**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4095**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. K.R. Crawford, Robinson‑Simpson, M.S. McLeod, Branham, McEachern, Douglas, Bernstein, Mack, Stavrinakis, Clyburn, Sabb, Jefferson, Parks, Gilliard, Bales, Cobb‑Hunter, H.L. Ott, Williams, Munnerlyn, Southard, Horne, Powers Norrell, King, Brannon, Skelton, Neal, Hosey, Anthony, Alexander, Anderson, Bannister, Barfield, Bowers, G.A. Brown, R.L. Brown, Dillard, Edge, Funderburk, Gagnon, Gambrell, George, Hodges, Howard, W.J. McLeod, Mitchell, Ridgeway, Rutherford, J.E. Smith, Vick and Whipper

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Introduced in the House on May 2, 2013

Currently residing in the House Committee on **Ways and Means**

Summary: Truth in Health Financing and Responsible Consumer Health Care Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/2/2013 House Introduced and read first time ([House Journal‑page 14](file:///h:\HJ%20Archive\2013\05-02-13.docx))

5/2/2013 House Referred to Committee on **Ways and Means** ([House Journal‑page 14](file:///h:\HJ%20Archive\2013\05-02-13.docx))

5/14/2013 House Member(s) request name removed as sponsor: Herbkersman, Norman, Toole

5/15/2013 House Member(s) request name removed as sponsor: Sottile

5/16/2013 House Member(s) request name removed as sponsor: Burns, Long, Whitmire

5/21/2013 House Member(s) request name removed as sponsor: J.R.Smith, Rivers, Huggins, Bowen

5/22/2013 House Member(s) request name removed as sponsor: Spires

5/23/2013 House Member(s) request name removed as sponsor: Daning, Merrill, Taylor

5/28/2013 House Member(s) request name removed as sponsor: Atwater, Sandifer

5/29/2013 House Member(s) request name removed as sponsor: Hiott, Limehouse, Hixon, Owens, Hardwick, Erickson, Hardee

**VERSIONS OF THIS BILL**

[5/2/2013](file:///p:\pprever\2013-14\4095_20130502.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9, CHAPTER 6, TITLE 44 TO ENACT THE “TRUTH IN HEALTH FINANCING AND RESPONSIBLE CONSUMER HEALTH CARE ACT” SO AS TO ESTABLISH WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES THE RESPONSIBLE CONSUMER HEALTH CARE PROGRAM, WHICH PROVIDES HEALTH CARE TO LOW‑INCOME, UNINSURED SOUTH CAROLINIANS THROUGH MANAGED CARE PLANS AND MEDICAL SPENDING ACCOUNTS; TO ESTABLISH PROGRAM ELIGIBILITY REQUIREMENTS; TO SPECIFY HEALTH CARE SERVICES THAT THE MANAGED CARE ORGANIZATION MUST PROVIDE, INCLUDING PREVENTIVE HEALTH SERVICES, CERTAIN FUNCTIONS IT MUST PERFORM, AND STANDARDS WITH WHICH IT MUST COMPLY; TO PROVIDE THAT AN INDIVIDUAL IS ENTITLED TO FIVE HUNDRED DOLLARS IN PREVENTIVE SERVICES AT NO COST; TO REQUIRE THE MANAGED CARE ORGANIZATION TO PROVIDE MONTHLY STATEMENTS, EXPLANATION OF BENEFITS, AND ACCOUNT BALANCES; TO PROVIDE THAT INDIVIDUALS, THEIR EMPLOYERS, AND CHARITABLE ORGANIZATIONS MAY CONTRIBUTE TO AN INDIVIDUAL’S MEDICAL SPENDING ACCOUNT AND THAT THE MANAGED CARE ORGANIZATION ALSO MAY CONTRIBUTE TO THE ACCOUNT IF THE CONTRIBUTION IS AN INCENTIVE FOR INDIVIDUALS TO ENGAGE IN CERTAIN HEALTHY BEHAVIORS; TO PROVIDE THAT CONTRIBUTIONS TO A MEDICAL SPENDING ACCOUNT, OTHER THAN THOSE MADE BY THE STATE, BELONG TO THE INDIVIDUAL AND THAT SUCH FUNDS ROLL OVER TO THE NEXT PROGRAM PERIOD; TO ESTABLISH THE RESPONSIBLE CONSUMER HEALTH CARE FUND INTO WHICH MEDICAID EXPANSION FUNDS, AMONG OTHER FUNDS, MUST BE DEPOSITED TO CARRY OUT THE PROVISIONS OF THIS ACT; TO PROVIDE THAT THE IMPLEMENTATION OF THIS PROGRAM IS CONDITIONED UPON THE RECEIPT OF SUFFICIENT FUNDS; TO PROHIBIT OBLIGATING THE STATE TO FINANCIAL PARTICIPATION BEYOND THE LEVEL OF FUNDS ANTICIPATED TO BE AVAILABLE; TO REQUIRE THE DEPARTMENT TO SUBMIT MEDICAID PLAN AMENDMENTS AND FEDERAL WAIVERS NECESSARY TO OBTAIN FEDERAL APPROVAL TO CARRY OUT THE PROVISIONS OF THIS ARTICLE; TO PROVIDE THAT FUNDS FROM THE MEDICAID RESERVE FUND MUST BE USED FOR THE 2014 ADMINISTRATION OF THE RESPONSIBLE CONSUMER HEALTH CARE PROGRAM; AND TO PROVIDE THAT BEGINNING IN 2015 THROUGH 2016 THE STATE MUST NOT PARTICIPATE IN DISPROPORTIONATE SHARE HOSPITAL FUNDS AND TO PROVIDE ALTERNATIVE USES FOR THE HOSPITAL LICENSE TAX.

