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**HOUSE BILL 916
Committee Substitute Favorable 5/31/11
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Short Title: Statewide Expansion of 1915(b)/(c) Waiver.

(Public)

Sponsors:

Referred to:

May 5, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH REQUIREMENTS FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND LOCAL MANAGEMENT ENTITIES WITH RESPECT TO STATEWIDE EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services (Department) shall proceed with statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual and developmental disabilities, and substance abuse disorders through expansion of the 1915(b)/(c) Medicaid Waiver. It is the intent of the General Assembly that expansion of the 1915(b)/(c) Medicaid Waiver will be completed by July 1, 2013, and will result in the establishment of a system that is capable of managing all public resources that may become available for mental health, intellectual and developmental disabilities, and substance abuse services, including federal block grant funds, federal funding for Medicaid and Health Choice, and all other public funding sources. In implementing the restructuring and expansion authorized in this section, the Department shall do all of the following:

- (1) Establish accountability for the development and management of a local system that ensures easy access to care, the availability and delivery of necessary services, and continuity of care for consumers in need of mental health, intellectual and developmental disabilities, and substance abuse services.
- (2) Maintain fidelity to the Piedmont Behavioral Health (PBH) demonstration model, a proven system for the operation of all public resources for mental health, developmental disabilities, and substance abuse services.
- (3) Designate a single entity to assume responsibility for all aspects of Waiver management. The following operational models are acceptable options for Local Management Entity (LME) applicants:
 - a. Merger model: A single larger LME is formed from the merger of two or more LMEs.
 - b. Interlocal agreement among LMEs: A single LME is identified as the leader for all Waiver operations, financial management, and accountability for performance measures.
- (4) Use managed care strategies, including care coordination and utilization management, to reduce the trend of escalating costs in the State Medicaid program while ensuring medically necessary care and deploy a system for



1 the allocation of resources based on the reliable assessment of intensity of
2 need. The Department shall design these strategies to efficiently direct
3 consumers to appropriate services and to ensure that consumers receive no
4 more and no less than the amount of services determined to be medically
5 necessary and at the appropriate funding level.

6 (5) As the 1915(b)/(c) Medicaid Waiver expands statewide, phase out the
7 current CAP-MR/DD Waiver as well as the utilization management
8 functions currently performed by public and private contractors.

9 (6) Design the Innovations Waiver in such a way as to serve the maximum
10 number of individuals with intellectual and developmental disabilities within
11 aggregate funding.

12 (7) Require LMEs approved to operate a 1915(b)/(c) Medicaid Waiver to do all
13 of the following:

14 a. Maintain a local presence in order to respond to the unique needs and
15 priorities of localities.

16 b. Implement a process for feedback and exchange of information and
17 ideas to ensure communication with consumers, families, providers,
18 and stakeholders regarding disability-specific and general Waiver
19 operations.

20 c. Establish and maintain systems for ongoing communication and
21 coordination regarding the care of individuals with mental illness,
22 intellectual and developmental disabilities, and substance abuse
23 disorders with other organized systems such as local departments of
24 social services, Community Care of North Carolina, hospitals, school
25 systems, the Department of Juvenile Justice, and other community
26 agencies.

27 d. Comply with the following operational requirements:

28 1. Maintain disability specific infrastructure and competency to
29 address the clinical, treatment, rehabilitative, habilitative, and
30 support needs of all disabilities covered by the 1915(b)/(c)
31 Medicaid Waiver.

32 2. Maintain administrative and clinical functions, including
33 requirements for customer service, quality management, due
34 process, provider network development, information systems,
35 financial reporting, and staffing.

36 3. Maintain full accountability for all aspects of Waiver
37 operations and for meeting all contract requirements specified
38 by the Department. The Department shall not require LMEs
39 to subcontract any managed care functions or nonservice
40 activities to other entities. However, LMEs that choose to
41 subcontract managed care functions to other entities will be
42 limited to the following:

43 I. Information systems.

44 II. Customer service (including call center) operations.

45 III. Claims processing.

46 IV. Provider, enrollment, credentialing, and monitoring.

47 V. Professional services.

48 VI. Treatment Plan development.

49 VII. Referral to services.

1 **SECTION 1.(b)** By August 1, 2011, the Department shall select LMEs that have
2 been assessed to meet minimum criteria for Waiver operations according to the requirements of
3 RFA #2011-261 issued on April 1, 2011.

