

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**SENATE BILL 371
Health Care Committee Substitute Adopted 4/21/15
PROPOSED HOUSE COMMITTEE SUBSTITUTE S371-PCS45415-SH-59**

Short Title: LME/MCO Claims Reporting/Mental Health Amends. (Public)

Sponsors:

Referred to:

March 24, 2015

A BILL TO BE ENTITLED

1 AN ACT TO MODERNIZE DATA COLLECTION BY THE DEPARTMENT OF HEALTH
2 AND HUMAN SERVICES RELATED TO LME/MCO MANAGED CARE CLAIMS;
3 REITERATE THE APPROVAL PROCESS FOR COUNTY DISENGAGEMENT;
4 REFINER THE APPOINTMENT PROCESS FOR THE AREA BOARD; AMEND THE
5 APPOINTMENT AND TERMINATION NOTICE FOR THE AREA DIRECTOR;
6 CLARIFY THE SALARY APPROVAL PROCESS FOR EMPLOYEE SALARIES
7 ABOVE THE ALLOWABLE AMOUNT; REMOVE THE SUNSET FOR THE PILOT
8 PROGRAM TO STUDY THE USE OF ELECTRONIC SUPERVISION DEVICES IN
9 CERTAIN FACILITIES; PROVIDE DIRECTION TO THE DEPARTMENT ON
10 SINGLE-STREAM ALLOCATION AND THE PROCESSING OF SINGLE-STREAM
11 ENCOUNTER CLAIMS OR OTHER NON-MEDICAID CLAIMS THROUGH NC
12 TRACKS; AND DEVELOP A PLAN TO EXTEND COMMUNITY GUIDE SERVICES.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** The encounter data submission requirements for local management
15 entities/managed care organizations (LME/MCOs) shall be as follows:

- 16 (1) LME/MCOs shall submit to the Department of Health and Human Services
17 (DHHS) encounter data, consisting of records of claims payments made to
18 providers, for Medicaid and State-funded mental health, intellectual and
19 developmental disabilities, and substance abuse disorder services using a
20 single nationally recognized, standardized electronic format for encounter
21 submissions, which shall be specified to the LME/MCOs in advance to
22 assure compliance with the format of encounter data submitted to the DHHS.
23 (2) DHHS may use encounter data for purposes including, but not limited to,
24 setting LME/MCO capitation rates, measuring the quality of services
25 managed by LME/MCOs, assuring compliance with State and federal
26 regulations, and for oversight and audit functions.
27 (3) DHHS, pursuant to G.S. 143B-426.38A, shall share encounter data with the
28 Government Data Analytics Center in order to leverage existing
29 public-private partnerships and subject matter expertise that can assist in
30 providing outcome-based analysis of services and programs as well as
31 population health analytics of the LME/MCO patient population.
32 (4) DHHS shall work with LME/MCOs to ensure that the process for submitting
33 encounter claims through NCTracks is successful.
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1 (5) DHHS shall report to the Joint Legislative Oversight Committee on Health
2 and Human Services regarding the status of this section on or before
3 February 1, 2016.

4 **SECTION 2.(a)** G.S. 122C-115.3 reads as rewritten:

5 "**§ 122C-115.3. Dissolution of area ~~authority~~authority; county disengagement from area**
6 **authority.**

7 ...
8 (b) No county shall withdraw from an area authority nor shall an area authority be
9 dissolved without prior approval of the Secretary. The Secretary shall not approve any county's
10 request to withdraw from a multicounty area authority until rules establishing a procedure for
11 single-county disengagement from an area authority operating under a 1915(b)/(c) Medicaid
12 Waiver are adopted as required by G.S. 122C-112.1. Following the adoption of rules and a
13 process for county disengagement, the Secretary must review and approve each request for a
14 single county to withdraw from an area authority operating under the 1915 (b)/(c) Medicaid
15 Waiver.

16"

17 **SECTION 2.(b)** The Secretary of the Department of Health and Human Services
18 must adopt rules as required by G.S. 122C-112.1(38) and pursuant to the requirements
19 contained in S.L. 2012-151, Section 7(a). The Secretary may develop temporary rules to
20 comply with this section.

21 **SECTION 3.** G.S. 122C-118.1 reads as rewritten:

22 "**§ 122C-118.1. Structure of area board.**

23 (a) An area board shall have no fewer than 11 and no more than 21 voting members.
24 The board of county commissioners, or the boards of county commissioners within the area,
25 shall appoint members consistent with the requirements provided in subsection (b) of this
26 section. If the board or boards fail to comply with the requirements of subsection (b) of this
27 section, the Secretary shall appoint the unrepresented category.