Whereas, there has existed since 1986 a mandate for hospitals to render care to those with conditions covered by the Emergency Medical Treatment and Active Labor Act known as EMTALA; and

Whereas, this mandate has created the hospital emergency department a defacto care option for those without health care coverage; and

Whereas, South Carolina pays for this EMTALA mandated care though the South Carolina Department of Health and Human Service’s Disproportionate share program; and

Whereas, paying for care in this way is inefficient, unnecessarily costly, fails to provide an opportunity for continuity of care, and is generally regarded as the least desirable way to pay for and receive care; and

Whereas, South Carolina has been reforming its health delivery system in important ways for the last decade, emphasizing medical homes, preventive services, and high quality managed health care through its Medicaid plan; and

Whereas, funds are available to move patients from the EMTALA/Disproportionate share method of care to the medical home and managed care delivery system; and

Whereas, promotion of this change protects employers and those with private commercial insurance plans from cost shifting within the health care system; and

Whereas, this change will enhance the health and productivity of the South Carolina workforce and improve the competitiveness of South Carolina’s business environment; and

Whereas, this can all be accomplished while emphasizing personal responsibility and individual contribution by recipients of government health care services. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 6, Title 44 of the 1976 Code is amended by adding:

“Article 9

Truth in Health Financing and Responsible Consumer Health Care

Section 44‑6‑1100. This act may be cited as the ‘Truth in Health Financing and Responsible Consumer Health Care Act’.

Section 44‑6‑1110. (A) There is created within the Department of Health and Human Services the Responsible Consumer Health Care Program for eligible individuals to receive health care services from January 1, 2014, through December 31, 2016, through Medicaid expansion funds provided to the State pursuant to the Patient Protection and Affordable Care Act, Public Law 111‑148 of 2010.

(B) The purpose of this program is to improve health care access and provide health care services to low income, uninsured South Carolinians, not otherwise eligible for Medicaid, by establishing a program that requires individuals to be personally responsible in the use and purchase of health care services, that encourages thoughtful, active participation in making health care decisions, and that rewards health improvement and maintenance.

(C) The program requires an individual to enroll in a managed care plan available through the department and to have a medical savings account into which the individual must make payments.

Section 44‑6‑1120. (A) An individual is eligible to participate in the program if the individual:

(1) is at least eighteen years of age and less than sixty‑five years of age;

(2) whose income is not more than one hundred thirty‑eight percent of the federal income poverty level, as determined in accordance with requirements of the United States Department of Health and Human Services;

(3) is a United States citizen or a legal immigrant.

