

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

**SESSION LAW 2021-26  
HOUSE BILL 395**

AN ACT EXEMPTING AMBULATORY SURGICAL CENTERS FROM THE REQUIREMENT TO SUBMIT DEMOGRAPHIC AND CLINICAL DATA, EXTENDING FOR CERTAIN PROVIDERS AND ENTITIES THE DEADLINES FOR MANDATORY PARTICIPATION IN THE STATEWIDE HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS NC HEALTHCONNEX, AND INSTITUTING REFORMS TO PROTECT PATIENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-414.4(a) reads as rewritten:

**"§ 90-414.4. Required participation in HIE Network for some providers.**

- (a) Findings. – The General Assembly makes the following findings:
- (1) That controlling escalating health care costs of the Medicaid program and other State-funded health care services is of significant importance to the State, its taxpayers, its Medicaid recipients, and other recipients of State-funded health care services.
  - (2) That the State and covered entities in North Carolina need timely access to certain demographic and clinical information pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds in order to assess performance, improve health care outcomes, pinpoint medical expense trends, identify beneficiary health risks, and evaluate how the State is spending money on Medicaid and other State-funded health care services. The Department of Information Technology, the Department of State Treasurer, State Health Plan Division, and the Department of Health and Human Services, Division of Health Benefits, have an affirmative duty to facilitate and support participation by covered entities in the statewide health information exchange network.
  - (3) That making demographic and clinical information available to the State and covered entities in North Carolina by secure electronic means as set forth in subsection (b) of this section will improve care coordination within and across health systems, increase care quality for such beneficiaries, enable more effective population health management, reduce duplication of medical services, augment syndromic surveillance, allow more accurate measurement of care services and outcomes, increase strategic knowledge about the health of the population, and facilitate health care cost containment."

**SECTION 2.** G.S. 90-414.4(a1) reads as rewritten:

"(a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to the HIE Network and begin submitting data through the HIE Network pertaining to services rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries



and paid for with Medicaid or other State-funded health care funds in accordance with the following time line:

- ...
- (2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other providers of Medicaid and State-funded health care services and their affiliated entities shall begin submitting demographic and clinical data by ~~October 1, 2021~~January 1, 2023.
  - (3) The following entities shall submit encounter and claims data, as appropriate, in accordance with the following time line:
    - a. Prepaid Health Plans, as defined in G.S. 108D-1, by the commencement date of a capitated contract with the Division of Health Benefits for the delivery of Medicaid and NC Health Choice services as specified in Article 4 of Chapter 108D of the General Statutes.
    - b. Local management entities/managed care organizations, as defined in G.S. 122C-3, by June 1, 2020.

If authorized by the Authority in accordance with this Article, the Department of Health and Human Services may submit the data required by this subsection on behalf of the entities specified in this subdivision.
  - (4) The following entities shall begin submitting demographic and clinical data by ~~June 1, 2021~~January 1, 2023:
    - a. ~~Ambulatory~~Physicians who perform procedures at ambulatory surgical centers as defined in G.S. 131E-146.
    - b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.
    - c. Licensed physicians whose primary area of practice is psychiatry.
    - d. The State Laboratory of Public Health operated by the Department of Health and Human Services.
  - (5) The following entities shall begin submitting claims data by ~~June 1, 2021~~January 1, 2023:
    - a. Pharmacies registered with the North Carolina Board of Pharmacy under Article 4A of Chapter 90 of the General Statutes.
    - b. State health care facilities operated under the jurisdiction of the Secretary of the Department of Health and Human Services, including State psychiatric hospitals, developmental centers, alcohol and drug treatment centers, neuro-medical treatment centers, and residential programs for children such as the Wright School and the Whitaker Psychiatric Residential Treatment Facility."

**SECTION 3.** G.S. 90-414.4(a2) reads as rewritten:

"(a2) Extensions of Time for Establishing Connection to the HIE Network. – The Department of Information Technology, in consultation with the Department of Health and Human Services and the State Health Plan for Teachers and State Employees, may establish a process to grant limited extensions of the time for providers and entities to connect to the HIE Network and begin submitting data as required by this section upon the request of a provider or entity that demonstrates an ongoing good-faith effort to take necessary steps to establish such connection and begin data submission as required by this section. The process for granting an extension of time must include a presentation by the provider or entity to the Department of Information Technology, the Department of Health and Human Services, and the State Health Plan for Teachers and State Employees on the expected time line for connecting to the HIE Network and commencing data submission as required by this section. Neither the Department of Information Technology, the Department of Health and Human Services, nor the State Health Plan for Teachers and State Employees shall grant an extension of time (i) to any provider or

entity that fails to provide this information to both Departments, and the State Health Plan for Teachers and State Employees, (ii) that would result in the provider or entity connecting to the HIE Network and commencing data submission as required by this section later than ~~October 1, 2021~~, or (iii) ~~that would result in any provider or entity specified in subdivisions (4) and (5) of subsection (a1) of this section connecting to the HIE Network and commencing data submission as required by this section later than June 1, 2022.~~ January 1, 2023. The Department of Information Technology shall consult with the Department of Health and Human Services and the State Health Plan for Teachers and State Employees to review and decide upon a request for an extension of time under this section within 30 days after receiving a request for an extension."

