

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 985*
Committee Substitute Favorable 5/8/89

Short Title: N.C. Health Insurance Pool.

(Public)

Sponsors:

Referred to:

April 3, 1989

A BILL TO BE ENTITLED
AN ACT TO CREATE THE NORTH CAROLINA HEALTH INSURANCE POOL.
The General Assembly of North Carolina enacts:

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

“ARTICLE 51.
“NORTH CAROLINA HEALTH INSURANCE POOL.

“§ 58-790. Purpose.

The purpose of this Article is to establish a mechanism through which adequate levels of health insurance coverages can be made available to residents of this State who are otherwise unable to obtain such coverage because of their health.

“§ 58-791. Definitions.

As used in this Article:

- (1) ‘Benefits plan’ means the coverages to be offered by the Pool to eligible persons pursuant to G.S. 58-796.
- (2) ‘Board’ means the Board of Directors of the Pool.
- (3) ‘Health insurance’ means a hospital and medical expense-incurred policy, nonprofit hospital or medical service corporation contract, and health maintenance organization subscriber contract. The term does not include short term, accident, or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of a workers’ compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or

1 without regard to fault and that is statutorily required to be contained
2 in any liability insurance policy or equivalent self-insurance.

3 (4) 'Health maintenance organization' means any person who undertakes
4 to provide or arrange for one or more health plans and is regulated by
5 Chapter 57B of the General Statutes.

6 (5) 'Insurance arrangement' means any plan, program, contract, or any
7 other arrangement under which one or more employers, unions, or
8 other organizations provide to their employees or members, either
9 directly or indirectly through a trust or third party administrator, health
10 care services or benefits other than through an insurer.

11 (6) 'Insured' means any individual resident of this State who is eligible to
12 receive benefits from any insurer or insurance arrangement as defined
13 in this section.

14 (7) 'Insurer' means any insurance company licensed to write health
15 insurance in this State; any hospital, medical, or dental service
16 corporation formed under Chapter 57 of the General Statutes; health
17 maintenance organizations formed under Chapter 57B of the General
18 Statutes; and all other health benefit providers not regulated by any
19 other State or federal agency.

20 (8) 'Medicare' means coverage under both Parts A and B of Title XVIII of
21 the Social Security Act, 42 U.S.C. §1395 et seq., as amended.

22 (9) 'Member' means each insurer and insurance arrangement participating
23 in the Pool.

24 (10) 'Plan' means the plan of operation of the Pool, including articles,
25 bylaws, and operating rules, adopted by the Board pursuant to G.S. 58-
26 793.

27 (11) 'Pool' means the North Carolina Health Insurance Pool created in G.S.
28 58-792.

29 **"§ 58-792. Creation and operation of the Pool.**

30 (a) There is created a nonprofit entity to be known as the North Carolina Health
31 Insurance Pool. All insurers issuing health insurance in this State and all insurance
32 arrangements providing health plan benefits in this State on and after January 1, 1990,
33 shall be members of the Pool, except as otherwise provided for in this Article. The Pool
34 shall be governed by the Board.

35 (b) The Commissioner shall, within 90 days after January 1, 1990, give notice to
36 all insurers and insurance arrangements of the time and place for the initial
37 organizational meetings of the Board. The Commissioner shall appoint the Board
38 members, all of whom shall serve at the pleasure of the Commissioner. The Board shall
39 at all times, to the extent possible, include representatives from at least one domestic
40 and one foreign insurance company licensed to write health insurance in this State; one
41 domestic nonprofit hospital, medical, or dental service plan; one health maintenance
42 organization; one third party administrator; one licensed health insurance agent; the
43 Commissioner; and one member of the general public who is not associated with the
44 medical profession, a hospital, or an insurer.

1 (c) The Board shall submit to the Commissioner a Plan for the Pool and any
2 amendments thereto necessary or suitable to assure the fair, reasonable, and equitable
3 administration of the Pool. The Commissioner shall, after notice and hearing, approve
4 the Plan; provided such is determined to be suitable to assure the fair, reasonable, and
5 equitable administration of the Pool, and provides for the sharing of Pool gains or losses
6 on an equitable, proportionate basis. The Plan shall become effective upon approval in
7 writing by the Commissioner consistent with the date on which the coverage under this
8 Article must be made available. If the Board fails to submit a Plan within 190 days after
9 its creation, or at any time thereafter fails to submit suitable amendments to the Plan, the
10 Commissioner shall, after notice and hearing, adopt and promulgate such reasonable
11 rules as are necessary or advisable to effectuate the provisions of this Article. Such
12 rules shall continue in force until modified by the Commissioner or superseded by a
13 Plan submitted by the Board and approved by the Commissioner.

