

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 389  
Mar 24, 2021  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10164-MRa-57A

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

Sponsors: Representative Bradford.

Referred to:

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 the 200 slots shall be made available January 1, 2022, or the date that CMS grants or denies approval, whichever is later. If CMS approval is required and



1 CMS does not approve the distribution method in subsection (c) of this  
2 section, then the 200 slots shall be distributed using the allocation formula  
3 currently in place as of the effective date of this section.

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

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

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

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

## 39 **PART II. DEVELOP A TEN-YEAR PLAN TO ADDRESS THE REGISTRY OF UNMET** 40 **NEEDS**

41 **SECTION 2.** The Department of Health and Human Services, Division of Health  
42 Benefits (DHB), shall convene a workgroup of stakeholders to develop a 10-year plan to address  
43 the registry of unmet needs (registry) for the North Carolina Innovations Waiver. The workgroup  
44 shall consider alternatives to the Innovations Waiver to address the registry of unmet needs,  
45 including the implementation of a new waiver program for individuals who qualify for the  
46 Innovations Waiver and alternative means of distribution of the waiver slots. This 10-year plan  
47 shall include a detailed cost analysis of all recommendations and methods proposed to address  
48 the registry of unmet needs. No later than February 1, 2022, DHB shall submit a report on the  
49 10-year plan to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice.  
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1 **PART III. EFFECTIVE DATE**

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