NORTH CAROLINA

DISCLAIMER: The views, statistical analysis, findings, and opinions expressed herein are not necessarily those of the Office of Minority Health, the Office of Public Health and Science nor the Department of Health and Human Services. The National Health Law Program, Inc. (NHeLP), under contract #282-00-0026, reviewed and analyzed existing state policies related to collecting racial and ethnic data by managed care organizations and health insurers. The information in this draft report contains the findings of NHeLP and not that of the Office of Minority Health, the OPHS, nor the U. S. Department of Health and Human Services. The study was conducted between October 2000 and May 2001. The policies and/or data per state may have changed since that time. The findings that have been updated in this draft report are the U.S. Census data (updated so that all data is from the 2000 Census) and the Center for Medicare & Medicaid Services (CMS)/HHS Medicaid data (updated from the June 30, 2000 to the December 31, 2002 reports).

NORTH CAROLINA

A. General and Health Demographics

Total Population	8,049,313
Percent Black Population	21.4
Percent American Indian and Alaskan Native Population	1.2
Percent Asian Population	1.4
Percent Native Hawaiian and Other Pacific Islander Population	0.0
Percent Hispanic Population (of any race)	4.7
Percent White Population	70.2
Other (some other race and two or more races)	1.1
Language Use - 2000 census data	
Percent Limited English Proficiency (LEP) Population	2.41 (3.96)
Health Care Delivery Profile	
Percent of Total Non-elderly Population Privately Insured (1997-99)	73.2
Percent of Total Population Enrolled in HMOs	17.48
Medicaid Enrollment (as of December 31, 2002)	1,052,041 (13.07%)
Medicaid Managed Care Enrollment	733,839 (69.75%)
Percent of Total Non-elderly Population Uninsured (1997-99)	17.4

B. Collection and Reporting of Racial and Ethnic Data by Health Insurers and Managed Care Organizations

1. Statutes, Regulations, Policies, and Other Written Materials

North Carolina uses the term "insurer"[1] to encompass all types of health care delivery systems, including health maintenance organizations (HMO)[2], preferred provider organizations

[1] N.C. Gen. Stat. § 58-3-200(a)(2).
[2] N.C. Gen. Stat. § 58-67-5(f).

(PPO)[3], and indemnity insurance companies. This state summary will use the term "insurer" to refer to all of these entities, unless there is a distinction made within the statutes or regulations regarding the issue being discussed. However, the term "managed care organization" will be used to denote only an HMO and PPO.

North Carolina does not have any statutes, regulations, or policies that mandate, prohibit, or discuss the collection of racial and ethnic data by health insurers.

North Carolina requires that all health insurance policies and any application related to the policies receive approval from the Department of Insurance prior to its use.[4]

2. Discrimination

All contracts that an insurer enters into with an individual health care provider must include a provision that "the provider shall not discriminate against members on the basis of race, color,. . . [or] national origin. . .."[5] In addition, no insurer can refuse to insure or continue to insure an individual because of the person's race, color, national or ethnic origin.[6] An HMO cannot refuse to enroll an individual or refuse to continue enrollment because of the individual's race, color, national or ethnic origin.[7]

North Carolina does not have a statute that prohibits discrimination on the basis of race, color or national origin with regard to access to public accommodations or public services. The only provision that addresses discrimination and access to public accommodations is one that prohibits discrimination because of a disability.[8]

3. Confidentiality

An insurer must not disclose any "personal or privileged" information about an individual collected or received in connection with an insurance transaction.[9] Disclosure is allowable if there is, among other things: (1) written consent by the individual; (2) a need by an

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[3] N.C. Gen. Stat. § 58-50-56(a)(4).
[4] N.C. Gen. Stat. § 58-3-150(a); 11 N.C.A.C. § 12.0307.
[5] 11 N.C.A.C. § 20.0202(13).
[6] N.C. Gen. Stat. § 58-3-25(c).
[7] N.C. Gen. Stat. § 58-67-65(f).
[8] N.C. Gen. Stat. § 168A-6.
[9] N.C. Gen. Stat. § 58-39-75. Personal information is "any individually identifiable information . . . from which judgments can be made about an individual's character, habits, health . . . or any other personal characteristics" including name and address. Privileged information is "information that (i) relates to a claim for insurance benefits or a civil or criminal proceeding . . ., and (ii) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding. . ."

insurance company in order to detect criminal activity or to perform administrative functions; (3) a need by a medical care institution for the purpose of verifying coverage or benefits; and, (4) a release to a law enforcement or government authority.[10]

Information that pertains to an HMO enrollee's diagnosis, treatment or health is confidential and may not be disclosed, except in limited circumstances.[11] These exceptions are: (1) express consent of the enrollee; (2) a statute or court order for the production of evidence; or (3) a claim or litigation between the enrollee and the HMO where the data is relevant to the claim or litigation.[12]

Finally, any patient medical records in the possession of the Department of Insurance are confidential and are not public records.[13] "Patient medical records" include any information regarding a patient's medical history or treatment or a patient's physical or mental condition.[14]

C. Collection and Reporting of Racial and Ethnic Data by Other Health Care Entities

1. Department of Health and Human Services, Division of Medical Assistance (HHS)

a. Statutes, Regulations, Policies and Other Written Materials

HHS is the regulatory agency that administers North Carolina's Medicaid program and its SCHIP program, N.C. Health Choice for Children (Health Choice). There are no statutes or rules that prohibit or require the collection or reporting of racial, ethnic or primary language data regarding Medicaid or Health Choice applicants or recipients.