14 (d) In its Plan the Board shall:

- 15 (1) Establish procedures for the handling and accounting of assets and
16 monies of the Pool;
- 17 (2) Establish procedures for the determination of needed funding to
18 provide for claims to be paid under the Plan, administrative expenses,
19 and needed reserves.
- 20 (3) Develop and implement a program to publicize the existence of the
21 Plan, the eligibility requirements, and procedures for enrollment; and
22 to maintain public awareness of the Plan.

23 (e) The Board and Pool shall have the general powers and authority granted
24 under the laws of this State to insurance companies licensed to transact the health
25 insurance and the specific authority to:

- 26 (1) Enter into contracts as are necessary or proper to carry out the
27 provisions and purposes of this Article; including the authority, with
28 the approval of the Commissioner, to enter into contracts with similar
29 pools of other states for the joint performance of common
30 administrative functions, or with persons or other organizations for the
31 performance of administrative functions.
- 32 (2) Sue or be sued, including taking any legal actions necessary or proper
33 for recovery of any assessments for, on behalf of, or against Pool
34 members.
- 35 (3) Take such legal action as necessary to avoid the payment of improper
36 claims against the Pool or the coverage provided by or through the
37 Pool.
- 38 (4) Establish appropriate rates, rate schedules, rate adjustments, expense
39 allowances, agents' referral fees, claim reserve formulas, and any other
40 actuarial function appropriate to the operation of the Pool. Rates shall
41 not be unreasonable in relation to the coverage provided, the risk
42 experience, and expenses of providing the coverage. Rates and rate
43 schedules may be adjusted for appropriate approved risk factors.

1 (5) Issue policies of health insurance in accordance with the requirements
2 of this Article.

3 (6) Appoint from among Pool members appropriate legal, actuarial, and
4 other committees as necessary to provide technical assistance in the
5 operation of the Pool, policy and other contract design, and any other
6 function within the authority of the Pool.

7 **"§ 58-793. Eligibility.**

8 (a) Any individual who is a resident of this State is eligible for Pool coverage if:

9 (1) Such individual has proof of rejection by at least one insurer of
10 coverage at levels and rates no less favorable than those provided in
11 this Article; or

12 (2) Such individual is a member of an employer group of 25 individuals or
13 less and the individual has proof of rejection of the group by at least
14 one insurer of coverage at prevailing rates for such group.

15 (b) The following individuals are not eligible for Pool coverage:

16 (1) Persons who have on the date of issue of coverage by the Pool,
17 coverage under health insurance or an insurance arrangement;

18 (2) Any person who, is at the time of Pool application, eligible for health
19 care benefits under State Medicaid law;

20 (3) Any person who has terminated coverage in the Pool unless 12 months
21 have lapsed since such termination;

22 (4) Any person on whose behalf the Pool has paid out one million dollars
23 (\$1,000,000) in benefits;

24 (5) Inmates of public institutions and persons eligible for public programs.

25 (c) Any person whose health insurance coverage is involuntarily terminated for
26 any reason other than nonpayment of premium and who is not eligible for continuation
27 or conversion may apply for coverage in the Pool. If such coverage is applied for
28 within 45 days after the involuntary termination and if premiums are paid for the entire
29 coverage period, the effective date of the coverage shall be the date of termination of the
30 previous coverage.

31 (d) Any individual who ceases to meet the eligibility requirements of this section
32 may be terminated at the end of the policy period.

33 **"§ 58-794. Administrator.**

34 (a) The Board shall, subject to the approval of the Commissioner, select an
35 insurer or insurers through a competitive bidding process to administer the Pool. The
36 Board shall evaluate bids submitted based on criteria established by the Board, which
37 shall include:

38 (1) The insurer's proven ability to handle individual accident and health
39 insurance;

40 (2) The efficiency of the insurer's claim paying procedures;

41 (3) An estimate of total charges for administering the Plan; and

42 (4) The insurer's ability to administer the Pool in a cost-efficient manner.

43 (b) The administrator shall serve for a period of three years subject to removal
44 for cause.

1 (c) At least one year prior to the expiration of each three-year period of service
2 by an administrator, the Board shall invite all insurers, including the current
3 administrator, to submit bids to serve as the administrator for the succeeding three-year
4 period. Selection of the administrator for the succeeding period shall be made at least
5 six months prior to the end of the current three-year period.

6 (d) The administrator shall perform all eligibility and administrative claims
7 payment functions relating to the Pool.

8 (e) The administrator shall establish a premium billing procedure for collection
9 of premiums from insured persons. Billings shall be made on a periodic basis as
10 determined by the Board.

