

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 377  
Committee Substitute Favorable 4/12/11

Short Title: Strengthening Residential Placement.

(Public)

Sponsors:

Referred to:

March 17, 2011

A BILL TO BE ENTITLED

AN ACT STRENGTHENING MENTAL HEALTH RESIDENTIAL PLACEMENT UNDER  
THE MEDICAID PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 10.68A(a)(7) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575 and by Section 10.35 of S.L. 2010-31, reads as rewritten:

**"SECTION 10.68A.(a)** The Department of Health and Human Services, Division of Medical Assistance, may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary and subject to the requirements of subsection (e) of this section:

...  
(7)

MH Residential. – The Department of Health and Human Services shall restructure the Medicaid child mental health, developmental disabilities, and substance abuse residential services to ensure that total expenditures are within budgeted levels. All restructuring activities shall be in compliance with federal and State law or rule. The Divisions of Medical Assistance and Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a team inclusive of providers, LMEs, and other stakeholders to assure effective transition of recipients to appropriate treatment options. The restructuring shall address all of the following:

- a. Submission of the therapeutic family service definition to CMS.
- b. The Department shall reexamine the entrance and continued stay criteria for all residential services. The revised criteria shall promote least restrictive services in the home prior to residential placement. During treatment, there must be inclusion in community activities and parent or legal guardian participation in treatment.
- c. Require all existing residential providers or agencies to be nationally accredited within one year of enactment of this act. Any providers enrolled after the enactment of this act shall be subject to existing endorsement and nationally accrediting requirements. In the interim, providers who are nationally accredited will be preferred providers for placement considerations.
- d. Before a child can be admitted to Level III or Level IV placement, an assessment shall be completed to ensure the appropriateness of placement, and one or more of the following shall apply:



1. Placement shall be a step down from a higher level placement such as a psychiatric residential treatment facility or inpatient; or
  2. Multisystemic therapy or intensive in-home therapy services have been unsuccessful; or
  3. The Child and Family Team has reviewed all other alternatives and recommendations and recommends Level III or IV placement due to maintaining health and safety; or
  4. Transition or discharge plan shall be submitted as part of the initial or concurrent request.
- e. Length of stay is limited to no more than ~~120~~180 days. Any exceptions granted will require for non-CABHAs an independent psychological or psychiatric assessment, for CABHAs, a psychological or psychiatric assessment that may be completed by the CABHA, and for both Child and Family Team review of goals and treatment progress, family or discharge placement setting are actively engaged in treatment goals and objectives and active participation of the prior authorization of vendor. ~~The Department shall study the effectiveness of the length of stay limitation imposed pursuant to this sub-subdivision, and the number of children staying in Level II, III, and IV facilities, and report its findings to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before January 1, 2011, and shall provide update reports on the number of children in these facilities to this same committee every six months thereafter, for the following three-year period.~~
- f. Submission of discharge plan is required in order for the request for authorization for Level III or Level IV services to be considered complete, complete, but the authorization approval is not conditional upon the receipt of the signature of the system of care coordinator. The LME will designate appropriate individuals who can sign the discharge plan within 24 hours of receipt of the discharge plan. Failure to submit a complete discharge plan will result in the request being returned as unable to process.
- g. Any residential provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.
- h. Record maintenance is the responsibility of the provider and must be in compliance with record retention requirements. Records shall also be available to State, federal, and local agencies.
- i. Failure to comply with notification, recipient transition planning, or record maintenance shall be grounds for withholding payment until such activity is concluded. In addition, failure to comply shall be conditions that prevent enrollment for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to

1 sanctions, including exclusion from further participation in the  
2 Medicaid program, as set forth in Title XI.  
3 j. On or before October 1, 2009, the Department shall report on its plan  
4 for transitioning children out of Level III and Level IV group homes.  
5 The Department shall submit the reports to the Joint Legislative  
6 Oversight Committee on Mental Health, Developmental Disabilities,  
7 and Substance Abuse Services.

8 ....."

9 **SECTION 2.** This act is effective when it becomes law.