemen
10 and Rescue Squad Workers' Pension Fund who are in receipt of a
11 monthly pension, who are not eligible for any type of comprehensive
12 group health insurance or other comprehensive group health benefit
13 coverage, and who have been without any form of group health
14 insurance or other comprehensive group health benefit coverage for at
15 least six months. Comprehensive group health insurance and other
16 benefit coverage consists of inpatient and outpatient hospital and
17 medical benefits, as well as other outpatient medical services,
18 prescription drugs, medical supplies, and equipment that are generally
19 available in the health insurance market. For purposes of this
20 subdivision, comprehensive group health insurance and other benefit
21 coverage includes Medicare benefits, CHAMPUS benefits, and other
22 Uniformed Services benefits. North Carolina fire departments or their
23 respective governing bodies shall certify the eligibility of their
24 firefighters to the Plan for their participation in its benefits prior to
25 enrollment.
- 26 (15) Health Benefits Representative. – The employee designated by the
27 employing unit to administer the Plan for the unit and its employees.
28 The HBR is responsible for enrolling new employees, reporting
29 changes, explaining benefits, reconciling group statements, and
30 remitting group fees. The State Retirement System is the Health
31 Benefits Representative for retired State employees.
- 32 (16) Medical necessity or medically necessary. – Covered services or
33 supplies that are:
- 34 a. Provided for the diagnosis, treatment, cure, or relief of a health
35 condition, illness, injury, or disease; and, except for clinical
36 trials covered under the Plan, not for experimental,
37 investigational, or cosmetic purposes.
- 38 b. Necessary for and appropriate to the diagnosis, treatment, cure,
39 or relief of a health condition, illness, injury, disease, or its
40 symptoms.
- 41 c. Within generally accepted standards of medical care in the
42 community.
- 43 d. Not solely for the convenience of the insured, the insured's
44 family, or the provider.

1 For medically necessary services, the Plan or its representative may
2 compare the cost-effectiveness of alternative services or supplies when
3 determining which of the services or supplies will be covered and in
4 what setting medically necessary services are eligible for coverage.

5 (17) National guard members. – Members of the North Carolina army and
6 air national guard who are not eligible for any type of comprehensive
7 group health insurance or other comprehensive group health benefit
8 coverage and who have been without any form of group health
9 insurance or other comprehensive group health benefit coverage for at
10 least six months. Members of the North Carolina army and air national
11 guard include those who are actively serving in the national guard as
12 well as former members of the national guard who have completed 20
13 or more years of service in the national guard but have not attained the
14 minimum age to begin receipt of a uniformed service military
15 retirement benefit. Comprehensive group health insurance and other
16 benefit coverage consists of inpatient and outpatient hospital and
17 medical benefits, as well as other outpatient medical services,
18 prescription drugs, medical supplies, and equipment that are generally
19 available in the health insurance market. Comprehensive group health
20 insurance and other benefit coverage includes Medicare benefits,
21 Civilian Health and Medical Program of the Uniformed Services
22 (CHAMPUS) benefits, and other Uniformed Services benefits. North
23 Carolina national guard units shall certify the eligibility of their
24 members to the Plan for their participation in its benefits prior to
25 enrollment.

26 (18) Optional alternative comprehensive benefit plans. – Comprehensive
27 benefit plans administered by the Plan that differ in coverage,
28 deductibles, coinsurance from the Standard Plan providing for 80/20
29 coinsurance, and that are alternative choices for coverage at the option
30 of the Plan member.

31 (19) Plan or State Health Plan. – The State Health Plan for Teachers and
32 State Employees. Unless otherwise expressly provided, "Plan"
33 includes all comprehensive health benefit plans offered under the Plan.

34 (20) Plan member. – A subscriber or dependent who is eligible and
35 currently enrolled in the Plan and for whom a premium is paid.

36 (21) Plan year. – Effective January 1, 2009, the period beginning January 1
37 and ending on December 31 of the succeeding calendar year.

38 (22) Predecessor plan. – The Hospital and Medical Benefits for the
39 Teachers' and State Employees' Retirement System of the State of
40 North Carolina and the North Carolina Teachers' and State Employees'
41 Comprehensive Major Medical Plan.

42 (23) Rescue squad workers. – Eligible rescue squad workers as defined by
43 the provisions of G.S. 58-86-30 who belong to a rescue or emergency
44 medical services squad as defined by the same statute and who are not

1 eligible for any type of comprehensive group health insurance or other
2 comprehensive group health benefit coverage and who have been
3 without any form of group health insurance or other comprehensive
4 group health benefit coverage for at least six months. Rescue squad
5 workers shall also include members of the North Carolina Firemen and
6 Rescue Squad Workers' Pension Fund who are in receipt of a monthly
7 pension, who are not eligible for any type of comprehensive group
8 health insurance or other comprehensive group health benefit
9 coverage, and who have been without any form of group health
10 insurance or other comprehensive group health benefit coverage for at
11 least six months. Comprehensive group health insurance and other
12 benefit coverage consists of inpatient and outpatient hospital and
13 medical benefits, as well as other outpatient medical services,
14 prescription drugs, medical supplies, and equipment that are generally
15 available in the health insurance market. For purposes of this
16 subdivision, comprehensive group health insurance and other benefit
17 coverage includes Medicare benefits, CHAMPUS benefits, and other
18 Uniformed Services benefits. North Carolina rescue or emergency
19 medical services squads or their respective governing bodies shall
20 certify the eligibility of their rescue squad workers to the Plan for their
21 participation in its benefits prior to enrollment.

22 (24) Retired employee (retiree). – Retired teachers, State employees, and
23 members of the General Assembly who are receiving monthly
24 retirement benefits from any retirement system supported in whole or
25 in part by contributions of the State of North Carolina, so long as the
26 retiree is enrolled.

27 (25) Subscriber. – A Plan member who is not a dependent.

28 (26) Surviving spouse. – The spouse of a deceased Plan member who is
29 eligible for Plan enrollment."

30 **SECTION 3.(f)** G.S. 135-40.2, as amended by Section 28.22A of S.L.
31 2007-323, is recodified as G.S. 135-39.14 under Part 3A of Article 3A of Chapter 135
32 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

33 "**§ 135-39.14. Eligibility.**

34 (a) Noncontributory Coverage. – The following persons are eligible for coverage
35 under the Plan, on a noncontributory basis, subject to the provisions of
36 G.S. 135-40.3G.S. 135-39.16:

37 (1) All permanent full-time employees of an employing unit who meet the
38 following conditions:

39 a. Paid from general or special State funds, or

40 b. Paid from non-State funds and in a group for which his or her
41 employing unit has agreed to provide coverage.

42 Employees of State agencies, departments, institutions, boards, and
43 commissions not otherwise covered by the Plan who are employed in
44 permanent job positions on a recurring basis and who work 30 or more

1 hours per week for nine or more months per calendar year are covered
2 by the provisions of this subdivision.

3 ~~(1a)~~(2) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
4 least one-half of the workdays of each pay period.

5 ~~(2)~~(3) Retired teachers, State employees, members of the General Assembly,
6 and retired State law enforcement officers who retired under the Law
7 Enforcement Officers' Retirement System prior to January 1, 1985.
8 Except as otherwise provided in this subdivision, on and after January
9 1, 1988, a retiring employee or retiree must have completed at least
10 five years of contributory retirement service with an employing unit
11 prior to retirement from any State-supported retirement system in order
12 to be eligible for group benefits under this Part as a retired employee
13 or retiree. For employees first hired on and after October 1, 2006, and
14 members of the General Assembly first taking office on and after
15 February 1, 2007, future coverage as retired employees and retired
16 members of the General Assembly is subject to a requirement that the
17 future retiree have 20 or more years of retirement service credit in
18 order to be covered by the provisions of this subdivision.

19 ~~(2a)~~(4) Surviving spouses of:

- 20 a. Deceased retired employees, provided the death of the former
21 plan member occurred prior to October 1, 1986; and
22 b. Deceased teachers, State employees, and members of the
23 General Assembly who are receiving a survivor's alternate
24 benefit under any of the State-supported retirement programs,
25 provided the death of the former plan member occurred prior to
26 October 1, 1986.

27 ~~(3a)~~(5) Employees of the General Assembly, not otherwise covered by this
28 section, as determined by the Legislative Services Commission, except
29 for legislative interns and pages.

30 ~~(4)~~(6) Members of the General Assembly.

31 ~~(5)~~(7) Notwithstanding the provisions of subsection (e) of this section,
32 employees on official leave of absence while completing a full-time
33 program in school administration in an approved program as a
34 Principal Fellow in accordance with Article 5C of Chapter 116 of the
35 General Statutes.

36 ~~(6)~~(8) Notwithstanding the provisions of G.S. ~~135-40.11~~, G.S. 135-39.24
37 employees formerly covered by the provisions of this section, other
38 than retired employees, who have been employed for 12 or more
39 months by an employing unit and whose jobs are eliminated because
40 of a reduction, in total or in part, in the funds used to support the job or
41 its responsibilities, provided the employees were covered by the Plan
42 at the time of separation from service resulting from a job elimination.
43 Employees covered by this subsection shall be covered for a period of

1 up to 12 months following a separation from service because of a job
2 elimination.

3 ~~(7)~~(9) Any member enrolled pursuant to subdivision (1) or ~~(1a)~~(2) of this
4 subsection who is on approved leave of absence with pay or receiving
5 workers' compensation.

6 ~~(8)~~(10) Employees on approved Family and Medical Leave.

7 ~~(a2)~~(b) Partially Contributory. – The following persons are eligible for coverage
8 under the Plan on a partially contributory basis subject to the provisions of
9 G.S. 135-39.16:

10 (1) A school employee in a job-sharing position as defined in
11 ~~G.S. 130-40.3~~G.S. 135-39.16. If these employees elect to participate
12 in the Plan, the employing unit shall pay fifty percent (50%) of the
13 Plan's total noncontributory premiums. Individual employees shall pay
14 the balance of the total noncontributory premiums not paid by the
15 employing unit.

