

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 409

Short Title: Recommendations of MH/DD/SA Oversight Comm. (Public)

Sponsors: Senators Nesbitt, Allran, Atwater, Dannelly, Forrester, Malone, Purcell, Shaw;
Berger of Franklin, Kinnaird, McKissick, Queen, Snow, and Vaughan.

Referred to: Health Care.

March 5, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT VARIOUS LAWS TO IMPROVE THE MENTAL HEALTH,
3 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES
4 SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT
5 COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
6 SUBSTANCE ABUSE SERVICES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1. Merger or Consolidation of LMEs. –**

- 9 (1) The Secretary of the Department of Health and Human Services shall not
10 take any action prior to June 1, 2010, that would result in the merger or
11 consolidation of local management entities (LMEs), or that would establish
12 consortia or regional arrangements for the same purpose.
- 13 (2) Notwithstanding the provisions of subdivision (1) of this section, contiguous
14 LMEs may implement a merger or consolidation if at least one of the
15 following criteria is satisfied:
- 16 a. At least one of the LMEs does not meet the catchment area
17 requirements of G.S. 122C-115 and the merger or consolidation is to
18 overcome noncompliance with G.S. 122C-115; or
- 19 b. Each board of county commissioners within the multicounty area
20 comprising each of the LMEs involved in the proposed merger or
21 consolidation has approved the merger or consolidation.
- 22 (3) Contracts between LMEs for service authorization, utilization review, and
23 utilization management functions do not constitute a merger or consolidation
24 as addressed in this section.

25 **SECTION 2. LME Peer Training. –** Beginning July 1, 2009, the Department of
26 Health and Human Services, Division of Mental Health, Developmental Disabilities, and
27 Substance Abuse Services, in consultation with the Mental Health Leadership Academy, shall
28 hold at least one meeting each calendar quarter to facilitate peer training and peer sharing
29 among LMEs with respect to best practices and innovations in management and coordination of
30 mental health, developmental disabilities, and substance abuse services.

31 **SECTION 3. Medicaid Waivers. –**

- 32 (1) The Department of Health and Human Services, Division of Mental Health,
33 Developmental Disabilities, and Substance Abuse Services, may develop
34 and apply to the Centers for Medicare and Medicaid Services (CMS) for
35 additional 1915(b) and 1915(c) Medicaid waivers in order to increase the
36 flexibility of LMEs with respect to management and coordination of mental



1 health, developmental disabilities, and substance abuse services. If approved,
2 the Department shall not implement any waiver except as authorized by an
3 act of the General Assembly appropriating funds for this purpose. The
4 Department shall report on the status of any waiver developed or applied for
5 pursuant to this subdivision to the Senate Appropriations Committee on
6 Health and Human Services, the House of Representatives Appropriations
7 Subcommittee on Health and Human Services, the Joint Legislative
8 Oversight Committee on Mental Health, Developmental Disabilities, and
9 Substance Abuse Services, and the Fiscal Research Division not later than
10 March 1, 2010.

11 (2) The Department of Health and Human Services, Division of Mental Health,
12 Developmental Disabilities, and Substance Abuse Services, shall apply to
13 the Centers for Medicare and Medicaid Services for a 1915(c) waiver to
14 permit individuals who sustain traumatic brain injury after age 22 to access
15 home and community-based Medicaid services. If approved, the Department
16 shall not implement the waiver except as authorized by an act of the General
17 Assembly appropriating funds for this purpose. The Department shall report
18 on the status of the waiver to the Joint Legislative Oversight Committee on
19 Mental Health, Developmental Disabilities, and Substance Abuse Services,
20 the Senate Appropriations Committee on Health and Human Services, the
21 House of Representatives Appropriations Subcommittee on Health and
22 Human Services, and the Fiscal Research Division not later than March 1,
23 2010.

24 (3) Not later than September 30, 2009, the Department of Health and Human
25 Services, Division of Medical Assistance, in conjunction with the Division
26 of Mental Health, Developmental Disabilities, and Substance Abuse
27 Services, shall submit a written report to the Joint Legislative Oversight
28 Committee on Mental Health, Developmental Disabilities, and Substance
29 Abuse Services summarizing its implementation of Tiers 1 and 4 of the
30 CAP-MR/DD program and future plans for implementation of Tiers 2 and 3
31 of the CAP-MR/DD program. The summary shall include an explanation of
32 (i) the planned array and intensity level of services to be made available
33 under each of the four tiers, (ii) the range of costs for the planned array and
34 intensity level of services to be made available under each of the four tiers,
35 (iii) how the relative intensity of need for each CAP eligible individual will
36 be reliably determined, and (iv) how the determination will be used to assign
37 individuals appropriately into one of the four tiers. The Department shall not
38 develop or submit an application to the Centers for Medicare and Medicaid
39 Services for additional Medicaid waivers for Tiers 2 and 3 of the
40 CAP-MR/DD program until it has submitted the report required by this
41 subdivision.

42 **SECTION 4. State/County Special Assistance Residency Requirements. –**

43 G.S. 108A-41(b) reads as rewritten:

44 "(b) Assistance shall be granted to any person who:

- 45 (1) Is 65 years of age and older, or is between the ages of 18 and 65 and is
46 permanently and totally disabled; and
47 (2) Has insufficient income or other resources to provide a reasonable
48 subsistence compatible with decency and health as determined by the rules
49 and regulations of the Social Services Commission; and
50 (3) Is one of the following:

- 1 a. A resident of North Carolina for at least ~~90~~180 days immediately
2 prior to receiving this assistance;
- 3 b. A person coming to North Carolina to join a close relative who has
4 resided in North Carolina for at least 180 consecutive days
5 immediately prior to the person's application. The close relative shall
6 furnish verification of his or her residency to the local department of
7 social services at the time the applicant applies for special assistance.
8 As used in this sub-subdivision, a close relative is the person's parent,
9 grandparent, brother, sister, spouse, or child; or
- 10 c. A person discharged from a State facility who was a patient in the
11 facility as a result of an interstate mental health compact. As used in
12 this sub-subdivision the term State facility is a facility listed under
13 G.S. 122C-181."