11 (f) The administrator shall perform all necessary functions to assure timely
12 payment of benefits to covered persons under the Pool including:

13 (1) Making available information relating to the proper manner of
14 submitting a claim for benefits to the Pool and distributing forms upon
15 which submittal shall be made;

16 (2) Evaluating the eligibility of each claim for payment by the Pool.

17 (g) The administrator shall submit regular reports to the Board and to the
18 Commissioner regarding the operation of the Pool. The frequency, content, and form of
19 the report shall be determined by the Commissioner;

20 (h) Following the close of each fiscal year, the administrator shall determine net
21 written and earned premiums, the expense of administration, and the paid and incurred
22 losses for the year; and report this information to the Board and the Commissioner on a
23 form prescribed by the Commissioner;

24 (i) The administrator shall be paid as provided in the Plan for its expenses
25 incurred in the performance of its services.

26 **"§ 58-795. Funding.**

27 Based upon the determination made by the Board of needed funding to provide for
28 claims to be paid under the Plan, administrative expenses and needed reserves, the
29 Board shall annually file a report with the Chairpersons of the House and Senate
30 Appropriations Committees and with the Commissioner, recommending appropriations
31 needed to fund the Pool.

32 **"§ 58-796. Minimum benefits; availability.**

33 (a) The Pool shall, to the extent funds are appropriated by the General Assembly,
34 offer major medical expense coverage to every eligible person who is not eligible for
35 Medicare. Major medical expense coverage offered by the Pool shall pay an eligible
36 person's covered expenses, subject to limits on the deductible and coinsurance payments
37 authorized under subsection (f) of this section, up to a lifetime limit of one million
38 dollars (\$1,000,000) per covered individual. The maximum limit under this section
39 shall not be altered by the Board, and no actuarial equivalent benefit may be substituted
40 by the Board.

41 (b) Covered expenses shall be the prevailing charge in the locality for the
42 following services and articles when prescribed by a physician and determined by the
43 Pool to be medically necessary:

44 (1) Hospital services;

- 1 (2) Professional services for the diagnosis or treatment of injuries,
2 illnesses, or conditions, other than mental or dental, that are rendered
3 by a physician, or by other licensed professionals at his direction;
- 4 (3) Drugs and medical supplies requiring a physician's prescription;
- 5 (4) Services of a licensed skilled nursing facility for not more than 120
6 days during a policy year;
- 7 (5) Services of a home health agency up to a maximum of 270 services per
8 year;
- 9 (6) Use of radium or other radioactive materials;
- 10 (7) Oxygen;
- 11 (8) Anesthetic;
- 12 (9) Prostheses other than dental;
- 13 (10) Rental of durable medical equipment, other than eyeglasses and
14 hearing aids, for which there is no personal use in the absence of the
15 conditions for which it is prescribed;
- 16 (11) Diagnostic X rays and laboratory tests;
- 17 (12) Oral surgery for excision of partially or completely unerupted,
18 impacted teeth or the gums and tissues of the mouth when not
19 performed in connection with the extraction or repair of teeth;
- 20 (13) Services of a physical therapist;
- 21 (14) Transportation provided by a licensed ambulance or emergency
22 medical or rescue service to the nearest facility qualified to treat the
23 condition;
- 24 (15) Services for diagnosis and treatment of mental and nervous disorders;
25 provided that an insured shall be required to make a fifty percent
26 (50%) copayment, and that the payment by the Pool shall not exceed
27 four thousand dollars (\$4,000) for outpatient psychiatric treatment.
- 28 (c) Covered expenses do not include the following:
 - 29 (1) Any charge for treatment for cosmetic purposes other than surgery for
30 treatment for the repair or treatment of an injury or a congenital bodily
31 defect to restore normal bodily functions;
 - 32 (2) Care that is primarily for custodial or domiciliary purposes;
 - 33 (3) Any charge for confinement in a private room to the extent it is in
34 excess of the institution's charge for its most common semiprivate
35 room, unless a private room is prescribed as medically necessary by a
36 physician;
 - 37 (4) That part of any charge for services rendered or articles prescribed by
38 a physician, dentist, or other health care provider that exceeds the
39 prevailing charge in the locality or for any charge not medically
40 necessary;
 - 41 (5) Any charge for services or articles, the provision of which is not within
42 the scope of authorized practice of the institution or individual
43 providing the services or articles;

- 1 (6) Any expense incurred prior to the effective date of coverage by the
2 Pool for the person on whose behalf the expense is incurred;
3 (7) Dental care except as provided in subdivision (b)(12) of this section;
4 (8) Eyeglasses and hearing aids;
5 (9) Illness or injury due to acts of war;
6 (10) Services of blood donors and any fee for failure to replace the first
7 three pints of blood provided to an eligible person each policy year;
8 (11) Personal supplies or services provided by a hospital or nursing home,
9 or any other nonmedical or nonprescribed supply or service.