16 (2) ~~(a3)~~ Subject to the provisions of ~~G.S. 135-40.3~~, G.S. 135-39.16,
17 employees and members of the General Assembly with 10 but less
18 than 20 years of retirement service credit ~~shall be eligible for coverage~~
19 ~~under the Plan on a partially contributory basis~~, provided the
20 employees were first hired on or after October 1, 2006, and the
21 members first took office on or after February 1, 2007. For such future
22 retirees, the State shall pay fifty percent (50%) of the Plan's total
23 noncontributory premiums. Individual retirees shall pay the balance of
24 the total noncontributory premiums not paid by the State.

25 ~~(a4) The Executive Administrator and Board of Trustees may in addition to~~
26 ~~noncontributory coverage offer optional coverage on a partially contributory basis and~~
27 ~~may set premium rates for the optional coverage on a partially contributory basis. The~~
28 ~~amount of State funds contributed for optional coverage on a partially contributory basis~~
29 ~~shall not be more than the Plan's total noncontributory premium for Employee Only~~
30 ~~coverage, with the person selecting the coverage paying the balance of the partially~~
31 ~~contributory premium not paid by the Plan. The amount of State funds contributed shall~~
32 ~~not exceed the Plan's cost for Employee Only coverage. The Executive Administrator~~
33 ~~and Board of Trustees shall not impose a partially contributory premium until after it~~
34 ~~has consulted on the premium and the optional coverage design with the Committee on~~
35 ~~Employee Hospital and Medical Benefits.~~

36 ~~(b)~~(c) Fully Contributory. – The following person shall be eligible for coverage
37 under the Plan, on a fully contributory basis, subject to the provisions of
38 ~~G.S. 135-40.3~~G.S. 135-39.16:

39 ~~(2)~~(1) Former members of the General Assembly who enroll before October
40 1, 1986.

41 ~~(2a)~~(2) For enrollments after September 30, 1986, former members of the
42 General Assembly if covered under the Plan at termination of
43 membership in the General Assembly. To be eligible for coverage as a
44 former member of the General Assembly, application must be made

1 within 30 days of the end of the term of office. Only members of the
2 General Assembly covered by the Plan at the end of the term of office
3 are eligible. If application is not made within the specified time period,
4 the member forfeits eligibility.

5 (3) Surviving spouses of deceased former members of the General
6 Assembly who enroll before October 1, 1986.

7 ~~(3a)~~(4) Employees of the General Assembly, not otherwise covered by this
8 section, as determined by the Legislative Services Commission, except
9 for legislative interns and pages.

10 ~~(3b)~~(5) For enrollments after September 30, 1986, surviving spouses of
11 deceased former members of the General Assembly, if covered under
12 the Plan at the time of death of the former member of the General
13 Assembly.

14 (4)(6) All permanent part-time employees (designated as half-time or more)
15 of an employing unit who meets the conditions outlined in subdivision
16 (a)(1)a above, and who are not covered by the provisions of
17 G.S. 135-40.2(a)(1). ~~G.S. 135-39.14(a)(1)~~.

18 ~~(5)~~(7) The spouses and eligible dependent children of enrolled teachers, State
19 employees, retirees, former members of the General Assembly, former
20 employees covered by the provisions of
21 G.S. 135-40.2(a)(6), G.S. 135-39.14(a)(8), Disability Income Plan
22 beneficiaries, enrolled continuation members, and members of the
23 General Assembly. Spouses of surviving dependents are not eligible,
24 nor are dependent children if they were not covered at the time of the
25 member's death. Surviving spouses may cover their dependent children
26 provided the children were enrolled at the time of the member's death
27 or enroll within ~~30~~90 days of the member's death.

28 ~~(6)~~(8) Blind persons licensed by the State to operate vending facilities under
29 contract with the Department of Health and Human Services, Division
30 of Services for the Blind and its successors, who are:

- 31 a. Operating such a vending facility;
- 32 b. Former operators of such a vending facility whose service as an
33 operator would have made these operators eligible for an early
34 or service retirement allowance under Article 1 of this Chapter
35 had they been members of the Retirement System; and
- 36 c. Former operators of such a vending facility who attain five or
37 more years of service as operators and who become eligible for
38 and receive a disability benefit under the Social Security Act
39 upon cessation of service as an operator.

40 Spouses, dependent children, surviving spouses, and surviving
41 dependent children of such members are not eligible for coverage.

42 ~~(8)~~(9) Surviving spouses of deceased retirees and surviving spouses of
43 deceased teachers, State employees, and members of the General
44 Assembly provided the death of the former Plan member occurred

1 after September 30, 1986, and the surviving spouse was covered under
2 the Plan at the time of death.

- 3 (10) Any eligible dependent child of the deceased retiree, teacher, State
4 employee, member of the General Assembly, former member of the
5 General Assembly, or Disability Income Plan beneficiary, provided the
6 child was covered at the time of death of the retiree, teacher, State
7 employee, member of the General Assembly, former member of the
8 General Assembly, or Disability Income Plan beneficiary, (or was in
9 posse at the time and is covered at birth under this Part), or was
10 covered under the Plan on September 30, 1986. An eligible surviving
11 dependent child can remain covered until age 19, or age 26 if a
12 full-time student, or indefinitely if certified as incapacitated under
13 G.S. 135-40.1(3)b-G.S. 135-39.13(5)b.

- 14 ~~(11a)~~(11) Retired teachers, State employees, and members of the General
15 Assembly with less than 10 years of retirement service credit, provided
16 the teachers and State employees were first hired on or after October 1,
17 2006, and the members first took office on or after February 1, 2007.

- 18 (12) Notwithstanding the provisions of ~~G.S. 135-40.11~~, G.S. 135-39.23
19 former employees covered by the provisions of ~~G.S.~~
20 ~~135-40.2(a)(6)~~, G.S. 135-39.14 and their spouses and eligible
21 dependent children who were covered by the Plan at the time of the
22 former employees' separation from service pursuant to
23 ~~G.S. 135-40.2(a)(6)~~, G.S. 135-39.14, following expiration of the
24 former employees' coverage provided by ~~G.S. 135-40.2(a)(6).~~
25 G.S. 135-39.14. Election of coverage under this subdivision shall be
26 made within 90 days after the termination of coverage provided under
27 ~~G.S. 135-40.2(a)(6)~~. G.S. 135-39.14.

- 28 (13) ~~Firemen~~, Firefighters, rescue squad workers, and members of the
29 national guard, their eligible spouses, and eligible dependent children.

30 (d) A foster child is covered as a dependent child (i) if living in a regular
31 parent-child relationship with the expectation that the employee will continue to rear the
32 child into adulthood, (ii) if at the time of enrollment, or at the time a foster child
33 relationship is established, whichever occurs first, the employee applies for coverage for
34 such child and submits evidence of a bona fide foster child relationship, identifying the
35 foster child by name and setting forth all relevant aspects of the relationship, (iii) if the
36 claims processor accepts the foster child as a participant through a separate written
37 document identifying the foster child by name and specifically recognizing the foster
38 child relationship, and (iv) if at the time a claim is incurred, the foster child relationship,
39 as identified by the employee, continues to exist. Children placed in a home by a
40 welfare agency which obtains control of, and provides for maintenance of the child, are
41 not eligible participants.

42 Coverage of a dependent child may be extended beyond the 19th birthday under the
43 following conditions:

1 (1) If the dependent is a full-time student, between the ages of 19 and 26,
2 who is pursuing a course of study that represents at least the normal
3 workload of a full-time student at a school or college accredited by the
4 state of jurisdiction.

5 (2) The dependent is physically or mentally incapacitated to the extent that
6 he or she is incapable of earning a living and (i) such handicap
7 developed or began to develop before the dependent's 19th birthday, or
8 (ii) such handicap developed or began to develop before the
9 dependent's 26th birthday if the dependent was covered by the Plan in
10 accordance with G.S. 135-39.14(5)a.

11 ~~(e)~~(e) No person shall be eligible for coverage as a dependent if eligible as an
12 employee or retired employee, except when a spouse is eligible on a fully contributory
13 basis. In addition, no person shall be eligible for coverage as a dependent of more than
14 one employee or retired employee at the same time.

15 ~~(d)~~(f) Former employees who are receiving disability retirement benefits or
16 disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes,
17 provided the former employee has at least five years of retirement membership service,
18 shall be eligible for the benefit provisions of this Plan, as set forth in this Part, on a
19 noncontributory basis. Such coverage shall terminate as of the end of the month in
20 which such former employee is no longer eligible for disability retirement benefits or
21 disability income benefits pursuant to Article 6 of this Chapter.

22 ~~(e)~~(g) Employees on official leave of absence without pay may elect to continue this
23 group coverage at group cost provided that they pay the full employee and employer
24 contribution through the employing unit during the leave period.

25 ~~(f)~~(h) For the support of the benefits made available to any member vested at the
26 time of retirement, their spouses or surviving spouses, and the surviving spouses of
27 employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those
28 associations listed in G.S. 135-27(a), licensing and examining boards under
29 G.S. 135-1.1, ~~the North Carolina Art Society, Inc., and the North Carolina Symphony~~
30 ~~Society, Inc.,~~ each association, organization or board shall pay to the Plan the full cost
31 of providing these benefits under this section as determined by the Board of Trustees of
32 the State Health Plan for Teachers and State Employees. In addition, each association,
33 organization or board shall pay to the Plan an amount equal to the cost of the benefits
34 provided under this section to presently retired members of each association,
35 organization or board since such benefits became available at no cost to the retired
36 member.

