

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

1

HOUSE BILL 389

Short Title: North Carolina Innovations Waiver Act of 2021. (Public)

Sponsors: Representatives Bradford, Hawkins, Insko, and Moffitt (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations
of the House

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE NUMBER OF NORTH CAROLINA INNOVATIONS
WAIVER SLOTS, TO PROVIDE THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES, DIVISION OF HEALTH BENEFITS, THE FLEXIBILITY TO DEVELOP AN
ADDITIONAL SYSTEM OF SERVING INDIVIDUALS WITH INTELLECTUAL OR
DEVELOPMENTAL DISABILITIES WHO ARE ON THE REGISTRY OF UNMET
NEEDS, AND TO REQUIRE THE DEVELOPMENT OF A TEN-YEAR PLAN TO
ADDRESS THE REGISTRY OF UNMET NEEDS.

The General Assembly of North Carolina enacts:

**PART I. INCREASE THE NUMBER OF INNOVATIONS WAIVER SLOTS AND
SERVE A GREATER NUMBER OF INDIVIDUALS ON THE REGISTRY OF UNMET
NEEDS**

SECTION 1.1.(a) There is appropriated from the General Fund to the Department
of Health and Human Services, Division of Health Benefits (DHB), the sum of eleven million
three hundred one thousand dollars (\$11,301,000) in recurring funds for the 2021-2022 fiscal
year and the sum of twenty-six million two hundred forty-three thousand dollars (\$26,243,000)
in recurring funds for the 2022-2023 fiscal year to be used to increase the number of North
Carolina Innovations Waiver slots, as directed by this section. These funds shall provide a State
match for twenty-seven million three hundred thirty-four thousand dollars (\$27,334,000) in
recurring federal funds for the 2021-2022 fiscal year and the sum of fifty-four million eight
hundred eighty thousand dollars (\$54,880,000) in recurring funds for the 2022-2023 fiscal year,
and those federal funds are appropriated to the Division of Health Benefits for implementation
of this section.

SECTION 1.1.(b) The Department of Health and Human Services, Division of
Health Benefits (DHB), shall amend the North Carolina Innovations Waiver to increase the
number of slots by 1,000 available under the waiver in the following manner:

- (1) Eight hundred slots to be made available January 1, 2022, and distributed
using the allocation formula currently in place as of the effective date of this
section.
- (2) Two hundred slots to be distributed in accordance with subsection (c) of this
section and to be made available January 1, 2022, unless the distribution
method in subsection (c) of this section requires approval by the Centers for
Medicare and Medicaid Services (CMS). If CMS approval is required, then



1 the 200 slots shall be made available January 1, 2022, or the date that CMS
2 grants or denies approval, whichever is later. If CMS approval is required and
3 CMS does not approve the distribution method in subsection (c) of this
4 section, then the 200 slots shall be distributed using the allocation formula
5 currently in place as of the effective date of this section.

6 **SECTION 1.1.(c)** The Department of Health and Human Services, Division of
7 Health Benefits (DHB), shall distribute the slots identified under subdivision (2) of subsection
8 (b) of this section to the local management entities/managed care organizations (LME/MCOs)
9 based on a per capita basis calculated as the number of slots multiplied by the population in each
10 LME/MCO's catchment area divided by the population of the State. Once distributed to each
11 LME/MCO, the additional slots shall be made available to the counties on a per capita basis
12 calculated as the number of slots multiplied by the population of the county divided by the
13 population in the LME/MCO's catchment area. Within each county, the slots shall be filled on a
14 first-come, first-served basis determined by the length of time an individual has been on the
15 waiting list.

16 **SECTION 1.2.(a)** There is appropriated from the General Fund to the Department
17 of Health and Human Services, Division of Health Benefits (DHB), the sum of thirteen million
18 one hundred twenty-two thousand dollars (\$13,122,000) in recurring funds for the 2022-2023
19 fiscal year to be used for the North Carolina Innovations Waiver, as directed by this section.
20 These funds shall provide a State match for twenty-seven million four hundred forty thousand
21 dollars (\$27,440,000) in recurring federal funds for the 2022-2023 fiscal year, and those federal
22 funds are appropriated to the Division of Health Benefits to be used for the North Carolina
23 Innovations Waiver, as directed by this section.

24 **SECTION 1.2.(b)** The Department of Health and Human Services, Division of
25 Health Benefits (DHB), is authorized to pursue any amendment or change to the current North
26 Carolina Innovations Waiver or additional 1115(c) waivers to serve the maximum number of
27 individuals that are on the State's registry of unmet needs (registry) as possible. This includes
28 pursuing a tiered waiver system in which individuals on the registry with lower acuity needs are
29 still served at an appropriate level but in a tier with a lower spending cap than the one allowed
30 by the current waiver. In designing these changes, DHB shall make every effort to allow for a
31 seamless transition between tiers, or between waivers, for individuals whose level of need
32 increases or decreases. DHB shall provide flexibility for LME/MCOs to determine how to best
33 distribute funding in order to serve a greater number of individuals on the registry.

34 **SECTION 1.2.(c)** If approval is required by the Centers for Medicare and Medicaid
35 Services to implement any plan developed by the Department of Health and Human Services,
36 Division of Health Benefits (DHB), in accordance with subsection (b) of this section, and if that
37 approval is not received by January 1, 2023, then the funding provided in subsection (a) of this
38 section shall be used to increase the North Carolina Innovations Waiver slots by no less than
39 1,000 slots, and those slots shall be made available as soon as practicable. However, DHB shall
40 continue to pursue approval for implementation in the future.

41 42 **PART II. DEVELOP A TEN-YEAR PLAN TO ADDRESS THE REGISTRY OF UNMET** 43 **NEEDS**

44 **SECTION 2.** The Department of Health and Human Services, Division of Health
45 Benefits (DHB), shall convene a workgroup of stakeholders to develop a 10-year plan to address
46 the registry of unmet needs (registry) for the North Carolina Innovations Waiver. The workgroup
47 shall consider alternatives to the Innovations Waiver to address the registry of unmet needs,
48 including the implementation of a new waiver program for individuals who qualify for the
49 Innovations Waiver and alternative means of distribution of the waiver slots. This 10-year plan
50 shall include a detailed cost analysis of all recommendations and methods proposed to address

1 the registry of unmet needs. No later than February 1, 2022, DHB shall submit a report on the
2 10-year plan to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice.

3

4 **PART III. EFFECTIVE DATE**

5 **SECTION 3.** This act is effective when it becomes law.