

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
Apr 2, 2013
S.B. 663
PRINCIPAL CLERK

S

D

SENATE DRS35302-MGa-92A (03/13)

Short Title: Blue Ribbon Comm. Recs./Supportive MH Housing. (Public)

Sponsors: Senator Hise (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE HOUSING
SUBCOMMITTEE OF THE BLUE RIBBON COMMISSION ON TRANSITIONS TO
COMMUNITY LIVING (1) TO REQUIRE THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES TO ESTABLISH A SUPPORTIVE HOUSING PROGRAM AND
AN ASSISTIVE TECHNOLOGY REUTILIZATION PROGRAM FOR INDIVIDUALS
TRANSITIONING FROM INSTITUTIONAL SETTINGS TO INTEGRATED
COMMUNITY-BASED SETTINGS, (2) TO APPROPRIATE FUNDS TO THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE ESTABLISHMENT
AND OPERATION OF THESE PROGRAMS, AND (3) TO CREATE A TRANSITIONS
TO COMMUNITY LIVING HOUSING BUDGET WITHIN THE TRANSITIONS TO
COMMUNITY LIVING FUND TO INTEGRATE INDIVIDUALS WITH MENTAL
ILLNESS INTO COMMUNITY-BASED SUPPORTED HOUSING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-3 is amended by adding a new subdivision to read:

"(20c) "Local management entity/managed care organization" or "LME/MCO" means an LME that has been approved by the Department to operate the 1915(b)/(c) Medicaid Waiver."

SECTION 2.(a) Chapter 122C of the General Statutes is amended by adding a new Article to read:

"Article 1B.

"Transitions to Community Living.

"Part 1. North Carolina Supportive Housing Program.

"§ 122C-20.5. Definitions.

The following definitions apply in this Article:

(1) In-reach activities. – Education and information provided by the Department or an LME/MCO by individuals who are knowledgeable about community services and supports to residents of adult care homes or State psychiatric hospitals about the benefits and financial aspects of clinically appropriate, community-based supported housing in an integrated setting. The term includes all of the following: (i) facilitating and accompanying residents' visits to supported housing apartments, (ii) assessing residents' interest in supported housing, (iii) exploring and addressing residents' concerns about moving to supporting housing, (iv) reviewing residents' housing preferences, and (v) providing opportunities for residents to meet with other individuals with disabilities who are living, working, and receiving services in integrated



* D R S 3 5 3 0 2 - M G A - 9 2 A *

1 settings; their families; and community providers. This term does not include
2 education or information provided by adult care homes or State psychiatric
3 hospitals to residents.

4 (2) Institution for mental disease. – As defined in 42 C.F.R. § 435.1009, as from
5 time to time amended, a hospital, nursing facility, or other institution of
6 more than 16 beds that is primarily engaged in providing diagnosis,
7 treatment, or care of individuals with mental diseases, including medical
8 attention, nursing care, and related services. The term does not include an
9 institution for individuals with mental retardation.

10 (3) Individual with serious mental illness or SMI. – An individual who is 18
11 years of age or older with a mental illness or disorder that is described in the
12 Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, that
13 impairs or impedes functioning in one or more major areas of living and is
14 unlikely to improve without treatment, services, supports, or all three. The
15 term does not include a primary diagnosis of Alzheimer's disease or
16 dementia.

17 (4) Individual with serious and persistent mental illness or SPMI. – A person
18 who is 18 years of age or older who meets one of the following criteria:

19 a. Has a mental illness or disorder that is so severe and chronic that it
20 prevents or erodes development of functional capacities in primary
21 aspects of daily life such as personal hygiene and self-care, decision
22 making, interpersonal relationships, social transactions, learning, and
23 recreational activities.

24 b. Is receiving Supplemental Security Income or Social Security
25 Disability Income due to mental illness.

26 **"§ 122C-20.6. Department to establish statewide supportive housing program for**
27 **individuals transitioning into community living; purpose.**

28 The Department of Health and Human Services, in consultation with the North Carolina
29 Housing Finance Agency, shall establish and administer a tenant-based rental assistance
30 program known as the North Carolina Supportive Housing Program. The purpose of the
31 program is to transition individuals diagnosed with serious mental illness and serious and
32 persistent mental illness from institutional settings to more integrated community-based
33 settings appropriate to meet their needs. Under the program, the Department, in consultation
34 with the North Carolina Housing Finance Agency and LME/MCOs, shall arrange for program
35 participants to be placed in housing slots available through the program with all the rights and
36 obligations created by a landlord-tenant relationship.

37 **"§ 122C-20.7. Administration of housing subsidies for supportive housing.**

38 The Department may enter into a contract with a private vendor to serve as the housing
39 subsidy administrator for the North Carolina Supportive Housing Program with responsibility
40 for distributing rental vouchers and community living vouchers to program participants based
41 on a formula developed by the Department.