37 ~~(g)~~(i) An eligible surviving spouse and any eligible surviving dependent child of a
38 deceased retiree, teacher, State employee, member of the General Assembly, former
39 member of the General Assembly, or Disability Income Plan beneficiary shall be
40 eligible for group benefits under this section without waiting periods for preexisting
41 conditions provided coverage is elected within 90 days after the death of the former plan
42 member. Coverage may be elected at a later time, but will be subject to the 12-month
43 waiting period for preexisting conditions and will be effective the first day of the month
44 following receipt of the application.

1 ~~(h)~~(j) No person shall be eligible for coverage as an employee or retired employee
2 or as a dependent of an employee or retired employee upon a finding by the Executive
3 Administrator or Board of Trustees or by a court of competent jurisdiction that the
4 employee or dependent knowingly and willfully made or caused to be made a false
5 statement or false representation of a material fact in a claim for reimbursement of
6 medical services under the Plan. The Executive Administrator and Board of Trustees
7 may make an exception to the provisions of this subsection when persons subject to this
8 subsection have had a cessation of coverage for a period of five years and have made a
9 full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in
10 this subsection shall be construed to obligate the Executive Administrator and Board of
11 Trustees to make an exception as allowed for under this subsection.

12 ~~(i)~~(k) Any employee receiving benefits pursuant to Article 6 of this Chapter when
13 the employee has less than five years of retirement membership service, or an employee
14 on leave without pay due to illness or injury for up to 12 months, is entitled to continued
15 coverage under the Plan for the employee and any eligible dependents by paying one
16 hundred percent (100%) of the cost."

17 **SECTION 3.(g)** Part 3A of Article 3A of Chapter 135 of the General
18 Statutes is amended by adding the following new section to read:

19 "**§ 135-39.15. Enrollment.**

20 (a) Except as otherwise required by applicable federal law, new employees must
21 be given the opportunity to enroll or decline enrollment for themselves and their
22 dependents within 30 days from the date of employment or from first becoming eligible
23 on a noncontributory basis. Coverage may become effective on the first day of the
24 month following date of entry on payroll or on the first day of the following month.
25 New employees not enrolling themselves and their dependents within 30 days, or not
26 adding dependents when first eligible as provided herein may enroll on the first day of
27 any month but will be subject to a 12-month waiting period for preexisting health
28 conditions, except for employees who elect to change their coverage in accordance with
29 rules established by the Executive Administrator and Board of Trustees for optional or
30 alternative plans available under the Plan. Children born to covered employees having
31 coverage type (2) or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered
32 at the time of birth without any waiting period for preexisting health conditions.
33 Children born to covered employees having coverage type (1) shall be automatically
34 covered at birth without any waiting period for preexisting health conditions so long as
35 the claims processor receives notification within 30 days of the date of birth that the
36 employee desires to change from coverage (1) to coverage type (2) or (3), provided that
37 the employee pays any additional premium required by the coverage type selected
38 retroactive to the first day of the month in which the child was born.

39 (b) Newly acquired dependents (spouse/child) enrolled within 30 days of
40 becoming an eligible dependent will not be subject to the 12-month waiting period for
41 preexisting conditions. A dependent can become qualified due to marriage, adoption,
42 entering a foster child relationship, due to the divorce of a dependent child or the death
43 of the spouse of a dependent child, and at the beginning of each legislative session
44 (applies only to enrolled legislators). Effective date for newly acquired dependents if

1 application was made within the 30 days can be the first day of the following month.
2 Effective date for an adopted child can be date of adoption, or date of placement in the
3 adoptive parents' home, or the first of the month following the date of adoption or
4 placement. Firefighters, rescue squad workers, and members of the national guard, and
5 their eligible dependents, are subject to the same terms and conditions as are new
6 employees and their dependents covered by this subdivision. Enrollments in these
7 circumstances must occur within 30 days of eligibility to enroll."

8 **SECTION 3.(h)** G.S. 135-40.3, as amended by Section 28.22A of S.L.
9 2007-323, is recodified as G.S. 135-39.16 under Part 3A of Article 3A of Chapter 135
10 of the General Statutes, as enacted by this act, and as recodified, reads as rewritten:

11 "**§ 135-39.16. Effective dates of coverage.**

12 (a) Employees and Retired Employees. –

- 13 (1) Employees and retired employees covered under the Predecessor Plan
14 will continue to be covered, subject to the terms hereof.
15 (2) New employees may apply for coverage to be effective on the first day
16 of the month following employment, or on a like date the following
17 month if the employee has enrolled.
18 (3) Employees not enrolling or adding dependents when first eligible in
19 accordance with ~~G.S. 135-40.1(7)~~G.S. 135-39.15 may enroll later on
20 the first of any following month but will be subject to a 12-month
21 waiting period for a preexisting health condition, except employees
22 who elect to change their coverage in accordance with rules adopted
23 by the Executive Administrator and Board of Trustees for optional
24 ~~prepaid hospital and medical benefit plans~~alternative plans offered
25 under the Plan.
26 (4) Members of the General Assembly, beginning with the 1985 Session,
27 shall become first eligible with the convening of each Session of the
28 General Assembly, regardless of a Member's service during previous
29 Sessions. Members and their dependents enrolled when first eligible
30 after the convening of each Session of the General Assembly will not
31 be subject to any waiting periods for preexisting health conditions.
32 Members of the 1983 Session of the General Assembly, not already
33 enrolled, shall be eligible to enroll themselves and their dependents on
34 or before October 1, 1983, without being subject to any waiting
35 periods for preexisting health conditions.

36 (b) Waiting Periods and Preexisting Conditions. –

- 37 (1) New employees and dependents enrolling when first eligible are
38 subject to no waiting period for preexisting conditions under the Plan.
39 (2) Employees not enrolling or not adding dependents when first eligible
40 may enroll later on the first of any following month, but will be subject
41 to a twelve-month waiting period for preexisting conditions except as
42 provided in subdivision (a)(3) of this section.
43 (3) Retiring employees and dependents enrolled when first eligible after
44 an employee's retirement are subject to no waiting period for

1 preexisting conditions under the Plan. Retiring employees not enrolled
2 or not adding dependents when first eligible after an employee's
3 retirement may enroll later on the first of any following month, but
4 will be subject to a 12-month waiting period for preexisting conditions
5 except as provided in subdivision (a)(3) of this section.

6 (4) Employees and dependents enrolling or reenrolling within 12 months
7 after a termination of enrollment or employment that were not enrolled
8 at the time of this previous termination, regardless of the employing
9 units involved, shall not be considered as newly-eligible employees or
10 dependents for the purposes of waiting periods and preexisting
11 conditions. Employees and dependents transferring from optional
12 ~~plans in accordance with G.S. 135-39.5B;~~ alternative plans available
13 under the Plan; employees and dependents immediately returning to
14 service from an employing unit's approved periods of leave without
15 pay for illness, injury, educational improvement, workers'
16 compensation, parental duties, or for military reasons; employees and
17 dependents immediately returning to service from a reduction in an
18 employing unit's work force; retiring employees and dependents
19 reenrolled in accordance with
20 ~~G.S. 135-40.3(b)(3);G.S.135-39.16(b)(3);~~ formerly-enrolled
21 dependents reenrolling as eligible employees; formerly-enrolled
22 employees reenrolling as eligible dependents; and employees and
23 dependents reenrolled without waiting periods and preexisting
24 conditions under specific rules ~~and regulations~~ adopted by the
25 Executive Administrator and Board of Trustees in the best interests of
26 the Plan shall not be considered reenrollments for the purpose of this
27 subdivision. Furthermore, employees accepting permanent, full-time
28 appointments who had previously worked in a part-time or temporary
29 position and their qualified dependents shall not be covered by waiting
30 periods and preexisting conditions under this division provided
31 enrollment as a permanent, full-time employee is made when the
32 employee and his dependents are first eligible to enroll.

33 (5) To administer the 12-month waiting period for preexisting conditions
34 under this Article, the Plan must give credit against the 12-month
35 period for the time that a person was covered under a previous plan if
36 the previous plan's coverage was continuous to a date not more than 63
37 days before the effective date of coverage. As used in this subdivision,
38 a "previous plan" means any policy, certificate, contract, or any other
39 arrangement provided by any accident and health insurer, any hospital
40 or medical service corporation, any health maintenance organization,
41 any preferred provider organization, any multiple employer welfare
42 arrangement, any self-insured health benefit arrangement, any
43 governmental health benefit or health care plan or program, or any
44 other health benefit arrangement.

- 1 (c) Dependents of Employees and Retired Employees. –
- 2 (1) Dependents of employees and retired employees who have family
- 3 coverage under the Predecessor Plan will continue to be covered
- 4 subject to the terms hereof.
- 5 (2) Employees who have dependents may apply for family coverage at the
- 6 time they enroll as provided in subdivisions (a)(2) and (a)(3) of this
- 7 section and such dependents will be covered under the Plan beginning
- 8 the same date as such employees.
- 9 (3) Employees and retired employees may change from ~~individual or~~
- 10 ~~parent/child(ren) coverage to parent/child(ren) or family coverage or~~
- 11 ~~add dependents to existing family or parent/child(ren) coverage upon~~
- 12 ~~acquiring a dependent~~ one category of coverage to a different category
- 13 of coverage without a waiting period for preexisting conditions, ~~and~~
- 14 and, as applicable, dependents will be covered under the Plan the first
- 15 of the month or the first of the second month following the dependent's
- 16 eligibility for coverage, provided written application is submitted to
- 17 the Health Benefits Representative within 30 days of becoming
- 18 eligible.
- 19 (4) Employees or retired employees who wish to change ~~from family~~
- 20 ~~coverage to parent/child(ren) or individual or from parent/child(ren) to~~
- 21 ~~individual coverage to~~ employee only coverage shall give written
- 22 notice to their Health Benefits Representative within 30 days after any
- 23 change in the status of dependents, (resulting from death, divorce, etc.)
- 24 that requires a change in contract ~~type~~ category. The effective date will
- 25 be the first of the month following the dependent's ineligibility event.
- 26 If notification was not made within the 30 days following the
- 27 dependent's ineligibility event, the dependent will be retroactively
- 28 removed the first of the month following the dependent's ineligibility
- 29 event, and the coverage ~~type~~ category change will be the first of the
- 30 month following written notification, except in cases of death, in
- 31 which case the coverage ~~type~~ category change will be made retroactive
- 32 to the first of the month following the death.
- 33 (5) Employees not adding dependents when first eligible may enroll later
- 34 on the first of any following month, but dependents will be subject to a
- 35 12-month waiting period for preexisting health conditions except as
- 36 provided in subdivision (a)(3) of this section.
- 37 (6) Employees or retired employees who wish to change to employee only
- 38 coverage from family to parent/child(ren) or individual coverage or
- 39 ~~from parent/child(ren) to individual coverage,~~ even though their
- 40 dependents continue to be eligible, shall give written notification to
- 41 their Health Benefits Representative. ~~Effective~~ Except as otherwise
- 42 required by applicable federal law, e date of this ~~type~~ category change
- 43 will be the first of the month following written notification or any first
- 44 of the month thereafter as desired by the employee.