10 (d) Premiums charged for coverages issued by the Pool may not be unreasonable
11 in relation to the benefits provided, the risk experience, and the reasonable expenses of
12 providing the coverage.

13 (e) The Board shall determine the standard risk rate by calculating the average
14 individual standard rate charged by the five largest insurers offering coverages in the
15 State comparable to the Pool coverage. In the event five insurers do not offer
16 comparable coverage, the standard risk rate shall be established using reasonable
17 actuarial techniques and shall reflect anticipated experience and expenses for such
18 coverage. Initial rates for Pool coverage shall not be more than one hundred fifty
19 percent (150%) of rates established as applicable for individual standard risks.
20 Subsequent rates shall be established to provide fully for the expected costs of claims
21 including recovery of prior losses, expenses of operation, investment income of claim
22 reserves, and any other cost factors subject to the limitations described in this section.
23 In no event shall Pool rates exceed one hundred seventy-five percent (175%) of rates
24 applicable to individual standard risks. All rates and rate schedules shall be submitted
25 to the Commissioner for approval.

26 (f) The Pool coverage defined in this section shall provide a choice of
27 deductibles of either five hundred dollars (\$500.00), one thousand dollars (\$1,000), or
28 any other amount determined by the Board, per annum per individual; and coinsurance
29 of twenty percent (20%), such coinsurance and deductibles in the aggregate not to
30 exceed three thousand five hundred dollars (\$3,500) per individual nor five thousand
31 dollars (\$5,000) per family per annum. The deductibles and coinsurance factors may be
32 adjusted annually according to the Medical Component of the Consumer Price Index,
33 with the Commissioner's approval.

34 (g) Pool coverage shall exclude charges or expenses incurred during the first six
35 months following the effective date of coverage as to any condition, which during the
36 six-month period immediately preceding the effective date of coverage, (i) has
37 manifested itself in such a manner as would cause an ordinarily prudent person to seek
38 diagnosis, care, or treatment; or (ii) for which medical advice, care, or treatment was
39 recommended or received. Such preexisting condition exclusions shall be waived to the
40 extent to which similar exclusions, if any, have been satisfied under any prior health
41 insurance coverage that was involuntarily terminated; provided, that application for
42 Pool coverage is made not later than 45 days following such involuntary termination
43 and, in such case, coverage in the Pool shall be effective from the date on which such
44 prior coverage was terminated.

1 (h) Benefits otherwise payable under Pool coverage shall be reduced by all
2 amounts paid or payable through any other health insurance, or insurance arrangement,
3 and by all hospital and medical expense benefits paid or payable under any workers'
4 compensation coverage, automobile medical payment or liability insurance, whether
5 provided on the basis of fault or nonfault, and by any hospital or medical benefits paid
6 or payable under or provided pursuant to any State or federal law or program except
7 Medicaid.

8 (i) The insurer or the Pool has a cause of action against an eligible person for the
9 recovery of the amount of benefits paid that are not covered expenses. Benefits due
10 from the Pool may be reduced or refused as a setoff against any amount recoverable
11 under this subsection.

12 **"§ 58-797. Collective action.**

13 Neither the participation in the Pool as members, the establishment of rates, forms,
14 or procedures; nor any other joint or collective action required by this Article shall be
15 the basis of any legal action, criminal or civil liability, or penalty against the Pool or any
16 of its members.

17 **"§ 58-798. Plan notice.**

18 On and after the date that the Pool becomes operational, every insurer licensed in
19 this State shall include a notice of the existence of the Pool in any rejection of any
20 application for health insurance coverage, which rejection was made for reasons of the
21 health of the applicant.

22 **"§ 58-799. Taxation.**

23 The Pool is exempt from all taxes except taxes imposed by Article 5 of Chapter 105
24 of the General Statutes and ad valorem taxes upon real property and personal property
25 owned in this State."

26 Sec. 2. In the event any provision of this act is held to be invalid by any court
27 of competent jurisdiction, the court's holding as to that provision shall not affect the
28 validity or operation of other provisions of this act; and to that end the provisions of this
29 act are severable.

30 Sec. 3. There is appropriated from the General Fund to the Department of
31 Insurance the sum of \$50,000 for fiscal year 1989-90 for the purpose of funding
32 administrative costs incurred in commencing and continuing the operation of the North
33 Carolina Health Insurance Pool. The funds appropriated by this section shall not revert
34 at the end of the 1989-90 fiscal year, but shall remain available until June 30, 1991.

35 Sec. 4. This act shall become effective January 1, 1990.