(B) The following individuals are not eligible to participate in the program:

(1) an individual who participates in the federal Medicare program (42 U.S.C. 1395 et seq.);

(2) a pregnant woman for purposes of pregnancy related services; and

(3) an individual who is a Medicaid beneficiary through another eligibility category.

Section 44‑6‑1130. (A) The department shall ensure that managed care organizations under contract with the department are prepared for and have sufficient network capacity to provide managed care to individuals in the Responsible Consumer Health Care Program and shall establish or provide access for these individuals to medical spending accounts.

(B) The department shall provide information, counseling, and assistance to individuals on:

(1) benefits available under a managed care plan and limits on these benefits; health care delivery under a managed care plan; evaluation and comparison of available managed care plans; and selection of a plan that will best meet the medical needs of individuals;

(2) how, and by whom, funds are, and may be, deposited in a medical spending account; ownership of funds; and how these funds may be used and recouped if the individual is no longer in the program.

Section 44‑6‑1140 The Department of Insurance shall validate the actuarial soundness of the capitation amount to be paid under the terms of a contract between the department and a managed care organization providing services to individuals in the program based on factors and information relevant to the population being served, the health care services to be provided, and other information as may be needed.

Section 44‑6‑1150. (A) An individual approved to participate in the program shall select a managed care plan from those available through the department.

(B) Comprehensive benefits provided by a managed care plan shall include, but are not limited to, physician, inpatient, outpatient, mental health, substance abuse, laboratory and screening services, pharmaceuticals, professional therapies, preventive care services, disease management; and any other services as may be required to comply with Medicaid benefits requirements.

(C) The department shall provide each individual a list of recommended health care services that, as determined by the department, qualify as preventive health care services for the age, gender, and health status of the individual.

(D) The managed care plan, at no cost to the individual, shall provide payment for up to five hundred dollars in qualifying preventive care services each year.

Section 44‑6‑1160. Each individual must make payments to his medical spending account in a manner determined by the department and as allowed by federal law and regulation.

Section 44‑6‑1170. (A) Contributions may be made to an individual’s medical spending account by:

(1) the individual;

(2) an employer;

(3) the State;

(4) a nonprofit organization if the nonprofit organization is not affiliated with a managed care plan;

(5) a managed care organization under contract with the department to provide health care coverage under the program if the payment:

(a) is to provide a health incentive to the individual; and

(b) does not count towards the individual’s payment, as determined pursuant to Section 44‑6‑1160.

Section 44‑6‑1180. (A) If at the close of the twelve month benefit period, the individual continues to be eligible pursuant to Section 44‑6‑1120 and chooses to renew participation in the program, the individual shall complete and submit to the department a renewal application in a form prescribed by the department and any necessary documentation.

(B) If funds remain in an individual’s medical spending account upon renewal of participation in the program, these funds must be used to reduce the individual’s medical spending account payments for the renewed program benefit period. However, if, during the program period, the person did not receive all qualified preventive health care services as recommended in Section 44‑6‑1150, the state’s contribution to the individual’s medical savings account may not be used to reduce the individual’s payment to the medical savings account for the renewed program period.

Section 44‑6‑1190. (A) A managed care organization that provides health care coverage pursuant to this article:

(1) is responsible for claim processing for the coverage;

(2) shall reimburse providers at a reimbursement rate as provided for in the managed care contract between the department and the organization; and

(3) may not deny coverage to an individual who has been approved by the department to participate in the program.

(B) In administering its plan, a managed care organization shall incorporate cultural competency standards established by the department and standards for non‑English speaking, minority, and disabled populations, utilize race and ethnicity data to better target health disparities within the managed care population, and place an emphasis on investigating fraud and abuse cases.

(C) A managed care organization shall provide individuals monthly medical spending account statements, explanation of benefit information, account balances, and any other information that would promote understanding health care resources and encourage personal responsibility utilizing health care resources and in making health care decisions.

Section 44‑6‑1200. (A) There is established in the Office of the State Treasurer, the Responsible Consumer Health Care Fund, separate and distinct from the general fund which must be administered by the Department of Health and Human Services. Medicaid expansion funds, provided pursuant to the Patient Protection and Affordable Care Act, Public Law 111‑148 of 2010, Medicaid reserve funds, and such other funds as may be allocated to the department or appropriated to the department pursuant to the annual general appropriations act for purposes of this article, and as otherwise provided for in law must be credited to this fund. Funds in this account only must be used to carry out the provisions of the Responsible Consumer Health Care Program, as provided for in this article.