1 (7) The effective date for newborns or adopted children will be date of
2 birth, date of adoption, or placement with adoptive parent provided
3 member is currently covered under ~~a family or parent/child(ren)~~
4 ~~coverage.~~ employee and family or employee and child coverage. If the
5 member wishes to add a newborn or adopted child and is currently
6 enrolled ~~on individual~~ in employee only coverage, the member must
7 submit application for coverage and a coverage type change within 30
8 days of the child's birth or date of adoption or placement. Effective
9 date for the coverage ~~type category~~ change is the first of the month in
10 which the child is born, adopted, or placed. Adopted children may also
11 be covered the first of the month following placement or adoption.

12 (d) ~~Types-Categories~~ of Coverage Available. – There are ~~three~~ four ~~types~~
13 categories of coverage which an employee or retiree may elect.

14 (1) Employee Only. – Covers enrolled employees only. Maternity benefits
15 are provided to employee only.

16 (2) Employee and ~~Child(ren).~~ Child. – Covers enrolled employee and all
17 eligible dependent children. Maternity benefits are provided to the
18 employee only.

19 (3) Employee and Family. – Covers employee and spouse, and all eligible
20 dependent children. Maternity benefits are provided to employee or
21 enrolled spouse.

22 (4) Employee and spouse. Covers employee and spouse only. Maternity
23 benefits are provided to the employee or the employee's enrolled
24 spouse.

25 (e) Notwithstanding any other provision of this section, no coverage under the
26 Plan shall become effective prior to the payment of premiums required by the Plan.

27 (f) ~~Firemen, Firefighters,~~ rescue squad workers, and members of the national
28 guard are subject to the same terms and conditions of this section as are employees.
29 Eligible dependents of ~~firemen, firefighters,~~ rescue squad workers, and members of the
30 national guard are subject to the same terms and conditions of this section as are
31 dependents of employees.

32 (g) Different categories of coverage may be offered for optional alternative plans
33 or programs.

34 (h) If any provision of this section is in conflict with applicable federal law,
35 federal law shall control to the extent of the conflict."

36 **SECTION 3.(i)** G.S. 135-40.3A is recodified as G.S. 135-39.17 under Part
37 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

38 **SECTION 3.(j)** G.S. 135-40.5, as amended by Section 28.22 of S.L.
39 2007-323, and as further amended by Section 22.28A of S.L. 2007-323, is recodified as
40 G.S. 135-39.18 under Part 3A of Article 3A of Chapter 135 of the General Statutes, as
41 enacted by this act, and as recodified, reads as rewritten:

42 "**§ 135-39.18. Benefits not subject to deductible or coinsurance.**

1 (e) ~~Preadmission Testing.~~ The Plan will pay one hundred percent (100%) of
2 reasonable and customary charges for diagnostic, laboratory and x ray examinations
3 performed on an outpatient basis.

4 (f)(a) Immunizations. – The Plan will pay one hundred percent (100%) of allowable
5 medical charges for immunizations for the prevention of contagious diseases as
6 generally accepted medical practices would dictate when directed by an attending
7 physician, a credentialed provider as determined by the claims processor.

8 (g)(b) Prescription Drugs. – The Plan's allowable charges for prescription legend
9 drugs to be used outside of a hospital or skilled nursing facility ~~are to be~~ shall be as
10 determined by the Plan's Executive Administrator and Board of ~~Trustees.~~ Trustees,
11 which determinations are not subject to appeal under Article 3 of Chapter 150B of the
12 General Statutes.

13 The Plan will pay allowable charges for each outpatient prescription drug less a
14 copayment to be paid by each covered individual equal to the following amounts:
15 pharmacy charges up to ten dollars (\$10.00) for each generic prescription, thirty dollars
16 (\$30.00) for each preferred branded prescription, and forty dollars (\$40.00) for each
17 preferred branded prescription with a generic equivalent drug, and fifty dollars (\$50.00)
18 for each nonpreferred branded or generic prescription. These co-payments apply to the
19 Plan's ~~optional programs.~~ all optional alternative plans available under the Plan.

20 Allowable charges shall not be greater than a pharmacy's usual and customary
21 charge to the general public for a particular prescription. Prescriptions shall be for no
22 more than a 34-day supply for the purposes of the copayments paid by each covered
23 individual. By accepting the copayments and any remaining allowable charges provided
24 by this subsection, pharmacies shall not balance bill an individual covered by the Plan.
25 A prescription legend drug is defined as an article the label of which, under the Federal
26 Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law
27 Prohibits Dispensing Without Prescription." Such articles may not be sold to or
28 purchased by the public without a prescription order. Benefits are provided for insulin
29 even though a prescription is not required. The Plan may use a pharmacy benefit
30 manager to help manage the Plan's outpatient prescription drug coverage. In managing
31 the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit
32 manager shall not provide coverage for ~~erectile sexual dysfunction~~, growth hormone,
33 antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically
34 necessary to the health of the member. The Plan and its pharmacy benefit manager shall
35 not provide coverage for growth hormone and weight loss drugs and antifungal drugs
36 for the treatment of nail fungus and botulinum toxin without approval in advance by the
37 pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator
38 and pharmacy benefit manager shall be an open formulary. Plan members shall not be
39 assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal
40 year in copayments required by this subsection.

41 **SECTION 3.(k)** G.S. 135-40.6A is repealed.

42 **SECTION 3.(l)** Part 3A of Article 3A of Chapter 135 of the General Statutes
43 is amended by adding the following new section to read:

44 **"§ 135-39.19. Prior approval procedures.**

1 The Executive Administrator and Board of Trustees may establish procedures to
2 require prior medical approval and may implement the procedures after consultation
3 with the Committee on Employee Hospital and Medical Benefits."

4 **SECTION 3.(m)** Effective July 1, 2008, G.S. 135-40.7, as amended by
5 Section 28.22A(j) of S.L. 2007-323, is recodified as G.S. 135-39.20 under Part 3A of
6 Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as
7 recodified, reads as rewritten:

8 "**§ 135-39.20. General limitations and exclusions.**

9 The following shall in no event be considered covered expenses nor will benefits
10 described in ~~G.S. 135-40.5 through G.S. 135-40.11~~G.S. 135-39.18 through
11 G.S. 135-39.23 be payable for:

- 12 (1) Charges for any services rendered to a person prior to the date
13 coverage under this Plan becomes effective with respect to such
14 person.
- 15 (2) Charges for care in a nursing home, adult care home, convalescent
16 home, or in any other facility or location for custodial or for rest cures.
- 17 (3) Charges to the extent paid, or which the individual is entitled to have
18 paid, or to obtain without cost, in accordance with any government
19 laws or regulations except Medicare. If a charge is made to any such
20 person which he or she is legally required to pay, any benefits under
21 this Plan will be computed in accordance with its provisions, taking
22 into account only such charge. "Any government" includes the federal,
23 State, provincial or local government, or any political subdivision
24 thereof, of the United States, Canada or any other country.
- 25 (4) Charges for services rendered in connection with any occupational
26 injury or disease arising out of and in the course of employment with
27 any employer, if (i) the employer furnishes, pays for or provides
28 reimbursement for such charges, or (ii) the employer makes a
29 settlement payment for such charges, or (iii) the person incurring such
30 charges waives or fails to assert his or her rights respecting such
31 charges.
- 32 (5) Charges for any care, treatment, services or supplies other than those
33 which are certified by a physician who is attending the individual as
34 being required for the medically necessary treatment of the injury or
35 disease and are deemed medically necessary and appropriate for the
36 treatment of the injury or disease by the Executive Administrator and
37 Board of Trustees upon the advice of the Claims Processor. This
38 subdivision shall not be construed, however, to require certification by
39 an attending physician for a service provided by an advanced practice
40 registered nurse acting within the nurse's lawful scope of ~~practice,~~
41 ~~subject to the limitations of G.S. 135-40.6(10)-practice.~~
- 42 (6) Charges for any services rendered as a result of injury or sickness due
43 to an act of war, declared or undeclared, which act shall have occurred
44 after the effective date of a person's coverage under the Plan.