42 **"§ 122C-20.8. Eligibility requirements for NC Supportive Housing Program.**

43 The Commission on Mental Health, Developmental Disabilities, and Substance Abuse
44 Services shall adopt rules to establish eligibility requirements for program. The eligibility
45 requirements shall, at a minimum, include income eligibility requirements and requirements to
46 give priority for program participation and transition services to individuals with SMI or SPMI
47 who are currently residing in institutional settings.

48 **"§ 122C-20.9. In-reach activities for supportive housing.**

49 The Department shall have ongoing responsibility for developing and distributing a list of
50 potentially eligible program participants for each LME/MCO by catchment area. Upon receipt
51 of this information, each LME/MCO shall have ongoing responsibility for prioritizing the list

1 of individuals to whom it will provide in-reach activities in order to (i) arrange an in-person
2 meeting with potentially eligible participants to determine their eligibility and level of interest
3 and (ii) report back to the Department on the LME/MCO's recommended list of program
4 participants on a monthly basis. Upon receipt of an LME/MCO's recommended list of program
5 participants, the Department shall make a final determination of eligibility.

6 **"§ 122C-20.10. Allocation of supportive housing slots to LME/MCOs.**

7 The Department shall annually determine the number of housing slots to be allocated to
8 each LME/MCO as follows:

9 (1) Each year, the Department shall distribute at least fifty percent (50%) of the
10 housing slots available through this program equally among all LME/MCOs.

11 (2) The Department shall award additional housing slots to LME/MCOs based
12 on local need, as determined by the information provided on a monthly basis
13 by LME/MCOs to the Department in accordance with G.S. 122C-20.9.

14 **"§ 122C-20.11. Transition of program participants into housing slots.**

15 The LME/MCO shall develop a written transition plan for each individual determined to be
16 eligible and interested in participating in the North Carolina Supportive Housing Program. The
17 transition plan shall identify at least all of the following:

18 (1) Available housing slots that meet the individual's needs.

19 (2) Any transition services that will be necessary for the individual, including,
20 but not limited to, a one-time transition stability payment, not to exceed two
21 thousand dollars (\$2,000) per individual, for up-front move-in costs
22 approved by the Department or the housing subsidy administrator.

23 (3) Solutions to potential barriers to the individual's successful transition to
24 community-based supported housing.

25 (4) The individual's assistive technology needs, as determined by an assessment
26 conducted in accordance with G.S. 168-18.3.

27 (5) Any other information the Department deems necessary for the individual
28 program participant's successful transition into community-based supported
29 housing.

30 **"§ 122C-20.12. Transition services.**

31 LME/MCOs shall provide individualized transition services to program participants within
32 their respective catchment areas for the 90-day period following the individual's transition into
33 a housing slot provided through the program.

34 **"§ 122C-20.13. Tenancy support services.**

35 The Department or the housing subsidy administrator shall provide ongoing tenancy
36 support services to program participants.

37 **"§ 122C-20.14. Approval of landlords and housing units.**

38 The Department shall develop an application process for owners of housing units seeking to
39 participate in the program as landlords. The application process shall, at a minimum, include an
40 inspection of the owners' available housing units and a requirement that owners complete
41 training on the North Carolina Supportive Housing Program prior to being approved as
42 landlords.

43 **"§ 122C-20.15. Rules to implement NC Supportive Housing Program.**

44 The Commission on Mental Health, Developmental Disabilities, and Substance Abuse
45 Services may adopt any temporary rules necessary to implement this section.

46 **"§ 122C-20.16. Annual reporting on NC Supportive Housing Program.**

47 (a) Annually, on April 1, each LME/MCO shall report to the Department on the number
48 of individuals within the catchment area who transitioned into housing slots available through
49 the North Carolina Supportive Housing Program during the preceding calendar year. The report
50 shall include a breakdown of all funds expended by the LME/MCO for transitioning these
51 individuals into the housing slots.

1 (b) Annually, on July 1, the Department shall report to the General Assembly on the
2 effectiveness of the North Carolina Supportive Housing Program established in this section.

3 **"§ 122C-20.17. Department not obligated to provide unlimited number of housing slots.**

4 Nothing in this section shall be construed to require the Department to provide housing
5 slots to individuals beyond the number that can be supported by funds appropriated by the
6 General Assembly for this purpose."

7 **SECTION 2.(b)** By no later than July 30, 2013, each LME/MCO shall transition at
8 least 15 eligible individuals to community-based supported housing slots available through the
9 North Carolina Supportive Housing Program established under G.S. 122C-20.5.