**SECTION 4.** G.S. 90-414.4(b) reads as rewritten:

"(b) **Mandatory Submission of Demographic and Clinical Data.** – Notwithstanding the voluntary nature of the HIE Network under G.S. 90-414.2 and, except as otherwise provided in subsection (c) of this section, as a condition of receiving State funds, including Medicaid funds, the following entities shall submit at least twice daily, through the HIE network, demographic and clinical information pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds, solely for the purposes set forth in subsection (a) of this section:

- (1) Each hospital, as defined in G.S. 131E-176(13) that has an electronic health record system.
- (2) Each Medicaid ~~provider~~provider, unless the provider is an ambulatory surgical center as defined in G.S. 131E-146, however, a physician who performs a procedure at the ambulatory surgical center must be connected to the HIE Network.
- (3) Each provider that receives State funds for the provision of health ~~services~~services, unless the provider is an ambulatory surgical center as defined in G.S. 131E-146, however, a physician who performs a procedure at the ambulatory surgical center must be connected to the HIE Network.
- (4) Each local management entity/managed care organization, as defined in G.S. 122C-3."

**SECTION 5.** G.S. 90-414.4 is amended by adding a subsection to read:

"(b1) **Balance Billing Prohibition.** – An in-network provider or entity who renders health care services, including prescription drugs and durable medical equipment, under a contract with the State Health Plan for Teachers and State Employees and who is not connected to the HIE Network in accordance with this Article, is prohibited from billing the State Health Plan or a Plan member more than either party would be billed if the entity or provider was connected to the HIE Network. Balance billing because the provider or entity did not connect to the HIE Network is prohibited."

**SECTION 6.** G.S. 90-414.6 reads as rewritten:

**"§ 90-414.6. State ownership of HIE Network data.**

Any data pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries submitted through and stored by the HIE Network pursuant to G.S. 90-414.4 or any other provision of this Article shall be and will remain the sole property of the State. Any data or product derived from the aggregated, de-identified data submitted to and stored by the HIE Network pursuant to G.S. 90-414.4 or any other provision of this Article, shall be and will remain the sole property of the State. The Authority shall not allow data it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used or disclosed by or to any person or entity for commercial purposes or for any other purpose other than those set forth in G.S. 90-414.4(a) or G.S. 90-414.2. To the extent the Authority receives requests for electronic health information as the term is defined in 45 C.F.R. § 171.102, or other medical records from an individual, an individual's personal representative, or an individual or entity purporting to act on an individual's behalf, the Authority (i) shall not fulfill the request and (ii) shall make available

to the requester and the public, via the Authority's website, educational materials about how to access such information from other sources."

**SECTION 7.(a)** On or before March 1, 2022, the NC HIE Advisory Board shall submit to the Joint Legislative Oversight Committee on Health and Human Services recommendations regarding appropriate features or actions to support enforcement of the Statewide Health Information Exchange Act contained in Article 29B of Chapter 90 of the General Statutes and the results of the outreach efforts in subsection (b) of this section.

**SECTION 7.(b)** The HIE Authority shall work with the State Health Plan Division, Department of State Treasurer, and the Division of Health Benefits, Department of Health and Human Services, to identify the following: (i) all providers and entities who are required to connect to the HIE as a condition of receiving State funds, (ii) providers and entities who have not connected to the HIE in accordance with G.S. 90-414.4, and (iii) providers and entities whose deadline for mandatory connection is approaching or has passed. The HIE Authority shall contact each entity or provider identified and ascertain the status of the entity's or provider's effort to connect to the HIE. The HIE Authority shall share information with each provider or entity about the Statewide Health Information Exchange Act and how to connect to the HIE Network. All licensing boards within the State overseeing the providers and entities required to connect to the HIE shall assist by providing contact information and addresses of licensees when that information is not readily available to the HIE Authority, Department of State Treasurer, and the Department of Health and Human Services. Contact information and addresses for providers and entities shall be provided by the Department of State Treasurer, the Department of Health and Human Services, and licensing boards on or before November 1, 2021. On or before November 1, 2021, the Department of State Treasurer, State Health Plan Division, shall provide claim encounter data to support but not exceed the requirements of this section and as part of its responsibilities to administer and operate the State Health Plan for Teachers and State Employees, the State Health Plan Division shall use and disclose Claim Payment Data and/or data from the Claims Data Feed, as necessary to satisfy the requirements of this subsection.

**SECTION 8.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2021.

s/ Carl Ford  
Presiding Officer of the Senate

s/ Harry Warren  
Presiding Officer of the House of Representatives

s/ Roy Cooper  
Governor

Approved 11:05 a.m. this 27<sup>th</sup> day of May, 2021