- 1 (7) Charges for personal services such as barber services, guest meals,
2 radio and TV rentals, etc.
- 3 (8) Charges for any services with respect to which there is no legal
4 obligation to pay. For the purposes of this item, any charge which
5 exceeds the charge that would have been made if a person were not
6 covered under this Plan shall, to the extent of such excess, be treated as
7 a charge for which there is no legal obligation to pay; and any charge
8 made by any person for anything which is normally or customarily
9 furnished by such person without payment from the recipient or user
10 thereof shall also be treated as a charge for which there is no legal
11 obligation to pay.
- 12 (9) Charges during a continuous hospital confinement which commenced
13 prior to the effective date of the person's coverage under this Plan.
- 14 (10) Charges in excess of either ~~the usual, customary and reasonable charge~~
15 ~~for~~ the allowed amount or the reasonable amount, or the fair and
16 reasonable value of the services or supply which gives rise to the
17 expense; provided that in each instance the extent that a particular
18 charge is usual, customary and reasonable or fair and reasonable shall
19 be measured and determined by comparing the charge with charges
20 made for similar things to individuals of similar age, sex, income and
21 medical condition in the locality concerned, and the result of such
22 determination shall constitute the maximum allowable as covered
23 medical expenses unless the Claims Processor finds that considerations
24 of fairness and equity in a particular set of circumstances require that
25 greater or lesser charges be considered as covered medical expenses in
26 that set of circumstances.
- 27 (11) Charges for or in connection with any dental work or dental treatment
28 except to the extent that such work or treatment is specifically
29 provided for under the Plan. Excluded is payment for surgical benefits
30 for tooth replacement, such as crowns, bridges or dentures; orthodontic
31 care; filling of teeth; extraction of teeth (whether or not impacted); root
32 canal therapy; removal of root tips from teeth; treatment for tooth
33 decay, inflammation of gingiva, or surgical procedures on diseased
34 gingiva or other periodontal surgery; repositioning soft tissue,
35 reshaping bone, and removal of bony projections from the ridges
36 preparatory to fitting of dentures; removal of cysts incidental to
37 removal of root tips from teeth and extraction of teeth; or other dental
38 procedures involving teeth and their bones or tissue supporting
39 structure.
- 40 (12) Charges incurred for any medical observations or diagnostic study
41 when no disease or injury is revealed, unless proof satisfactory to the
42 Claims Processor is furnished that (i) the claim is in order in all other
43 respects, (ii) the covered individual had a definite symptomatic
44 condition of disease or injury other than hypochondria, and (iii) the

1 medical observation and diagnostic studies concerned were not
2 undertaken as a matter of routine physical examination or health
3 ~~checkup as provided in G.S. 135-40.6(8)s-checkup.~~

4 (13) Charges for eyeglasses or other corrective lenses (except for cataract
5 lenses certified as medically necessary for aphakia persons) and
6 hearing aids or examinations for the prescription or fitting thereof.

7 (14) Charges for cosmetic surgery or treatment except that charges for
8 cosmetic surgery or treatment required for correction of damage
9 caused by accidental injury sustained by the covered individual while
10 coverage under this plan is in force on his or her account or to correct
11 congenital deformities or anomalies shall not be excluded if they
12 otherwise qualify as covered medical expenses. Reconstructive breast
13 surgery following mastectomy, as those terms are defined in
14 G.S. 58-51-62, is not "cosmetic surgery or treatment" for purposes of
15 this section.

16 (15) Admissions for diagnostic tests or procedures which could be, and
17 generally are, performed on an outpatient basis and inpatient services
18 or supplies which are not consistent with the diagnosis, for which
19 admitted.

20 (16) Costs denied by the Claims Processor as part of its overall program of
21 claim review and cost containment.

22 ~~(16a)~~(17) Charges in excess of negotiated rates allowed for preferred
23 providers of institutional and professional medical care and ~~services in~~
24 ~~accordance with the provisions of G.S. 135-40.4, services,~~ when such
25 preferred providers are reasonably available to provide institutional
26 and professional medical care.

27 ~~(17)~~(18) If a covered service becomes excluded from coverage under the
28 Plan, the Executive Administrator and Claims Processor may, in the
29 event of exceptional situations creating undue hardships or adverse
30 medical conditions, allow persons enrolled in the Plan to remain
31 covered by the Plan's previous coverage for up to three months after
32 the effective date of the change in coverage, provided the persons so
33 enrolled had been undergoing a continuous plan of specific treatment
34 initiated within three months prior to the effective date of the change
35 in coverage.

36 ~~(18)~~(19) Charges for services unless a claim is filed within 18 months from
37 the date of service.

38 ~~(19)~~(20) Any service, treatment, facility, equipment, drug, supply, or
39 procedure that is experimental or investigational as defined in ~~in~~
40 G.S. 135-40.1(7a) by the Plan. Clinical trial phases III and IV are
41 covered by the Plan as is clinical trial phase II when approved by the
42 Plan. Regardless of the type of trial phases covered by the Plan, all
43 covered trials must involve the treatment of life-threatening medical
44 conditions, must be clearly superior to available noninvestigational

1 treatment alternatives, and must have clinical and preclinical data that
2 shows the trials will be at least as effective as noninvestigational
3 alternatives. Trials must also involve determinations by treating
4 physicians, relevant scientific data, and opinions of experts in relevant
5 fields of medicine. Covered trials must be approved by the National
6 Institutes of Health, a National Institutes of Health cooperative group
7 or center, the U.S. Food and Drug Administration, the U.S.
8 Department of Defense, or the U.S. Department of Veterans Affairs.
9 The Plan may also cover clinical trials sponsored by other entities.
10 Trials must also be approved by applicable qualified institutional
11 review boards. All covered trials must be conducted in and by facilities
12 and personnel that maintain a high level of expertise because of their
13 training, experience, and volume of patients. To be covered by the
14 Plan, patients participating in clinical trials must meet substantially all
15 protocol requirements of the trials and exercise informed consent in
16 the trials. Only medically necessary costs of health care services
17 involved in treatments provided to patients for the purpose of the trials
18 are covered by the Plan to the extent that such costs are not
19 customarily funded by national agencies, commercial manufacturers,
20 distributors, or other such providers. Clinical trial costs not covered by
21 the Plan include, but are not limited to, the costs of services that are
22 not health care services and costs associated with managing research in
23 the trials. The Plan shall not exclude benefits for covered clinical trials
24 if the proposed treatment is the only appropriate protocol for the
25 condition being treated.

26 ~~(20)(21)~~ Complications arising from noncovered services known at the time
27 the noncovered services were provided.

28 ~~(21)(22)~~ Charges related to a noncovered service, even if the charges would
29 have been covered if rendered in connection with a covered service.

30 ~~(22)(23)~~ Charges for services covered by the long-term care benefit
31 provisions of ~~Part 4~~Part 4A of this Article.

32 ~~(23)(24)~~ Charges disallowed by the Plan's pharmacy benefits manager."

33 **SECTION 3.(n)** G.S. 135-40.7B, as amended by Section 28.22(f) of S.L.
34 2007-323, and as further amended by Section 28.22A(o) of S.L. 2007-323, is recodified
35 as G.S. 135-39.21 under Part 3A of Article 3A of Chapter 135 of the General Statutes,
36 as enacted by this act, and as recodified, reads as rewritten:

37 **"§ 135-39.21. Special provisions for chemical dependency and mental health**
38 **benefits.**

39 (a) Except as otherwise provided in this section, benefits for the treatment of
40 mental illness and chemical dependency are covered by the Plan and shall be subject to
41 the same deductibles, durational limits, and coinsurance factors as are benefits for
42 physical illness generally.

43 (b) Notwithstanding any other provision of this Part, the following necessary
44 services for the care and treatment of chemical dependency and mental illness shall be

1 covered ~~under~~ as provided in this section: allowable institutional and professional
 2 charges for inpatient care, outpatient care, intensive outpatient program services, partial
 3 hospitalization treatment, and residential care and treatment:

- 4 (1) For mental illness treatment:
- 5 a. Licensed psychiatric hospitals;
 - 6 b. Licensed psychiatric beds in licensed general hospitals;
 - 7 c. Licensed residential treatment facilities that have 24-hour
 8 on-site care provided by a registered nurse who is physically
 9 located at the facility at all times and that hold current
 10 accreditation by a national accrediting body approved by the
 11 Plan's mental health case manager;
 - 12 d. Area Mental Health, Developmental Disabilities, and Substance
 13 Abuse ~~Authorities;~~ Authorities or County Programs in
 14 accordance with G.S. 122C-141;
 - 15 e. Licensed intensive outpatient treatment programs; and
 - 16 f. Licensed partial hospitalization programs.

- 17 (2) For chemical dependency treatment:
- 18 a. Licensed chemical dependency units in licensed psychiatric
 19 hospitals;
 - 20 b. Licensed chemical dependency hospitals;
 - 21 c. Licensed chemical dependency treatment facilities;
 - 22 d. Area Mental Health, Developmental Disabilities, and Substance
 23 Abuse ~~Authorities;~~ Authorities or County Programs in
 24 accordance with G.S. 122C-141;
 - 25 e. Licensed intensive outpatient treatment programs;
 - 26 f. Licensed partial hospitalization programs; and
 - 27 g. Medical detoxification facilities or units.

28 (c) Notwithstanding any other provisions of this Part, the following providers
 29 and no others may provide necessary care and treatment for mental health under this
 30 section:

- 31 (1) Psychiatrists who have completed a residency in psychiatry approved
 32 by the American Council for Graduate Medical Education and who are
 33 licensed as medical doctors or doctors of osteopathy in the state in
 34 which they perform and services covered by the Plan;
- 35 (2) Licensed ~~or certified~~ doctors of psychology;
- 36 (3) ~~Certified clinical~~ Clinical social workers licensed or certified by the
 37 North Carolina Social Work Certification and Licensure Board under
 38 Chapter 90B of the General Statutes ~~and licensed clinical social~~
 39 ~~workers;~~
- 40 ~~(3a)~~ (4) Licensed professional counselors;
- 41 ~~(4)~~ (5) Certified clinical specialists in psychiatric and mental health ~~nursing;~~
 42 nursing in accordance with Article 9A of Chapter 90 of the General
 43 Statutes;

1 ~~(4a)~~~~(6)~~Nurses working under the employment and direct supervision of such
2 physicians, psychologists, or psychiatrists;

3 ~~(6)~~~~(7)~~ Licensed psychological associates;

4 ~~(9)~~~~(8)~~ Certified fee-based practicing pastoral counselors;counselors in
5 accordance with Article 26 of Chapter 90 of the General Statutes;

6 ~~(10)~~~~(9)~~ Licensed physician assistants under the supervision of a licensed
7 psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws
8 and rules of the area in which the physician assistant is licensed or
9 certified; and

10 ~~(11)~~~~(10)~~Licensed marriage and family therapists.