10 **SECTION 2.(c)** There is appropriated from the General Fund to the Transitions to
11 Communing Living Housing Budget established in G.S. 122E-3A, the sum of three million
12 eight hundred thirty-five thousand two hundred eighty dollars (\$3,835,280) for the 2013-2014
13 fiscal year and the sum of five million eight hundred seventy-six thousand dollars (\$5,876,000)
14 for the 2014-2015 fiscal year. These funds shall be used as follows:

15 (1) The sum of one million seven hundred forty-five thousand two hundred
16 eighty dollars (\$1,745,280) for fiscal year 2013-2014 and the sum of three
17 million one hundred twenty thousand thirty-seven dollars (\$3,120,037) for
18 fiscal year 2014-2015 shall be used to establish and operate the North
19 Carolina Supportive Housing Program authorized in G.S. 122C-20.5.

20 (2) The sum of one million four hundred forty thousand dollars (\$1,440,000) for
21 fiscal year 2013-2014 and the sum of one million five hundred forty
22 thousand dollars (\$1,540,000) for fiscal year 2014-2015 shall be used for
23 program administration for the North Carolina Supportive Housing Program
24 authorized in G.S. 122C-20.5.

25 (3) The sum of six hundred fifty thousand dollars (\$650,000) for fiscal year
26 2013-2014 and the sum of one million two hundred sixteen thousand dollars
27 (\$1,216,000) for fiscal year 2014-2015 shall be used to provide one-time
28 transition stability funds, not to exceed two thousand dollars (\$2,000) per
29 individual, to cover the cost of up-front move-in costs for individuals placed
30 in housing slots available through the North Carolina Supportive Housing
31 Program authorized in G.S. 122C-20.5.

32 **SECTION 3.** Chapter 122E of the General Statutes is amended by adding a new
33 section to read:

34 **"§ 122E-3A. Transitions to Community Living Housing Budget.**

35 (a) Definitions. – The following definitions apply in this section:

36 (1) Catchment area. – As defined in G.S. 122C-3.

37 (2) Individuals with disabilities. – Individuals with severe mental illness, as
38 defined in G.S. 122C-20.5, and severe and persistent mental illness, as
39 defined in G.S. 122C-20.5.

40 (3) Targeted units. – Units within Low Income Housing Tax Credit
41 developments that are specifically designed to facilitate the inclusion of
42 individuals with disabilities.

43 (4) Transitions to Community Living Fund. – The Fund established in Section
44 10.23A.(d) of S.L. 2012-142.

45 (b) Creation and Source of Funds. – The Transitions to Community Living Housing
46 Budget is established within the Transitions to Community Living Fund to pay for the
47 transition of individuals with disabilities from institutional settings to integrated,
48 community-based supported housing. Any unexpended, unencumbered balance of the amount
49 appropriated in Section 10.23A.(e) of S.L. 2012-142 at the end of each fiscal year, including the
50 end of the 2012-2013 fiscal year, shall not revert and shall remain available in the Transitions
51 to Community Living Housing Budget.

(c) Use of Funds. – The North Carolina Housing Finance Agency, in consultation with the Department of Health and Human Services, shall be responsible for administering the Transitions to Community Living Housing Budget. The funds in the Transitions to Community Living Housing Budget shall be available for expenditure only upon an act of appropriation by the General Assembly and only for the following purposes:

- (1) To provide community-based supported housing in integrated settings appropriate for individuals with disabilities.
- (2) To support housing projects in which the percentage of targeted units is at least fifteen percent (15%). Priority for funding shall be given to targeted units located in catchment areas identified by the Department of Health and Human Services, in consultation with the North Carolina Housing Finance Agency and LME/MCOs, as having the greatest need for targeted units.

(d) Sunset. – The Transitions to Community Living Fund terminates on June 30, 2020, and any balance remaining on that date shall revert to the General Fund."

SECTION 4.(a) Chapter 168 of the General Statutes is amended by adding a new Article to read:

"Article 2A.

"Assistive Technology for Individuals Transitioning Into Community Living.

"§ 168-18. Definitions.

The following definitions apply in this Article:

- (1) Assistive technology device or ATD. – Any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capacities of individuals with disabilities. This term includes durable medical equipment.
- (2) Assistive technology services. – A device, service, strategy, or practice used to increase or improve functional capabilities of individuals with disabilities.
- (3) Department. – North Carolina Department of Health and Human Services.
- (4) Durable medical equipment or DME. – Equipment that meets all of the following criteria:
 - a. Can withstand repeated use.
 - b. Is primarily and customarily used to serve a medical purpose.
 - c. Generally is not useful to a person in the absence of an illness or injury.
 - d. Is appropriate for use in the home.
- (5) Individuals with disabilities. – Individuals with severe mental illness, as defined in G.S. 122C-20.5, severe and persistent mental illness, as defined in G.S. 122C-20.5, or intellectual or developmental disabilities who are transitioning from institutional settings to integrated, community-based settings.
- (6) Professional assistive technology consultant. – An individual who is certified as an assistive technology practitioner by an accrediting body approved by the Secretary or an individual who is employed by the Department as an assistive technology consultant.
- (7) Secretary. – Secretary of the North Carolina Department of Health and Human Services.