However, the Health Choice application requests from each applicant information regarding the racial background of all children applying for benefits. The application does not indicate whether it is optional for applicants to provide this information, nor does the application provide racial categories from which the applicant may choose. In addition, the form for emergency certification for Medicaid benefits requests racial information from the applicant. Again, the form does not indicate whether the information is optional, nor does it provide racial categories.

In the North Carolina Medicaid Managed Care Contract ("N.C. Contract"), contracting health plans are required to provide interpreter services 24 hours a day by telephone and/or in

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[10] *Id.*
[11] N.C. Gen. Stat. § 58-67-180.
[12] *Id.*
[13] N.C. Gen. Stat. § 58-2-105.
[14] *Id.*

person.[15] Plans must also provide staff training that addresses topics such as sensitivity to different cultures and the use of bilingual interpreters.[16]

b. Discrimination

During the eligibility determination process, which includes a personal interview, Medicaid regulations require that the applicant/client be informed by the Income Maintenance Caseworker that **s**he has a right to "be protected against discrimination on the grounds of race or national origin by Title VI of the Civil Rights Act of 1964."[17] In addition, the Medicaid Contract includes a provision that prohibits health plans from discriminating on the basis of race or national origin as required by Title VI.[18]

c. Confidentiality

All patient medical records in the possession of the HHS must be held in strict confidence and are not considered public records available for public inspection and copying.[19] In addition, HHS must provide a secure place with controlled access for the storage of all Medicaid records. Only authorized personnel may have access to the records and are responsible for the information if removed from the storage area.[20]

Regulations prohibit the use or disclosure of information concerning a Medicaid applicant or beneficiary for purposes other than the administration of the Medicaid program.[21] In addition, if there is any inconsistency between a federal or state statute or regulation addressing confidentiality issues, HHS must abide by the statute or regulation that provides more protection.[22]

2. Department of Health and Human Services, Division of Public Health (DPH)

a. Statutes, Regulation, Policies, and Other Written Materials

The Division of Public Health (DPH) collects and requires health care providers to report racial and ethnic information for various medical conditions, diseases or programs. These are

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[15] N.C. Contract, § 6.17.
[16] *Id.*
[17] 10 N.C.A.C. § 50B.0202(c)(2)(B).
[18] N.C. Contract, § 1.3.
[19] N.C. Gen. Stat. § 143B-139.6
[20] 10 N.C.A.C. § 50A.0406(a)-(b).
[21] 10 N.C.A.C. § 50A.0404(a).
[22] *Id.*, § 50A.0404(c).

cancer,[23] immunizations,[24] communicable diseases,[25] and birth defects.[26] In addition, although not statutorily required, DPH collects and reports racial data with regard to births and deaths.[27]

In addition, the DPH developed a manual entitled *Developing, Translating and Reviewing Spanish Materials: Recommended Standards for State and Local Agencies*.[28] The manual provides standards for delivering services to Spanish-speaking clients and offers sample forms and applications for that purpose.

b. Discrimination

North Carolina has regulations that prohibit discrimination on the basis of race, color or national origin with regard to access to medical and nursing services within a hospital[29] and state mental health facilities.[30]

c. Confidentiality

All records containing patient medical information that the DPH possesses must be kept confidential and unavailable for public inspection.[31] Furthermore, all information and records that identify an individual with a communicable disease,[32] cancer[33] or a birth defect[34] must be kept confidential.

D. Observations

North Carolina does not have any statutes, regulations, or policies that mandate, prohibit, or discuss the collection of racial and ethnic data by health insurers.

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[23] 15A N.C.A.C. § 26B.0004(a)(2); 15A N.C.A.C. § 26B.0005(c)(2).
[24] 15A N.C.A.C. § 19A.0406(b)(5).
[25] 15A N.C.A.C. § 19A.0102(d)(1).
[26] 15A N.C.A.C. § 26C.0105(e).
[27] *See* http://www.schs.state.nc.us/SCHS/healthstats/vitalstats/volume1-99/. The North Carolina vital statistics report only distinguishes between white and minority. The chart does not provide specific racial categories.
[28] Manual available at http://www.dhhs.state.nc.us/dph/formsmanuals.htm.
[29] 10 N.C.A.C. § 3C.3302
[30] 10 N.C.A.C. § 14H.0401.
[31] N.C. Gen. Stat. § 130A-12.
[32] N.C. Gen. Stat. § 130A-143
[33] N.C. Gen. Stat. § 130A-212.
[34] 15A N.C.A.C. § 26C.0105(b).

North Carolina does not have a public accommodations statute that protects individuals from discrimination on the basis of race, color or national origin; however, the Insurance Code provides protection from discrimination on the basis of race, color or national origin.

Providers delivering services within the Medicaid managed care program are required to provide interpreter services 24 hours a day by telephone and/or in person. In addition, the DPH has provided guidance to state and local agencies for delivering services to Spanish-speaking clients.