11 (11) Physicians licensed under Chapter 90 of the General Statutes and
12 certified professionals working under the direct supervision of such
13 physicians.

14 ~~(e1)~~~~(d)~~ Notwithstanding any other provisions of this Part, the following providers
15 and no others may provide necessary care and treatment for chemical dependency under
16 this section:

17 (1) The following providers with appropriate substance abuse training and
18 experience in the field of alcohol and other drug abuse as determined
19 by the mental health case manager, in facilities described in
20 subdivision (b)(2) of this section, in day/night programs or outpatient
21 treatment facilities licensed after July 1, 1984, under Article 2 of
22 Chapter 122C of the General Statutes or in North Carolina area
23 programs in substance abuse services are authorized to provide
24 treatment for chemical dependency under this section:

25 a. Licensed physicians including, but not limited to, physicians
26 who are certified in substance abuse by the American Society of
27 Addiction Medicine (ASAM);

28 b. Licensed ~~or certified~~ psychologists;

29 c. Psychiatrists;

30 d. Certified substance abuse counselors working under the direct
31 supervision of such physicians, psychologists, or psychiatrists;

32 e. Licensed psychological associates;

33 f. Nurses working under the direct supervision of such physicians,
34 psychologists, or psychiatrists;

35 g. ~~Certified clinical social workers and licensed clinical social~~
36 ~~workers;~~Clinical social workers licensed or certified by the
37 North Carolina Social Work Certification and Licensure Board
38 under Chapter 90B of the General Statutes;

39 h. Certified clinical specialists in psychiatric and mental health
40 ~~nursing;~~nursing in accordance with Article 9A of Chapter 90 of
41 the General Statutes;

42 i. Licensed professional counselors;

- 1 j. Certified fee-based practicing pastoral ~~counselors~~;counselors in
2 accordance with Article 26 of Chapter 90 of the General
3 Statutes;
4 k. Substance abuse professionals certified under Article 5C of
5 Chapter 90 of the General Statutes; and
6 l. Licensed marriage and family and therapists.
- 7 (2) The following providers with appropriate substance abuse training and
8 experience in the field of alcohol and other drug abuse as determined
9 by the mental health case manager are authorized to provide treatment
10 for chemical dependency in outpatient practice settings:
- 11 a. Licensed physicians including, but not limited to, physicians
12 who are certified in substance abuse by the American Society of
13 Addiction Medicine (ASAM);
14 b. Licensed ~~or certified~~ psychologists;
15 c. Psychiatrists;
16 d. Certified substance abuse counselors working under the direct
17 supervision of such physicians, psychologists, or psychiatrists;
18 e. Licensed psychological associates;
19 f. Nurses working under the direct supervision of such physicians,
20 psychologists, or psychiatrists;
21 g. ~~Certified clinical social workers and licensed clinical social~~
22 ~~workers;~~ Clinical social workers licensed or certified by the
23 North Carolina Social Work Certification and Licensure Board
24 under Chapter 90B of the General Statutes.
25 h. Certified clinical specialists in psychiatric and mental health
26 ~~nursing;~~ nursing in accordance with Article 9A of Chapter 90 of
27 the General Statutes;
28 i. Licensed professional counselors;
29 j. Certified fee-based practicing pastoral ~~counselors~~;counselors in
30 accordance with Article 26 of Chapter 90 of the General
31 Statutes;
32 ~~j-l.~~(k) Licensed marriage and family and therapists;
33 1. Substance abuse professionals certified under Article 5C of
34 Chapter 90 of the General Statutes;and
35 ~~k.~~(m) In the absence of meeting one of the criteria above, the Mental
36 Health Case Manager could consider, on a case-by-case basis, a
37 provider who supplies:
38 1. Evidence of graduate education in the diagnosis and
39 treatment of chemical dependency, and
40 2. Supervised work experience in the diagnosis and
41 treatment of chemical dependency (with supervision by
42 an appropriately credentialed provider), and

1 3. Substantive past and current continuing education in the
2 diagnosis and treatment of chemical dependency
3 commensurate with one's profession.

4 (3) Physicians licensed under Chapter 90 of the General Statutes and
5 certified professionals working under the direct supervision of such
6 physicians.

7 Provided, however, that nothing in this subsection shall prohibit the Plan from
8 requiring the most cost-effective treatment setting to be utilized by the person
9 undergoing necessary care and treatment for chemical dependency.

10 ~~(d)~~(e) Benefits provided under this section shall be subject to a case
11 management program for medical necessity and medical
12 appropriateness consisting of (i) precertification of outpatient visits
13 beyond 26 visits each Plan year, (ii) all electroconvulsive treatment,
14 (iii) inpatient utilization review through preadmission and
15 length-of-stay certification for nonemergency admissions to the
16 following levels of care: inpatient units, partial hospitalization
17 programs, residential treatment centers, chemical dependency
18 detoxification and treatment programs, and intensive outpatient
19 programs, (iv) length-of-stay certification of emergency inpatient
20 admissions, and (v) a network of qualified, available providers of
21 inpatient and outpatient psychiatric and chemical dependency
22 treatment. Care which is not both medically necessary and medically
23 appropriate will be noncertified, and benefits will be denied. ~~Where~~
24 ~~qualified preferred providers of inpatient and outpatient care are~~
25 ~~reasonably available, use of providers outside of the preferred network~~
26 ~~shall be subject to a twenty percent (20%) coinsurance rate up to five~~
27 ~~thousand dollars (\$5,000) per fiscal year to be assessed against each~~
28 ~~covered individual in addition to the general coinsurance percentage~~
29 ~~and maximum fiscal year amount specified by G.S. 135-40.4 and~~
30 ~~G.S. 135-40.6.~~

31 ~~(e)~~(f) For the purpose of this section, "emergency" is the sudden and unexpected
32 onset of a condition manifesting itself by acute symptoms of sufficient severity that, in
33 the absence of an immediate psychiatric or chemical dependency inpatient admission,
34 could imminently result in injury or danger to self or others.

35 ~~(f)~~(g) ~~For purposes of~~As used in this section, the word "Plan" includes all optional
36 and alternative plans, and programs available under the optional or alternative plans, ~~or~~
37 ~~plans~~ in effect under the State Health Plan and its successor Plans."

38 **SECTION 3.(o)** G.S. 135-40.10 is recodified as G.S. 135-39.22 under Part
39 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and, as
40 recodified, reads as rewritten:

41 "**§ 135-39.22. Persons eligible for Medicare; Medicare; optional participation in**
42 **other Medicare products.**

43 (a) Benefits payable for covered expenses under this Plan in
44 ~~G.S. 135-40.5~~G.S. 135-39.18 through ~~G.S. 135-40.9~~G.S. 135-39.22 will be reduced by

1 any benefits payable for the same covered expenses under Medicare, so that Medicare
2 will be the primary carrier except where compliance with federal law specifies
3 otherwise.

4 (b) For those participants eligible for Medicare, the ~~State's plan~~Plan will be
5 administered on a "carve out" basis. The provisions of the ~~plan~~Plan are applied to the
6 charges not paid by Medicare (Parts A & B). In other words, those charges not paid by
7 Medicare would be subject to the deductible and coinsurance of the Plan just as if the
8 charges not paid by Medicare were the total bill.

9 (c) For those individuals eligible for Part A (at no cost to them), benefits under
10 this program will be reduced by the amounts to which the covered individuals would be
11 entitled to under Parts A and B of Medicare, even if they choose not to enroll for Part B.

12 (d) Notwithstanding the foregoing provisions of this section or any other
13 provisions of the Plan, the Executive Administrator and Board of Trustees may enter
14 into negotiations with the ~~Health Care Financing Administration,~~Centers for Medicare
15 and Medicaid Services, U.S. Department of Health and Human Services, in order to
16 secure a more favorable coordination of the Plan's benefits with those provided by
17 Medicare, including but not limited to, measures by which the Plan would provide
18 Medicare benefits for all of its Medicare-eligible members in return for adequate
19 payments from the federal government in providing such benefits. Should such
20 negotiations result in an agreement favorable to the Plan and its Medicare-eligible
21 members, the Executive Administrator and Board of Trustees may, after consultation
22 with the Committee on Employee Hospital and Medical Benefits, implement such an
23 agreement which shall supersede all other provisions of the Plan to the contrary related
24 to its payment of claims for Medicare-eligible members.

25 (e) Notwithstanding subsections (a), (b), and (c) of this section, the Plan may
26 offer an optional Medicare Advantage plan to a Medicare eligible Plan member. A
27 Medicare Advantage plan offered by the Plan shall be an insured product offered
28 through a private insurance carrier authorized by the Centers for Medicare and Medicaid
29 Services to offer Medicare Advantage plans. A Medicare Advantage plan offered by the
30 Plan shall not be a self-funded benefit plan underwritten by the State of North Carolina.
31 Prescription drug benefits shall not be included in the benefits offered under a Medicare
32 Advantage insurance product but shall continue to be provided by the Plan as authorized
33 under G.S. 135-39.18

34 An eligible Plan member may choose to enroll in a Medicare Advantage plan in lieu
35 of any other benefit coverage plan offered under the Plan to Medicare eligible Plan
36 members. A Medicare eligible Plan member must be enrolled in Medicare Part B to
37 participate in an optional Medicare Advantage plan. A non-Medicare eligible dependent
38 of a Medicare Advantage eligible Plan member may enroll on a fully contributory basis
39 in benefit plans offered under the Plan to non-Medicare eligible Plan members. If an
40 enrolled Plan member decides not to re-enroll in an optional Medicare Advantage plan
41 during the Plan's annual enrollment period, the Plan member may at that time re-enroll
42 in other benefit coverage offered by the Plan in accordance with the provisions of
43 subsections (a), (b), and (c) of this section."