(B) The State Treasurer shall invest monies in the fund in the same manner as other public money may be invested and interest earned on these funds must be credited to the account and used for the purpose provided for in subsection (A).

(C) Funds in the account may not be transferred, assigned, or otherwise removed from the fund and are not subject to budget reductions. Monies remaining in the fund at the end of the fiscal year must remain in the account and must be carried over to the following fiscal year for the purpose provided for in subsection (A).

Section 44‑6‑1210. (A) Unless sufficient funding is reasonably estimated to be available to operate the program from January 1, 2014, through December 31, 2016, The department must not:

(1) enroll applicants in the Responsible Health Care Program;

(2) approve any contracts with vendors to provide services or administer the program;

(3) incur costs other than costs necessary to study and plan for the implementation of the program; or

(4) create financial obligations for the State;

(B) The actuarial analysis upon which this estimate is based must clearly indicate the cost and revenue assumptions used in reaching the determination that sufficient funding will be available.

(C) The department may not operate the program in a manner that would obligate the State to financial participation beyond the level of Medicaid expansions funds and other funds that may be allocated to the department or appropriated to the department pursuant to the annual general appropriations act for purposes of this article and as otherwise provided for in law.

Section 44‑6‑1220. (A) Implementation of the Responsible Health Consumer Program is conditioned upon the receipt of federal Medicaid expansion funds, as provided for in the Patient Protection and Affordable Care Act, Public Law 111‑148 of 2010, and Medicaid plan amendments and waiver approvals and any other federal approval necessary to carry out the provisions of this article.

(B) If the federal government fails to provide one hundred percent of the federal Medicaid expansion funds in accordance with the Patient Protection and Affordable Care Act, during the period of January 1, 2014 through December 31, 2016, the Responsible Health Care Program shall terminate within one hundred twenty days.”

SECTION 2. Notwithstanding Section 11‑11‑230(B) of the 1976 Code, of the unexpended funds on deposit in the South Carolina Medicaid Reserve Fund as of July 1, 2013, an amount sufficient to pay the administrative costs incurred by the Department of Health and Human Services in carrying out the provisions of this article from January 1, 2014, through December 31, 2014, must be transferred to the Department of Health and Human Services Responsible Consumer Health Care Fund, provided for in Section 44‑6‑1210 of the 1976 Code, as added by Section 1 of this act.

SECTION 3. (A) Beginning January 1, 2015 through December 31, 2016, the State must not participate in Disproportionate share funds.

(B) From the hospital license tax assessed pursuant to Article 11, Chapter 23, Title 12 of the 1976 Code, in 2015 and 2016, respectively, funds must be:

(1) used for the administrative costs incurred by the Department of Health and Human Services in 2015 and 2016, respectively, to carry out the provisions of Article 9, Chapter 6, Title 44 of the 1976 Code, as added by Section 1 of this act;

(2) from the funds remaining after the allocation provided for in item (1), an amount equal to the disproportionate share matching funds for Fiscal Year 2012‑2013 must be credited to the Responsible Consumer Health Care Reserve Fund, which must be established in the Office of the State Treasurer, separate and distinct from the general fund and administered by the Department of Health and Human Services; and

(3) funds remaining after the allocations provided for in items (1) and (2) must be credited to the South Carolina Department of Health and Human Services.

SECTION 4. (A) Upon this act’s effective date, the Department of Health and Human Services shall begin development of the Responsible Consumers Health Care Program, as established in Article 9, Chapter 6, Title 44 of the 1976 Code, as added by Section 1 of this Act, and shall timely, and no later than August 15, 2013, submit Medicaid State Plan amendments and apply for federal waivers in order to obtain federal approval.

(B) In submitting the Medicaid State Plan amendments and applying for federal waivers, pursuant to subsection (A), the Department of Health and Human Services is authorized to make such adjustments, consistent with the purposes and goals of the Responsible Consumers Health Care Program, necessary to secure federal approval for the implementation of this program.

SECTION 5. This act takes effect upon approval by the Governor, except as otherwise provided for in this article.

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