"§ 168-18.1. Department to establish assistive technology reutilization program for individuals with disabilities transitioning into integrated, community-based settings.

The Department shall expand the North Carolina Assistive Technology Program to include an assistive technology reutilization program. The purpose of the assistive technology reutilization program is for the Department to (i) retrieve ATDs purchased with State funds,

1 including durable medical equipment purchased through the State Medicaid Program, from
2 consumers who no longer utilize the ATDs and (ii) catalogue, refurbish, sanitize, store, and
3 reassign the ATDs to individuals with disabilities.

4 **"§ 168-18.2. Preference for the assistive technology reutilization program.**

5 Prior to purchasing a new ATD for an individual with a disability, each Division within the
6 Department and each LME/MCO shall determine if a suitable refurbished ATD is available
7 through the assistive technology reutilization program authorized in G.S. 168-18. If available,
8 the Division or LME/MCO shall provide the refurbished ATD to the individual in lieu of
9 purchasing, or facilitating the purchase of, a new ATD; provided, however, the Division or an
10 LME/MCO may purchase a new ATD for an individual with a disability if the cost of
11 transporting the refurbished ATD to the individual would outweigh the cost of purchasing a
12 new ATD. The Division or LME/MCO shall provide each recipient of a new or refurbished
13 ATD with information about the assistive technology reutilization program.

14 **"§ 168-18.3. Outreach and training on assistive technology.**

15 The Department and LME/MCOs shall provide or arrange for outreach and training on
16 assistive technology devices for individuals with disabilities and professionals working with
17 these individuals. This outreach and training shall be conducted by individuals who are
18 knowledgeable about assistive technology and local community services and supports and
19 shall, at a minimum, include general information about the assistive technology reutilization
20 program, ATDs, how to include ATDs in the transition planning process, and various statewide
21 resources for accessing assistive technology services, ATD demonstrations, and ATD loans.

22 **"§ 168-18.4. Assessment of assistive technology needs.**

23 The Department or an LME/MCO, as appropriate, shall arrange for each individual with a
24 disability within its catchment area to undergo at least two assistive technology assessments by
25 a professional assistive technology consultant, one during the planning phase of the individual's
26 transition to an integrated, community-based setting and a second upon the individual's
27 transition into that setting. The assistive technology assessment conducted during the transition
28 planning phase shall be included in the individual's transition plan developed in accordance
29 with G.S. 122C-20.11. The purpose of the assistive technology assessment is to determine the
30 individual's specific assistive technology needs based on functional ability, environment, the
31 tasks to be completed with the assistive technology, and available technology options. The
32 assistive technology assessment shall cover the individual's home, independent living
33 environment, employment setting, or all three, as needed.

34 **"§ 168-18.5. Assistive technology device demonstrations and loans.**

35 The Department or an LME/MCO, as appropriate, shall arrange for individuals with
36 disabilities to access ATDs through the North Carolina Assistive Technology Program for trial
37 and demonstration during the planning phase of the individual's transition into an integrated,
38 community-based setting. The purpose of the trial and demonstration is to ensure that the
39 selected ATDs are the best match for the individual considering the individual's functional
40 ability, the environment, and the tasks to be completed with the assistive technology.
41 LME/MCOs may fulfill the requirements of this section by providing hands-on, online, or
42 remote demonstrations of ATDs, or by arranging for loans of ATDs to individuals with
43 disabilities during the planning phase of the individual's transition.

44 **"§ 168-18.6. Disposal of assistive technology devices and durable medical equipment.**

45 The Department shall transfer to the Department of Administration donations of assistive
46 technology devices that are deemed unfit for reuse or reassignment under the assistive
47 technology reutilization program. The Department of Administration shall dispose of these
48 donations as State surplus property."

49 **SECTION 4.(b)** There is appropriated from the General Fund to the Transitions to
50 Communing Living Housing Budget established in G.S. 122E-3A, the sum of two hundred
51 thousand dollars (\$200,000) for the 2013-2014 fiscal year and the sum of one hundred fifty

1 thousand dollars (\$150,000) for the 2014-2015 fiscal year. These funds shall be used to pay for
2 assistive technology assessments for individuals with disabilities who are transitioning from
3 institutional settings to integrated, based settings in order to identify the assistive technology
4 devices that are the best match for the individual considering the environment, task, and ability
5 of the user.

6 **SECTION 5.** Sections 2(c) and 4(b) of this act become effective July 1, 2013. The
7 remainder of this act is effective when it becomes law.