1 **SECTION 3.(p)** Part 3A of Article 3A of Chapter 135 of the General
2 Statutes, as enacted by this act, is amended by adding the following new section to read:
3 **"§ 135-39.23. Cost-savings initiatives and incentive programs authorized.**

4 (a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The
5 Executive Administrator and Board of Trustees may authorize coverage for
6 over-the-counter medications as recommended by the Plan's pharmacy and therapeutics
7 committee. In approving for coverage one or more over-the-counter medications, the
8 Executive Administrator and Board of Trustees shall ensure that each recommended
9 over-the-counter medication has been analyzed to ensure medical effectiveness and Plan
10 member safety. The analysis shall also address the financial impact on the Plan. The
11 Executive Administrator and Board of Trustees may impose a co-payment to be paid by
12 each covered individual for each packaged over-the-counter medication. The Executive
13 Administrator and Board of Trustees may adopt policies establishing limits on the
14 amount of coverage available for over-the-counter medications for each covered
15 individual over a 12-month period. Prior to implementing policy and co-payment
16 changes authorized under this section, the Executive Administrator and Board of
17 Trustees shall submit the proposed policies and co-payments to the Committee on
18 Employee Hospital and Medical Benefits for its review.

19 (b) Incentive Programs. – For the purposes of helping Plan members to achieve
20 and maintain a healthy lifestyle without impairing patient care, and to increase cost
21 effectiveness in Plan coverage, the Executive Administrator and Board of Trustees may
22 adopt programs offering incentives to Plan members to encourage changes in member
23 behavior or lifestyle designed to improve member health and promote cost-efficiency in
24 the Plan. Participation in one or more incentive programs is voluntary on the part of the
25 Plan member. Before adopting an incentive program, the Executive Administrator and
26 Board of Trustees shall conduct an impact analysis on the proposed incentive program
27 to determine (i) whether the program is likely to result in significant member
28 satisfaction, (ii) that it will not adversely affect quality of care, and (iii) whether it is
29 likely to result in significant cost savings to the Plan. The impact analysis may be
30 conducted by a committee of the Plan, in conjunction with the Plan's consulting actuary,
31 provided that the Plan's medical director participates in the analysis. An approved
32 incentive plan may provide for a waiver of deductibles, co-payments, and coinsurance
33 required under this Article in order to determine the effectiveness of the incentive
34 program in promoting healthy lifestyles for members and increasing cost-effectiveness
35 to the Plan. The Executive Administrator and Board of Trustees shall, before
36 implementing incentive programs authorized under this section, submit the proposed
37 programs to the Committee on Employee Hospital and Medical Benefits for review."

38 **SECTION 3.(q)** G.S. 135-40.11 is recodified as G.S. 135-39.24 under Part
39 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act, and as
40 recodified, reads as rewritten:

41 **"§ 135-39.24. Cessation of coverage.**

42 (a) Coverage under this Plan of an employee and his or her surviving spouse or
43 eligible dependent children or of a retired employee and his or her surviving spouse or
44 eligible dependent children shall cease on the earliest of the following dates:

- 1 (1) The last day of the month in which an employee or retired employee
2 dies. Provided such surviving spouse or eligible dependent children
3 were covered under the Plan at the time of death of the former
4 employee or retired employee, or were covered on September 30,
5 1986, any such surviving spouse or eligible dependent children may
6 then elect to continue coverage under the Plan by submitting written
7 application to the Claims Processor and by paying the cost for such
8 coverage when due at the applicable fees. Such coverage shall cease
9 on the last day of the month in which such surviving spouse or eligible
10 dependent children die, except as provided by this Article.
- 11 (2) The last day of the month in which an employee's employment with
12 the State is terminated as provided in subsection (c) of this section.
- 13 (3) The last day of the month in which a divorce becomes final.
- 14 (4) The last day of the month in which an employee or retired employee
15 requests cancellation of coverage.
- 16 (5) The last day of the month in which a covered individual enters active
17 military service.
- 18 (6) The last day of the month in which a covered individual is found to
19 have knowingly and willfully made or caused to be made a false
20 statement or false representation of a material fact in a claim for
21 reimbursement of medical services under the Plan. The Executive
22 Administrator and Board of Trustees may make an exception to the
23 provisions of this subdivision when persons subject to this subdivision
24 have had a cessation of coverage for a period of five years and have
25 made a full and complete restitution to the Plan for all fraudulent claim
26 amounts. Nothing in this subdivision shall be construed to obligate the
27 Executive Administrator and Board of Trustees to make an exception
28 as allowed for under this subdivision.
- 29 (7) The last day of the month in which an employee who is
30 Medicare-eligible selects Medicare to be the primary payer of medical
31 benefits. Coverage for a Medicare-eligible spouse of an employee shall
32 also cease the last day of the month in which Medicare is selected to
33 be the primary payer of medical benefits for the Medicare-eligible
34 spouse. Such members are eligible to apply for conversion coverage.
- 35 (b) Coverage under this Plan as a dependent child ceases when the child ceases to
36 be a dependent child as defined by ~~G.S. 135-40.1(3)~~G.S. 135-39.13 except, coverage
37 may continue under this Plan for a period of not more than 36 months after loss of
38 dependent status on a fully contributory basis provided the dependent child was covered
39 under the Plan at the time of loss of dependent status.
- 40 ~~(b)(c)~~ Coverage under the Plan as a surviving dependent child whether covered
41 as a dependent of a surviving spouse, or as an individual member (no living parent),
42 ceases when the child ceases to be a dependent child as defined by
43 ~~G.S. 135-40.1(3)~~G.S. 135-39.13, except coverage may continue under the Plan on a

1 fully contributory basis for a period of not more than 36 months after loss of dependent
2 status.

3 ~~(e)~~(d) Termination of employment shall mean termination for any reason,
4 including layoff and leave of absence, except as provided in subdivisions (a)(1) and (2)
5 of this section, but shall not, for purposes of this Plan, include retirement upon which
6 the employee is granted an immediate service or disability pension under and pursuant
7 to a State-supported Retirement System.

8 (1) In the event of termination for any reason other than death, coverage
9 under the Plan for an employee and his or her eligible spouse or
10 dependent children, provided the eligible spouse or dependent children
11 were covered under the Plan at termination of employment may be
12 continued for a period of not more than 18 months following
13 termination of employment on a fully contributory basis. Employees
14 who were covered under the Plan at termination of employment may
15 be continued for a period of not more than 18 months or 29 months if
16 determined to be disabled under the Social Security Act, Title II,
17 OASDI or Title XVI, SSI.

18 ~~(3)~~(2) In the event of approved leave of absence without pay, other than for
19 active duty in the armed forces of the United States, coverage under
20 this Plan for an employee and his or her dependents may be continued
21 during the period of such leave of absence by the employee's paying
22 one hundred percent (100%) of the cost.

23 ~~(4)~~(3) If employment is terminated in the second half of a calendar month
24 and the covered individual has made the required contribution for any
25 coverage in the following month, that coverage will be continued to
26 the end of the calendar month following the month in which
27 employment was terminated.

28 ~~(5)~~(4) Employees paid for less than 12 months in a year, who are terminated
29 at the end of the work year and who have made contributions for the
30 non-work months, will continue to be covered to the end of the period
31 for which they have made contributions, with the understanding that if
32 they are not employed by another State-covered employer under this
33 Plan at the beginning of the next work year, the employee will refund
34 to the ex-employer the amount of the employer's cost paid for them
35 during the non-paycheck months.

36 ~~(6)~~(5) Any employee receiving benefits pursuant to Article 6 of this Chapter
37 when the employee has less than five years of retirement membership
38 service, or an employee on leave of absence without pay due to illness
39 or injury for up to 12 months, is entitled to continued coverage under
40 the Plan for the employee and any eligible dependents by the
41 employee's paying one hundred percent (100%) of the cost.

42 ~~(d) No benefits will be paid by this Plan for any expenses incurred or treatment~~
43 ~~received after cessation of coverage as provided in subsections (a) or (b) of this section.~~

1 ~~except that in the event of hospital confinement at that time, hospitalization benefits as~~
2 ~~described in G.S. 135-40.6 will continue to the extent provided therein.~~

3 ~~(e)~~(d) A legally divorced spouse and any eligible dependent children of a covered
4 employee or retired employee may continue coverage under this Plan for a period of not
5 more than 36 months following the first of the month after a divorce becomes final on a
6 fully contributory basis, provided the former spouse and any eligible dependent children
7 were covered under the Plan at the time a divorce became final.

8 ~~(f)~~(e) A legally separated spouse of a covered employee or retired employee may
9 continue coverage under this Plan for a period not to exceed 36 months from the
10 separation date on a fully contributory basis, provided the separated spouse was covered
11 under the Plan at the time of separation and provided the covered employee's or retired
12 employee's actions result in the loss of coverage for the separated spouse. Eligible
13 dependent children may also continue coverage if covered under the Plan at time of
14 separation, provided the employee's or retired employee's actions result in the loss of
15 coverage for the dependent children.