28 (a1) The process for appointing members shall ensure participation from each of the
29 constituent counties of a multicounty area authority. ~~If the board or boards fail to comply with~~
30 ~~the requirements of subsection (b) of this section, the Secretary shall appoint the unrepresented~~
31 ~~category.~~ The boards of county commissioners within a multicounty area with a catchment
32 population of at least 1,250,000 shall have the option to appoint members of the area board ~~in a~~
33 ~~manner or with a composition through a process~~ other than as required by this section by at
34 least two-thirds of the constituent counties each county adopting a resolution to that effect and
35 receiving written approval from the Secretary. The Secretary may approve an appointment
36 process that includes the constituent counties delegating appointment authority to intermediary
37 bodies created by counties to represent regions of a multicounty area authority. A member of
38 the board may be removed with or without cause by the ~~initial~~-appointing authority.

39 (a2) The area board may declare vacant the office of an appointed member who does not
40 attend three consecutive scheduled meetings without justifiable excuse. The chair of the area
41 board shall notify the appropriate appointing authority of any vacancy. Vacancies on the board
42 shall be filled by the ~~initial~~-appointing authority before the end of the term of the vacated seat
43 or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the
44 remainder of the unexpired term.

45 (b) Within the maximum membership provided in subsection (a) of this section, the
46 membership of the area board shall reside within the catchment area and be composed as
47 follows:

- 48 (1) At least one member who is a current county commissioner.
49 (2) The chair of the local Consumer and Family Advisory Committee (CFAC)
50 or the chair's designee.

- 1 (3) At least one family member of the local CFAC, as recommended by the
 2 local CFAC, representing the interests of the following:
 3 a. Individuals with mental illness.
 4 b. Individuals in recovery from addiction.
 5 c. Individuals with intellectual or other developmental disabilities.
- 6 (4) At least one openly declared consumer member of the local CFAC, as
 7 recommended by the local CFAC, representing the interests of the
 8 following:
 9 a. Individuals with mental illness.
 10 b. Individuals with intellectual or other developmental disabilities.
 11 c. Individuals in recovery from addiction.
- 12 (5) An individual with health care expertise and experience in the fields of
 13 mental health, intellectual or other developmental disabilities, or substance
 14 abuse services.
- 15 (6) An individual with health care administration expertise consistent with the
 16 scale and nature of the managed care organization.
- 17 (7) An individual with financial expertise consistent with the scale and nature of
 18 the managed care organization.
- 19 (8) An individual with insurance expertise consistent with the scale and nature
 20 of the managed care organization.
- 21 (9) An individual with social services expertise and experience in the fields of
 22 mental health, intellectual or other developmental disabilities, or substance
 23 abuse services.
- 24 (10) An attorney with health care expertise.
- 25 (11) A member who represents the general public and who is not employed by or
 26 affiliated with the Department of Health and Human Services, as appointed
 27 by the Secretary.
- 28 (12) The President of the LME/MCO Provider Council or the President's
 29 designee to serve as a nonvoting member who shall participate only in Board
 30 activities that are open to the public.
- 31 (13) An administrator of a hospital providing mental health, developmental
 32 disabilities, and substance abuse emergency ~~services to~~ services. If the
 33 hospital receives reimbursement from the LME/MCO, this individual shall
 34 serve as a nonvoting member ~~who~~ and shall participate only in Board
 35 activities that are open to the public.

36 Except as provided in subdivisions (12) and (13) of this subsection, an individual that
 37 contracts with a local management entity (LME) for the delivery of mental health,
 38 developmental disabilities, and substance abuse services may not serve on the board of the
 39 LME for the period during which the contract for services is in effect. No person registered as a
 40 lobbyist under Chapter 120C of the General Statutes shall be appointed to or serve on an area
 41 authority board. Of the members described in subdivisions (2) through (4) of this subsection,
 42 the boards of county commissioners shall ensure there is at least one member representing the
 43 interest of each of the following: (i) individuals with mental illness, (ii) individuals with
 44 intellectual or other developmental disabilities, and (iii) individuals in recovery from addiction.

45"

46 **SECTION 4.** G.S. 122C-121 reads as rewritten:

47 "**§ 122C-121. Area director.**

48 (a) The area director is an employee of the area board, shall serve at the pleasure of the
 49 board, and shall be appointed in accordance with G.S. 122C-117(7). As used in this subsection,
 50 "employee" means an individual and does not include a corporation, a partnership, a limited
 51 liability corporation, or any other business association.

1 (a1) The area board shall establish the area director's salary under Article 3 of Chapter
2 126 of the General Statutes. Notwithstanding G.S. 126-9(b), an area director may be paid a
3 salary that is in excess of the salary ranges established by the State Human Resources
4 Commission. Any salary that is higher than the maximum of the applicable salary range shall
5 be supported by documentation of comparable salaries in comparable operations within the
6 region and shall also include the specific amount the board proposes to pay the director. The
7 area board shall not authorize any salary adjustment that is above the normal allowable salary
8 range without obtaining prior approval from the Director of the Office of State Human
9 Resources, Resources and the Secretary of the Department of Health and Human Services.

10 (a2) The area board shall not provide the director with any benefits that are not also
11 provided by the area board to all permanent employees of the area program, except that the area
12 board may, in its discretion, offer severance benefits, relocation expenses, or both, to an
13 applicant for the position of director as an incentive for the applicant to accept an offer of
14 employment. The director shall be reimbursed only for allowable employment-related expenses
15 at the same rate and in the same manner as other employees of the area program.

