

Part 6. Medical Assistance Program.

§ 108A-54. (Effective until contingency met – see note) Authorization of Medical Assistance Program; administration.

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

(b) Recodified as G.S. 108A-54.1B(a) by Session Laws 2013-360, s. 12H.9(a), effective July 1, 2013.

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department of Health and Human Services shall ensure that the North Carolina Families Accessing Services through Technology (NC FAST) information technology system can provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange that will operate in North Carolina and shall provide such determinations for the Exchange.

(e) The Department of Health and Human Services shall continue to administer and operate the Medicaid and NC Health Choice programs through the Division of Medical Assistance until the Division of Medical Assistance is eliminated at which time all functions, powers, duties, obligations, and services vested in the Division of Medical Assistance are vested in the Division of Health Benefits. Prior to and following the exchange of powers and duties from the Division of Medical Assistance to the Division of Health Benefits, and in addition to the powers and duties already vested in the Secretary of the Department of Health and Human Services, the Secretary of the Department of Health and Human Services shall have the following powers and duties:

- (1) Administer and operate the Medicaid and NC Health Choice programs, provided that the total expenditures, net of agency receipts, do not exceed the authorized budget for the Medicaid program and NC Health Choice program. None of the powers and duties enumerated in the other subdivisions of this subsection shall be construed to limit the broad grant of authority to administer and operate the Medicaid and NC Health Choice programs.
- (2) Employ clerical and professional staff of the Division of Health Benefits, including consultants and legal counsel, necessary to carry out the powers and duties of the division. In hiring staff for the Division of Health Benefits, the Secretary may offer employment contracts for a term and set compensation for the employees, which may include performance-based bonuses based on meeting budget or other targets.
- (3) Notwithstanding G.S. 143-64.20, enter into contracts for the administration of the Medicaid and NC Health Choice programs, as well as manage such contracts, including contracts of a consulting or advisory nature.
- (4) Establish and adjust all program components, except for eligibility categories, resource limits, and income thresholds, of the Medicaid and NC Health Choice programs within the appropriated and allocated budget.
- (5) Adopt rules related to the Medicaid and NC Health Choice programs.

- (6) Develop midyear budget correction plans and strategies and then take midyear budget corrective actions necessary to keep the Medicaid and NC Health Choice programs within budget.
- (7) Approve or disapprove and oversee all expenditures to be charged to or allocated to the Medicaid and NC Health Choice programs by other State departments or agencies.
- (8) Develop and present to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Office of State Budget and Management by January 1 of each year, beginning in 2017, the following information for the Medicaid and NC Health Choice programs:
 - a. A detailed four-year forecast of expected changes to enrollment growth and enrollment mix.
 - b. What program changes will be made by the Department in order to stay within the existing budget for the programs based on the next fiscal year's forecasted enrollment growth and enrollment mix.
 - c. The cost to maintain the current level of services based on the next fiscal year's forecasted enrollment growth and enrollment mix.
- (9) Publish on its Web site and update on at least a monthly basis, at a minimum, the following information about the Medicaid and NC Health Choice programs:
 - a. Enrollment by program aid category by county.
 - b. Per member per month spending by category of service.
 - c. Spending and receipts by fund along with a detailed variance analysis.
 - d. A comparison of the above figures to the amounts forecasted and budgeted for the corresponding time period.

(f) The General Assembly shall determine the eligibility categories, resource limits, and income thresholds for the Medicaid and NC Health Choice programs. The Department of Health and Human Services is expressly authorized to adopt temporary and permanent rules regarding eligibility requirements and determinations, to the extent that they do not conflict with the parameters set by the General Assembly.

(g) Repealed by Session Laws 2016-121, s. 2(h), effective June 1, 2016. (1965, c. 1173, s. 1; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 24; 1981, c. 275, s. 1; 2007-323, s. 31.16.1(c); 2008-107, s. 10.10(c); 2011-399, s. 5; 2012-75, s. 1; 2013-5, s. 2; 2013-360, ss. 12H.3, 12H.9(a); 2013-363, s. 4.9(a); 2015-245, s. 13; 2016-94, s. 12H.4; 2016-121, s. 2(h); 2018-5, s. 11H.10(a), (b).)

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(e) The Department of Health and Human Services shall continue to administer and operate the Medicaid programs through the Division of Medical Assistance until the Division of Medical Assistance is eliminated at which time all functions, powers, duties, obligations, and services vested in the Division of Medical Assistance are vested in the Division of Health Benefits. Prior to and following the exchange of powers and duties from the Division of Medical Assistance to the Division of Health Benefits, and in addition to the powers and duties already vested in the Secretary of the Department of Health and Human Services, the Secretary of the Department of Health and Human Services shall have the following powers and duties:

- (1) Administer and operate the Medicaid programs, provided that the total expenditures, net of agency receipts, do not exceed the authorized budget for the Medicaid program. None of the powers and duties enumerated in the other subdivisions of this subsection shall be construed to limit the broad grant of authority to administer and operate the Medicaid programs.
- (2) Employ clerical and professional staff of the Division of Health Benefits, including consultants and legal counsel, necessary to carry out the powers and duties of the division. In hiring staff for the Division of Health Benefits, the Secretary may offer employment contracts for a term and set compensation for the employees, which may include performance-based bonuses based on meeting budget or other targets.
- (3) Notwithstanding G.S. 143-64.20, enter into contracts for the administration of the Medicaid programs, as well as manage such contracts, including contracts of a consulting or advisory nature.
- (4) Establish and adjust all program components, except for eligibility categories, resource limits, and income thresholds, of the Medicaid programs within the appropriated and allocated budget.
- (5) Adopt rules related to the Medicaid programs.
- (6) Develop midyear budget correction plans and strategies and then take midyear budget corrective actions necessary to keep the Medicaid programs within budget.
- (7) Approve or disapprove and oversee all expenditures to be charged to or allocated to the Medicaid programs by other State departments or agencies.
- (8) Develop and present to the Joint Legislative Oversight Committee on Medicaid and the Office of State Budget and Management by January 1 of each year, beginning in 2017, the following information for the Medicaid programs:
 - a. A detailed four-year forecast of expected changes to enrollment growth and enrollment mix.
 - b. What program changes will be made by the Department in order to stay within the existing budget for the programs based on the next fiscal year's forecasted enrollment growth and enrollment mix.
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