

- (3) The anticipated costs to the State for start-up and ongoing operations of the State-based exchange, including labor costs, information technology costs, and any foreseeable costs to any State agency outside of the Department of Insurance.
- (4) Identification of sources of funding for the start-up and ongoing operations of the State-based exchange, including federal funding and assessments on commercial insurance products.
- (5) Identification of any estimated savings to the State or the citizens of the State as a result of the proposed plan and waiver.
- (6) Methods by which the Department of Health and Human Services or county departments of social services will educate and refer individuals receiving public assistance to products and financial assistance offered through the State-based exchange.
- (7) Any legislative changes necessary to effectuate the proposed plan and waiver.

SECTION 30.9.(c) The Commissioner shall not submit the draft Section 1332 State Innovation Waiver developed under this section nor take steps beyond those required by this section to implement a State-based exchange without further authorization by the General Assembly, including the repeal of G.S. 143B-24(b).

PHARMACY INSURANCE BENEFITS/COUPON ACCUMULATOR

SECTION 30.10. G.S. 58-56A-3 reads as rewritten:

"§ 58-56A-3. Consumer protections.

...
 (c1) When calculating an insured's contribution to any out-of-pocket maximum, deductible, copayment, coinsurance, or other applicable cost-sharing requirement, the insurer or pharmacy benefits manager shall include any amounts paid by the insured, or on the insured's behalf, for a prescription that is either:

- (1) Without an AB-rated generic equivalent.
- (2) With an AB-rated generic equivalent if the insured has obtained authorization for the drug through any of the following:
 - a. Prior authorization from the insurer or pharmacy benefits manager.
 - b. A step therapy protocol.
 - c. The exception or appeal process of the insurer or pharmacy benefits manager.

This subsection shall not apply to an insured covered by a high deductible health plan, as that term is defined in section 223 of the Internal Revenue Code, if its application would render the insured ineligible for a health savings account under section 223 unless (i) the insured has satisfied the minimum deductible under section 223 or (ii) the prescription qualifies as preventive care under section 223.

...."

PART XXXI. INSURANCE – INDUSTRIAL COMMISSION

LIMIT TORT LIABILITY FOR STATE EMPLOYEES

SECTION 31.1.(a) G.S. 143-291 is amended by adding a new subsection to read:

"(e) This Article provides the sole and exclusive remedy for any claim that arises as a result of the negligence of any officer, employee, involuntary servant, or agent of the State while acting within the scope of his office, employment, service, agency, or authority, and the North Carolina Industrial Commission is the sole and exclusive forum for hearing any such claims. Any such claims filed in any other forum arising out of or relating to the same subject matter against the officer, employee, involuntary servant, or agent of the State is precluded."

SECTION 31.1.(b) This section is effective when it becomes law and applies to all claims filed on or after that date.

INDUSTRIAL COMMISSION/BASE BUDGET ADJUSTMENT

SECTION 31.2. The Office of State Budget and Management shall, in conjunction with the North Carolina Industrial Commission, adjust the Commission's base budget for each fiscal year of the 2025-2027 fiscal biennium to use proceeds from the insurance regulatory charge established under G.S. 58-6-25 to reimburse the General Fund for operations of the Commission as authorized by G.S. 58-6-25(d)(11).

INDUSTRIAL COMMISSION/EXTENDED COMPENSATION/CLARIFY MEANING OF "TOTAL LOSS OF WAGE-EARNING CAPACITY"

SECTION 31.3.(a) G.S. 97-29(c) reads as rewritten:

"(c) An employee may qualify for extended compensation in excess of the 500-week limitation on temporary total disability as described in subsection (b) of this section only if (i) at the time the employee makes application to the Commission to exceed the 500-week limitation on temporary total disability as described in subsection (b) of this section, 425 weeks have passed since the date of first disability and (ii) pursuant to the provisions of G.S. 97-84, unless agreed to by the parties, the employee shall prove by a preponderance of the evidence that the employee has sustained a total loss of wage-earning capacity.

For the purposes of this subsection only, the term "total loss of wage-earning capacity" shall mean the complete elimination of the capacity to earn any wages. "Disability" as defined by G.S. 97-2(9) and "suitable employment" as defined by G.S. 97-2(22) shall not apply to this provision. The Commission may consider preexisting and injury-related physical and mental limitations, vocational skills, education, and experience in determining whether the employee has sustained a total loss of wage-earning capacity.

If an employee makes application for extended compensation pursuant to this subsection and is awarded extended compensation by the Commission, the award shall not be stayed pursuant to G.S. 97-85 or G.S. 97-86 until the full Commission or an appellate court determines otherwise. Upon its own motion or upon the application of any party in interest, the Industrial Commission may review an award for extended compensation in excess of the 500-week limitation on temporary total disability described in subsection (b) of this section, and, on such review, may make an award ending or continuing extended compensation. When reviewing a prior award to determine if the employee remains entitled to extended compensation, the Commission shall determine if the employer has proven by a preponderance of the evidence that the employee no longer has a total loss of wage-earning capacity. When an employee is receiving full retirement benefits under section 202(a) of the Social Security Act, after attainment of retirement age, as defined in section 216(l) of the Social Security Act, the employer may reduce the extended compensation by one hundred percent (100%) of the employee's retirement benefit. The reduction shall consist of the employee's primary benefit paid pursuant to section 202(a) of the Social Security Act but shall not include any dependent or auxiliary benefits paid pursuant to any other section of the Social Security Act, if any, or any cost-of-living increases in benefits made pursuant to section 215(i) of the Social Security Act."

SECTION 31.3.(b) In enacting subsection (a) of this section, it is the intent of the General Assembly to clarify, in response to *Sturdivant v. N. Carolina Dep't of Pub. Safety*, 887 S.E.2d 85 (N.C. Ct. App. 2023), that an employee has a different standard for establishing the burden of proof for extended compensation pursuant to G.S. 97-29(c) to reflect the intent of the General Assembly when it enacted S.L. 2011-287.

SECTION 31.3.(c) This section is effective when it becomes law and applies to claims accrued or pending prior to, on, or after that date.