16 ~~(g)~~(f) Whenever this section gives a right to continuation coverage, such coverage
17 must be elected ~~no later than a date set by the Executive Administrator and Board of~~
18 ~~Trustees, within the time allowed by applicable federal law.~~

19 ~~(h)~~(g) Continuation coverage under this Plan shall not be continued past the
20 occurrence of any one of the following events:

- 21 (1) The termination of the Plan.
- 22 (2) Failure of a Plan member to pay monthly in advance any required
23 premiums.
- 24 (3) A person becomes a covered employee or a dependent of a covered
25 employee under any group health plan and that group health plan has
26 no restrictions or limitations on benefits.
- 27 (4) A person becomes eligible for Medicare benefits on or after the
28 effective date of the continuation coverage.
- 29 (5) The person was determined to be no longer disabled, provided the
30 18-month coverage was extended to 29 months due to having been
31 determined to be disabled under the Social Security Act, Title II,
32 OASDI or Title XVI, SSI.
- 33 (6) The person reaches the maximum applicable continuation period of 18,
34 29, or 36 months.

35 ~~(i)~~(h) Notice requirements concerning continuation coverage shall be developed by
36 the Executive Administrator and Board of Trustees.

37 ~~(j)~~(i) The spouse and any eligible dependent children of a covered employee may
38 continue coverage under the Plan on a fully contributory basis for a period not to exceed
39 36 months from the date the employee becomes eligible for Medicare benefits which
40 results in a loss of coverage under the Plan, provided that the spouse and eligible
41 dependent children were covered under the Plan at the time the employee became
42 eligible for Medicare benefits which results in a loss of coverage under the Plan."

43 **SECTION 3.(r)** G.S. 135-40.12 is recodified as G.S. 135-39.25 under Part
44 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

1 **SECTION 3.(s)** G.S. 135-40.13 is recodified as G.S. 135-39.26 under Part
2 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

3 **SECTION 3.(t)** G.S. 135-40.13A is recodified as G.S. 135-39.27 under Part
4 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

5 **SECTION 3.(u)** G.S. 135-40.14 is recodified as G.S. 135-39.28 under Part
6 3A of Article 3A of Chapter 135 of the General Statutes, as enacted by this act.

7 **SECTION 4.(a)** Parts 4 and 5 of Article 3 of Chapter 135 of the General
8 Statutes are recodified as Parts 4A and 5A, respectively, under Article 3A of Chapter
9 135 of the General Statutes, as enacted by this act.

10 **SECTION 4.(b)** G.S. 135-41, as amended by Section 28.22A(o) of S.L.
11 2007-323, is recodified under Part 4A of Article 3A of Chapter 135 of the General
12 Statutes, as enacted by this act.

13 **SECTION 4.(c)** G.S. 135-41(b), as recodified by this act, and as amended by
14 Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

15 " (b) The long-term care benefits provided by this Part shall be made available
16 through the State Health Plan for Teachers and State Employees pursuant to Article 2A
17 and 3A of this Chapter (hereinafter called the "Plan") and administered by the Plan's
18 Executive Administrator and Board of Trustees. In administering the benefits provided
19 by this Part, the Executive Administrator and Board of Trustees shall have the same
20 type of powers and duties that are provided under ~~Part 3~~Part 3A of this Article for
21 hospital and medical benefits. The benefits provided by this Part may be offered by the
22 Plan on a self-insured basis, in which case a third-party claims processor shall be chosen
23 through competitive ~~bids in accordance with State law,~~bids, or through a contract of
24 insurance, in which case a carrier licensed to do business in North Carolina shall be
25 selected on a competitive bid basis in accordance with State law."

26 **SECTION 4.(d)** G.S. 135-41.1 is recodified under Part 4A of Article 3A of
27 Chapter 135 of the General Statutes, as enacted by this act.

28 **SECTION 4.(e)** The lead paragraph of G.S. 135-41.1, as recodified by this
29 act under Part 4A of this Article, reads as rewritten:

30 "**§ 135-41.1. Long-term care benefits.**

31 Long-term care benefits provided by this Part are subject to elimination periods,
32 coinsurance provisions, and other limitations separate and apart from those provided for
33 in ~~Part 3~~Part 3A of this Article. No limitation on out-of-pocket expenses are provided
34 for the benefits covered by this section. Long-term care benefits are as follows:"

35 **SECTION 5.(a)** G.S. 135-42 is recodified under Part 5A of Article 3A of
36 Chapter 135 of the General Statutes, as enacted by this act.

37 **SECTION 5.(b)** Effective July 1, 2008, G.S. 135-42, as amended by Section
38 28.22A of S.L. 2007-323, and as recodified by this act, reads as rewritten:

39 "**§ 135-42. Undertaking.**

40 (a) The State of North Carolina undertakes to make available a health insurance
41 program for children (hereinafter called the "Program") to provide comprehensive acute
42 medical care to low-income, uninsured children who are residents of this State and who
43 meet the eligibility requirements established for the Program under Part 8 of Article 2 of
44 Chapter 108A of the General Statutes. The Executive Administrator and Board of

1 Trustees of the State Health Plan for Teachers and State Employees (hereinafter called
2 the "Plan") shall administer the Program under this Part and shall carry out their duties
3 and responsibilities in accordance with ~~Parts 2 and 3~~ Parts 2A and 3A of this Article and
4 with applicable provisions of Part 8 of Article 2 of Chapter 108A. The Plan shall not
5 incur any financial obligations for the Program in excess of the amount of funds that the
6 Plan receives for the Program.(b) The benefits provided under the Program shall be
7 equivalent to and made available through the Plan pursuant to Articles 2 and ~~3~~ 3A of
8 this Chapter and as provided under G.S. 108A-70.21(b) and administered by the Plan's
9 Executive Administrator and Board of Trustees. To the extent there is a conflict
10 between the provisions of Part 8 of Article 2 of Chapter 108A and ~~Part 3~~ Part 3A of this
11 Article pertaining to eligibility, fees, deductibles, copayments, and other cost-sharing
12 charges, the provisions of Part 8 of Article 2 of Chapter 108A shall control. In
13 administering the benefits provided by this Part, the Executive Administrator and Board
14 of Trustees shall have the same type of powers and duties that are provided under ~~Part~~
15 3Part 3A of this Article for hospital and medical benefits.

16 (c) The benefits authorized by this Part are available only to children who are
17 residents of this State and who meet the eligibility requirements established for the
18 Program under Part 8 of Article 2 of Chapter 108A of the General Statutes."

19 **SECTION 5.(c)** It is the intent of the General Assembly that administration
20 of The North Carolina Health Choice Program ("Program") shall be as provided by law.
21 The Program shall continue to provide comprehensive acute medical care to
22 low-income, uninsured children who are residents of this State and who meet the
23 eligibility requirements established for the Program under Part 8 of Article 2 of Chapter
24 108A of the General Statutes.

25 **SECTION 5.(d)** Effective January 1, 2009, G.S. 108A-70.20 reads as
26 rewritten:

27 "**§ 108A-70.20. Program established.**

28 The Health Insurance Program for Children is ~~established~~ established and may be
29 cited as NC Health Choice. The Program shall be administered, including
30 claims processing, by the Department of Health and Human Services in accordance with
31 this Part as provided by law and as required under Title XXI and related federal rules
32 and regulations. The benefits authorized by this Part are available only to children who
33 are residents of this State and who meet the eligibility requirements established for the
34 Program under Part 8 of Article 2 of Chapter 108A of the General Statutes."

35 ~~Administration of Program benefits and claims processing shall be as provided~~
36 ~~under Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

37 **SECTION 5.(e)** Effective January 1, 2009, Part 5A of Article 3A of Chapter
38 135 of the General Statutes, as amended by this act, is repealed.

39 **SECTION 5.(f)** Effective January 1, 2009, G.S. 108A-70.24 is repealed.

40 **SECTION 5.(g)** Effective January 1, 2009, G.S. 108A-70.27(c) is repealed.

41 **SECTION 6.(a)** Effective July 1, 2008, G.S. 150B-1(d)(7), as amended by
42 Section 28.22A(o) of S.L. 2007-323, reads as rewritten:

43 "(7) The State Health Plan for Teachers and State Employees in
44 administering the provisions of ~~Parts 2, 3, 4, and 5 of Article 3~~ Parts

1 2A, 3A, 4A, and 5A of Article 3A of Chapter 135 of the General
2 Statutes."

3 **SECTION 6.(b)** Effective July 1, 2009, G.S. 150B-1(d)(7), as amended by
4 this act, reads as rewritten:

5 "(7) The State Health Plan for Teachers and State Employees in
6 administering the provisions of Parts 2A, 3A, ~~4A, and 5A~~ and 4A of
7 Article 3A of Chapter 135 of the General Statutes."

8 **SECTION 6.(c)** G.S. 150B-38(a) reads as rewritten:

9 "(a) The provisions of this Article shall apply to:

- 10 (1) Occupational licensing agencies.
11 (2) The State Banking Commission, the Commissioner of Banks, and the
12 Credit Union Division of the Department of Commerce.
13 (3) The Department of Insurance and the Commissioner of Insurance.
14 (4) The State Chief Information Officer in the administration of the
15 provisions of Article 3D of Chapter 147 of the General Statutes.
16 (5) The North Carolina State Building Code Council.
17 (6) The State Health Plan for Teachers and State Employees for purposes
18 of G.S. 150B-44."

19 **SECTION 7.** Section 31.24 of S.L. 2004-124 is repealed.

20 **SECTION 8.** Effective through December 31, 2008, deductible and
21 coinsurance amounts applicable under the State Health Plan for Teachers and State
22 Employees shall be fifty percent (50%) of the annual deductible and coinsurance
23 amounts to reflect the Plan Year change from a fiscal year to a calendar year effective
24 January 1, 2009.

25 **SECTION 9.** Section 6 of S.L. 2006-249 reads as rewritten:

26 "**SECTION 6.** Effective Date. – Sections 1 through 5 of this act become effective
27 July 1, 2006. ~~Section 1 of this act expires July 1, 2009.~~ The remainder of this act is
28 effective when it becomes law."

29 **SECTION 10.** This act becomes effective July 1, 2008.
30