16 (b) The area board shall evaluate annually the area director for performance based on
17 criteria established by the Secretary and the area board. In conducting the evaluation, the area
18 board shall consider comments from the board of county commissioners.

19 (c) The area director is the administrative head of the area program. In addition to the
20 duties under G.S. 122C-111, the area director shall:

21 (1) Appoint, supervise, and terminate area program staff.

22 (2) Administer area authority services.

23 (3) Develop the budget of the area authority for review by the area board.

24 (4) Provide information and advice to the board of county commissioners
25 through the county manager.

26 (5) Act as liaison between the area authority and the Department.

27 (d) Except when specifically waived by the Secretary, the area director shall meet all
28 the following minimum qualifications:

29 (1) Masters degree.

30 (2) Related experience.

31 (3) Management experience.

32 (4) Any other qualifications required under G.S. 122C-120.1.

33 (e) The appointment of the area director shall be based on the recommendation of at
34 least two candidates by a search committee of the area authority board. The search committee
35 shall include a consumer board member, a county commissioner, and an appointee of the
36 Secretary.

37 (f) The area director may not be terminated by the area authority board without 30 days
38 prior written notice to the Secretary of the Department of Health and Human Services."

39 **SECTION 5.** G.S. 122C-154 reads as rewritten:

40 **"§ 122C-154. Personnel.**

41 Employees under the direct supervision of the area director are employees of the area
42 authority. For the purpose of personnel administration, Chapter 126 of the General Statutes
43 applies unless otherwise provided in this Article. Employees appointed by the county program
44 director are employees of the county. In a multicounty program, employment of county
45 program staff shall be as agreed upon in the interlocal agreement adopted pursuant to
46 G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of an area authority may be
47 paid a salary that is in excess of the salary ranges established by the State Human Resources
48 Commission. Any salary that is higher than the maximum of the applicable salary range shall
49 be supported by documentation of comparable salaries in comparable operations within the
50 region and shall also include the specific amount the board proposes to pay the employee. The
51 area board shall not authorize any salary adjustment ~~that is above the normal allowable salary~~

1 ~~range without obtaining prior approval for any employee that is above the normal allowable~~
2 ~~salary without submitting the documentation of comparable salaries in comparable operations~~
3 ~~within the region used as justification for the request to the Director of the Office of State~~
4 ~~Human Resources and obtaining prior written approval for the salary adjustment from the~~
5 ~~Director of the Office of State Human Resources, Resources and the Secretary of the~~
6 ~~Department of Health and Human Services."~~

7 **SECTION 6.** Notwithstanding any other provision of law, the pilot program
8 established by the Department of Health and Human Services, Division of Health Service
9 Regulation, to study the use of electronic supervision devices as an alternative means of
10 supervision during sleep hours at facilities for children and adolescents who have a primary
11 diagnosis of mental illness and/or emotional disturbance shall remain in effect and shall extend
12 to facilities that are authorized to provide services in accordance with Section .1700 of the
13 North Carolina Administrative Code, Residential Treatment Staff Secure for Children or
14 Adolescents, currently owned or operated with the facility currently authorized to waive the
15 requirement set forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or
16 regulation by the Commission for Mental Health, Developmental Disabilities, and Substance
17 Abuse Services setting minimum overnight staffing requirements. The waiver for these
18 facilities shall remain in effect; however, the Division reserves the right to rescind the waiver
19 if, at the time of the facility's license renewal, there are outstanding deficiencies that have
20 remained uncorrected upon follow-up surveys that are related to electronic supervision.

21 **SECTION 7.** The Department of Health and Human Services, Division of Mental
22 Health, Developmental Disabilities, and Substance Abuse Services, shall distribute one-twelfth
23 of each LME/MCO's single-stream allocation on or before the last working day of each month
24 beginning with the first month of the fiscal year and continuing monthly thereafter.

25 **SECTION 8.** In order to promote self-determination, increase independence, and to
26 enhance the ability of individuals with intellectual and other related developmental disabilities
27 to interact with and to contribute to the local community, the Department of Health and Human
28 Services shall develop a plan for extending Community Guide services to all individuals on the
29 Medicaid Innovations Waiver waiting list. The Department of Health and Human Services shall
30 engage the local management entities and other relevant stakeholders in the process of
31 developing this plan. The plan shall include the following:

- 32 (1) Any necessary revisions to current service definitions or proposed new
33 service definitions.
- 34 (2) The potential cost of extending Community Guide services to all individuals
35 on the Innovations Waiver waiting list.
- 36 (3) The delineation of any changes that would require the approval of the
37 Centers for Medicare & Medicaid Services.
- 38 (4) Detailed information on comprehensive strategies to be used that will assure
39 that the Community Guide services provide information to the LME/MCOs
40 regarding the critical needs of the individual.

41 On or before March 15, 2016, the Department shall report to the Joint Legislative
42 Oversight Committee on Health and Human Services on the plan to extend Community Guide
43 services.

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