

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 458
PROPOSED COMMITTEE SUBSTITUTE H458-PCS10965-SQ-22

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

(Public)

Sponsors:

Referred to:

March 9, 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. Medicaid Waivers. –**

- 26 (1) The Department of Health and Human Services, Division of Mental Health,
27 Developmental Disabilities, and Substance Abuse Services may develop and
28 apply to the Centers for Medicare and Medicaid Services (CMS) for
29 additional 1915(b) and 1915(c) Medicaid waivers in order to increase the
30 flexibility of LMEs with respect to management and coordination of mental
31 health, developmental disabilities, and substance abuse services. If approved,
32 the Department shall not implement any waiver except as authorized by an
33 act of the General Assembly appropriating funds for this purpose. The
34 Department shall report on the status of any waiver developed or applied for



* H 4 5 8 - P C S 1 0 9 6 5 - S Q - 2 2 *

1 pursuant to this subdivision to the Senate Appropriations Committee on
2 Health and Human Services, the House of Representatives Appropriations
3 Subcommittee on Health and Human Services, the Joint Legislative
4 Oversight Committee on Mental Health, Developmental Disabilities, and
5 Substance Abuse Services, and the Fiscal Research Division not later than
6 March 1, 2010.

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

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

38 **SECTION 3. State/County Special Assistance Residency Requirements. –**

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

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

- 41 (1) Is 65 years of age and older, or is between the ages of 18 and 65 and is
42 permanently and totally disabled; and
- 43 (2) Has insufficient income or other resources to provide a reasonable
44 subsistence compatible with decency and health as determined by the rules
45 and regulations of the Social Services Commission; and
- 46 (3) Is one of the following:
 - 47 a. A resident of North Carolina for at least ~~90~~180 days immediately
48 prior to receiving this assistance;
 - 49 b. A person coming to North Carolina to join a close relative who has
50 resided in North Carolina for at least 180 consecutive days
51 immediately prior to the person's application. The close relative shall

1 furnish verification of his or her residency to the local department of
2 social services at the time the applicant applies for special assistance.
3 As used in this sub-subdivision, a close relative is the person's parent,
4 grandparent, brother, sister, spouse, or child; or

- 5 c. A person discharged from a State facility who was a patient in the
6 facility as a result of an interstate mental health compact. As used in
7 this sub-subdivision the term State facility is a facility listed under
8 G.S. 122C-181."

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

13 **SECTION 4. Billing Changes. –**

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

23 **SECTION 5. Service Dollar Reallocations. –** The Department of Health and
24 Human Services may create a midyear process by which it can reallocate State service dollars
25 away from LMEs that do not appear to be on track to spend the LMEs' full appropriation and
26 towards LMEs that appear able to spend the additional funds.

27 **SECTION 6. Screening Tool/Individuals With Developmental Disabilities. –**

- 28 (1) The Department of Health and Human Services, Division of Mental Health,
29 Developmental Disabilities, and Substance Abuse Services shall identify a
30 screening tool to assess level and intensity of need of all individuals with
31 developmental disabilities receiving publicly funded services.
- 32 (2) Not later than March 1, 2010, the Department of Health and Human Services
33 shall report on the identification of the screening tool to the Joint Legislative
34 Oversight Committee on Mental Health, Developmental Disabilities, and
35 Substance Abuse Services, the House of Representatives Appropriations
36 Subcommittee on Health and Human Services, the Senate Appropriations
37 Committee on Health and Human Services, and the Fiscal Research
38 Division.

39 **SECTION 7. Death Reporting in Facilities Providing MH/DD/SA Services. –**

- 40 (1) The Department of Health and Human Services shall establish and maintain
41 a database of all deaths occurring in facilities subject to regulation under
42 Chapter 122C of the General Statutes. The database shall include the name
43 and location of the facility, the time and date of death, and the cause of
44 death, as well as all known details surrounding the death. All facilities
45 regulated under Chapter 122C of the General Statutes, and all facilities
46 required by law to report death occurring in the facility to the State Medical
47 Examiner, shall report the information to the database within 10 days of the
48 date of the death.
- 49 (2) The Department of Health and Human Services, Division of Mental Health,
50 Developmental Disabilities, and Substance Abuse Services shall provide

1 training on death reporting to administrative and direct care employees that
2 are employed in State facilities subject to regulation under G.S. 122C-181.

3 **SECTION 8. Service Authorization, Utilization Review, and Utilization**
4 **Management. –**

5 (1) The Department of Health and Human Services shall continue to implement
6 its plan to return the service authorization, utilization review, and utilization
7 management functions to LMEs for all clients. Not later than January 1,
8 2011, the Department shall return utilization review, utilization
9 management, and service authorization for publicly funded mental health,
10 developmental disabilities, and substance abuse services to LMEs
11 representing in total at least sixty percent (60%) of the State's population. An
12 LME must be accredited for national accreditation under behavioral health
13 care standards by a national accrediting entity approved by the Secretary and
14 must demonstrate readiness to meet all requirements of the existing vendor
15 contract with the Department for such services in order to provide service
16 authorization, utilization review, and utilization management to Medicaid
17 recipients in the LME catchment area. Not later than July 1, 2010, the
18 Department shall designate those LMEs that will be performing utilization
19 review, utilization management, and service authorization on and after
20 January 1, 2011, in accordance with this section.

21 (2) The Department shall require LMEs to include in their service authorization,
22 utilization management, and utilization review a review of assessments, as
23 well as person-centered plans and random or triggered audits of services and
24 assessments.

25 **SECTION 9.** The North Carolina Institute of Medicine (NCIOM) shall conduct a
26 study of mental health, developmental disabilities, and substance abuse services that are funded
27 with Medicaid funds and with State funds. The purpose of the study is to determine what
28 services are currently available to active, reserve, and veteran members of the military and
29 national guard and the need for increased State services to these individuals. The NCIOM shall
30 report its findings and recommendations to the Joint Legislative Oversight Committee on
31 Mental Health, Developmental Disabilities, and Substance Abuse Services on or before the
32 convening of the 2010 Regular Session of the 2009 General Assembly.

33 **SECTION 10.** This act is effective when it becomes law.