14 The Department shall study issues relating to consumers with mental illness residing
15 in adult care homes and report its findings and any recommendations to the Joint Legislative
16 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse
17 Services by March 1, 2010.

18 **SECTION 5. Billing Changes.** –

- 19 (1) The Department of Health and Human Services shall create an "incurred but
20 not reported" category of expenditures such that services are paid based on
21 the actual date of services rather than the date when the invoice is received.
22 The Department may only implement this change with the approval of the
23 Office of State Budget and Management.
- 24 (2) The Department of Health and Human Services may require that providers
25 of mental health, developmental disabilities, and substance abuse services
26 submit bills to the LME for State-funded services within 60 days of the date
27 the services were provided.

28 **SECTION 6. Service Dollar Reallocations.** – The Department of Health and
29 Human Services may create a midyear process by which it can reallocate State service dollars
30 away from LMEs that do not appear to be on track to spend the LMEs' full appropriation and
31 towards LMEs that appear able to spend the additional funds

32 **SECTION 7. Screening Tool for ICF/MR Placement.** –

- 33 (1) The Department of Health and Human Services, Division of Mental Health,
34 Developmental Disabilities, and Substance Abuse Services, shall identify a
35 screening tool that will determine how consumers currently access services
36 from Intermediate Care Facilities for the Mentally Retarded (ICF/MR) and
37 that will ensure that consumers of these services are served at the appropriate
38 level of care. The screening tool identified by the Department shall be
39 administered by the LMEs to ensure that the screening is provided
40 independent of the service provider and that LMEs are involved in actively
41 managing the care of consumers in the LMEs' catchment area who are
42 residents in ICF/MR.
- 43 (2) Not later than March 1, 2010, the Department of Health and Human Services
44 shall report on the identification and implementation of the screening tool to
45 the Joint Legislative Oversight Committee on Mental Health, Developmental
46 Disabilities, and Substance Abuse Services, the House of Representatives
47 Appropriations Subcommittee on Health and Human Services, the Senate
48 Appropriations Committee on Health and Human Services, and the Fiscal
49 Research Division.

50 **SECTION 8. Death Reporting in Facilities Providing MH/DD/SA Services.** –

- 1 (1) The Department of Health and Human Services shall establish and maintain
2 a database of all deaths occurring in facilities subject to regulation under
3 Chapter 122C of the General Statutes. The database shall include the name
4 and location of the facility, the time and date of death, and the cause of
5 death, as well as all details surrounding the death. All facilities regulated
6 under Chapter 122C of the General Statutes, and all facilities required by
7 law to report death occurring in the facility to the State Medical Examiner,
8 shall report the information to the database within 10 days of the date of the
9 death.
- 10 (2) The Department of Health and Human Services, Division of Mental Health,
11 Developmental Disabilities, and Substance Abuse Services, shall provide
12 training on death reporting to administrative and direct care employees that
13 are employed in State facilities subject to regulation under G.S. 122C-181.

14 **SECTION 9. Service Authorization, Utilization Review, and Utilization**

15 **Management. –**

- 16 (1) The Department of Health and Human Services shall continue to implement
17 its plan to return the service authorization, utilization review, and utilization
18 management functions to LMEs for all clients. Not later than January 1,
19 2011, the Department shall return utilization review, utilization
20 management, and service authorization for publicly funded mental health,
21 developmental disabilities, and substance abuse services to LMEs
22 representing in total at least sixty percent (60%) of the State's population. An
23 LME must be accredited for national accreditation under behavioral health
24 care standards by a national accrediting entity approved by the Secretary and
25 must demonstrate readiness to meet all requirements of the existing vendor
26 contract with the Department for such services in order to provide service
27 authorization, utilization review, and utilization management to Medicaid
28 recipients in the LME catchment area. Not later than July 1, 2010, the
29 Department shall designate those LMEs that will be performing utilization
30 review, utilization management, and service authorization on and after
31 January 1, 2011, in accordance with this section.
- 32 (2) The Department shall not contract with an outside vendor for service
33 authorization, utilization review, or utilization management functions, or
34 otherwise obligate the State for these functions beyond September 30, 2010.
35 The Department shall require LMEs to include in their service authorization,
36 utilization management, and utilization review a review of assessments, as
37 well as person-centered plans and random or triggered audits of services and
38 assessments.

39 **SECTION 10.** The North Carolina Institute of Medicine (NCIOM) shall conduct a
40 study of mental health, developmental disabilities, and substance abuse services that are funded
41 with Medicaid funds and with State funds. The purpose of the study is to determine what
42 services are currently available to active, reserve, and veteran members of the military and
43 National Guard and the need for increased State services to these individuals. The NCIOM
44 shall report its findings and recommendations to the Joint Legislative Oversight Committee on
45 Mental Health, Developmental Disabilities, and Substance Abuse Services on or before the
46 convening of the 2010 Regular Session of the 2009 General Assembly.

47 **SECTION 11.** This act is effective when it becomes law.