GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SENATE BILL 307
RATIFIED BILL

AN ACT TO ESTABLISH THE NORTH CAROLINA SMART CARD PILOT PROGRAM TO COMBAT FRAUD.

The General Assembly of North Carolina enacts:

SECTION 1. Smart Card Pilot Program. – There is established under the Department of Health and Human Services the North Carolina Smart Card Pilot Program. The pilot program shall be administered by the Provider and Recipient Services Unit of the Division of Medical Assistance. The Department shall determine the scope of the pilot program and may enter into an agreement with a third-party vendor for the purpose of developing and executing the pilot program in accordance with this act. The pilot program shall be initiated for a six- to 12-month period. The pilot program shall involve enrollment, distribution, and use of smart cards by designated recipients as replacements for currently used Medicaid assistance cards.

SECTION 2.(a) The pilot program shall be designed to do all of the following:

(1) Authenticate recipients at the onset and completion of each point of transaction in order to prevent card sharing and other forms of fraud.
(2) Deny ineligible persons at the point of transaction.
(3) Authenticate providers at the point of transaction to prevent phantom billing and other forms of provider fraud.
(4) Secure and protect the personal identity and information of recipients.
(5) Reduce the total amount of medical assistance expenditures by reducing the average cost per recipient.

SECTION 2.(b) The pilot program may include all of the following:

(1) A secure Web-based information system for recording and reporting authenticated transactions.
(2) A secure Web-based information system that interfaces with the appropriate State databases to determine eligibility of recipients.
(3) A system that gathers analytical information to be provided to data-mining companies in order to assist in data-mining processes.
(4) A smart card with the ability to store multiple recipients' information on one card.
(5) No requirement for preenrollment of recipients.
(6) An image of the recipient stored on both the smart card and database.

SECTION 2.(c) In implementing the pilot program, the Department may do the following:

(1) Incorporate additional or alternative methods of authentication of recipients.
(2) Enter and store billing codes, deductible amounts, and bill confirmations.
(3) Allow electronic prescribing services and prescription database integration and tracking in order to prevent medical error through information sharing and to reduce pharmaceutical abuse and lower health care costs.
(4) Implement quick-pay incentives for providers when electronic prescribing services, electronic health records, electronic patient records, or computerized patient records used by providers automatically synchronize with recipients' smart cards and electronically submit a claim.
(5) Allow the program, including, but not limited to, smart cards, fingerprint scanners, and card readers, to be adapted for use by other State programs administered by the Department in order to reduce costs associated with the necessity of multiple cards per recipient.

SECTION 2.(d) The pilot program shall be considered a success if it meets the minimum criteria defined by this act and reduces the average monthly cost of recipients within the pilot program area to recover the cost of the smart card program. In the event that the pilot program does not meet the minimum criteria to be considered a success, the Department may extend and revise the pilot program as necessary and reevaluate the results. In order to evaluate the average monthly cost of recipients within the pilot program and develop the strategy necessary to target the highest rate of savings to the State plan, four sample sets of figures shall be analyzed for the pilot program, including the following:

(1) Establishment of base figures. – Gather claims data for a first sample set, which shall include all claims for the recipients within the pilot program area and the average cost per recipient by provider type and county from at least the prior year for the exact time period for all areas in the pilot program.

(2) Adjusted base figures for increase or decrease in cost of services. – In order to evaluate increases or decreases in the cost of services, a second sample set shall be gathered and adjusted to the base figures of the first sample set. The second sample set of claims data shall represent a rural area and an urban area not participating in the pilot program, with as close as possible demographics as the population of recipients in the pilot program areas, including specific data relating to sex, age, race, and ethnicity, county similarities, number of providers, and the average cost per recipient. This sample set shall be analyzed against the prior year's figures and compared to current year figures for the same time frame and area to determine an increase or decrease in cost of services. This sample set shall not have any major changes from the prior year to the current year that would change the comparison, such as the introduction of managed care in the area. The increase or decrease in cost per recipient from this sampling set shall be factored into the data set determined pursuant to subdivision (1) of this subsection to derive at an adjusted base figure or average cost per recipient per month.

(3) Comparison of base figures to current figures. – A third sample set of data shall be gathered reflecting the claims data of the recipients and the average cost per recipient on a monthly basis during the pilot program by provider type. A comparison of the adjusted base figures arrived at by the prior sampling set with the actual figures from this third sample set shall be made to determine how much the State saved by provider type. Recipients leaving the pilot program area to avoid fraud detection will be noted, thus the third sample set will be adjusted by claims derived outside of the pilot program area.

(4) Recipient surveying. – A fourth sample set of data shall be obtained by sampling two percent (2%) of Medicaid recipients in the pilot program area and shall be surveyed prior to the start of the pilot program to acknowledge services used, frequency of services used, and satisfaction of services used. This survey shall be taken again at the completion of the pilot program to rate the level of satisfaction of the pilot program.

SECTION 2.(e) The pilot program shall not be expanded unless the Department's data indicates that the program can be expanded through program savings. During the pilot program, the Department may consider the feasibility of expanding the pilot program, including the need to develop rules and policies related to the following:

(1) The handling of lost, forgotten, or stolen cards.

(2) Enrolling all recipients, regardless of age, for participation in the program.

(3) Distributing and activating smart cards for designated recipients.

SECTION 2.(f) The Department shall work with the Division of Motor Vehicles to ensure that State data, such as drivers license photos and other identification data, is leveraged to reduce program cost.

SECTION 3. Reports. – By June 30, 2012, the Department shall submit a detailed written report on the implementation and success of the smart card pilot program to the Governor, to the Speaker of the House of Representatives, to the President Pro Tempore of the Senate, to the Chairs of the Senate and House of Representatives Appropriations Committees, and to the Fiscal Research Division.

SECTION 4. Compliance. – This act shall be construed consistent with the federal Social Security Act, and any provision of this article found to be in conflict with the federal Social Security Act shall be deemed to be void and of no effect. If before implementing any provision of this act, the Department determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the Department shall request the waiver or authorization as soon as practicable.

SECTION 5. Prosecutions. – All federal and State laws regulating the privacy of personal health information, including the Health Insurance Portability and Accountability Act of 1998 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act shall apply. If, in connection with the pilot program, the Department has reason to believe medical assistance fraud has been committed, the Department shall refer such matters to the Attorney General for prosecution, as appropriate. Prosecutions can involve both criminal and civil penalties allowable under law, up to a felony criminal conviction.

SECTION 6. Contracts. – Sections 4 and 5 of this act shall apply to all contracts made by the Department in regard to this pilot program. All compliance and prosecution provisions in this act shall be incorporated into all contracts, subcontracts, and any other contractual documents created between the Department and a third-party vendor. All contracting parties will be subject to all applicable federal and State laws and will be subject to prosecution if there is any violation of federal or State laws with regard to privacy of personal health information. The Department, if acting in good faith, shall not be held responsible for any action of any contractor or subcontractor in the event that that contractor or subcontractor violates any federal or State laws regarding the protection of personal health information.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2011.

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Richard Y. Stevens
Presiding Officer of the Senate

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Thom Tillis
Speaker of the House of Representatives

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Beverly E. Perdue
Governor

Approved _____.m. this _____ day of _____, 2011