4 **SECTION 1.(c)** The Department shall require LMEs that have not been approved
5 by the Department to operate a 1915(b)/(c) Medicaid Waiver by January 1, 2013, to merge with
6 or be aligned through an interlocal agreement with an LME that has been approved by the
7 Department to operate a 1915(b)/(c) Medicaid Waiver. If any LME fails to comply with this
8 requirement, the Department shall assign responsibility for management of the 1915(b)/(c)
9 Medicaid Waiver on behalf of the noncompliant LME to an LME that is successfully operating
10 the Waiver and successfully meeting performance requirements of the contract with the
11 Department. Those LMEs approved to operate the 1915(b)/(c) Medicaid Waiver under an
12 interlocal agreement must have a single LME entity designated as responsible for all aspects of
13 Waiver operations and solely responsible for meeting contract requirements.

14 **SECTION 1.(d)** County governments are not financially liable for overspending or
15 cost overruns associated with an area authority's operation of a 1915(b)/(c) Medicaid Waiver.
16 County governments are not financially liable for overspending or cost overruns of Medicaid
17 services associated with a county program or multicounty program's operation of a 1915(b)/(c)
18 Medicaid Waiver beyond the county program or multicounty program's Medicaid risk reserve
19 and Medicaid fund balance amounts.

20 **SECTION 1.(e)** Providers of targeted case management under the CAP-MR/DD
21 Waiver are qualified to provide the 1915(c) service known as Community Guide under the
22 Innovations Waiver. During the first year of assuming responsibility for Waiver operations,
23 LMEs shall offer to contract with providers that were previously approved to provide targeted
24 case management to individuals with intellectual and developmental disabilities under the
25 CAP-MR/DD Waiver, for the provision of Community Guide services.

26 **SECTION 1.(f)** By December 31, 2011, the Department shall determine the
27 feasibility of adding habilitation services to the State Medicaid Plan through the 1915(i) Option
28 as a strategy to address the needs of Medicaid enrollees with IDD who are not enrolled in the
29 Innovations Waiver and are not residing in an intermediate care facility for the mentally
30 retarded (ICF-MR facility).

31 **SECTION 1.(g)** The Department shall consider the impact on ICF-MR facilities
32 included in the 1915(b)/(c) Medicaid Waiver to determine and, to the extent possible, minimize
33 potential inconsistencies with the requirements of G.S. 131E-176 and G.S. 131E-178 without
34 negatively impacting the viability and success of the 1915(b)/(c) Medicaid Waiver programs.

35 **SECTION 1.(h)** The Department shall discontinue the pilot program to administer
36 the Supports Intensity Scale to people with intellectual and developmental disabilities in
37 non-Waiver LMEs.

38 **SECTION 1.(i)** The Department shall establish written policies ensuring alignment
39 of objectives and operational coordination of the 1915(b)/(c) Medicaid Waiver and the care of
40 individuals with mental illness, intellectual and developmental disabilities, and substance abuse
41 disorders with other organized systems under the auspices of the Department, including
42 Community Care of North Carolina.

43 **SECTION 1.(j)** In the development of the budget for the 2013-2015 fiscal
44 biennium and subsequent biennia, the General Assembly shall consider a reinvestment of at
45 least fifteen percent (15%) of the total projected State savings for that biennium from the
46 operation of the 1915(b)/(c) Waiver, for the purpose of expanding the number of consumers
47 served by the Innovations 1915(c) Medicaid Waiver, or for the purpose of expanding other
48 services that are designed to meet the needs of individuals with intellectual and developmental
49 disabilities.

50 **SECTION 1.(k)** By October 1, 2011, the Department, in coordination with the
51 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the

1 Division of Medical Assistance, LMEs, PBH, and with stakeholder input, shall submit to the
2 appropriate Oversight Committee of the General Assembly a strategic plan delineating specific
3 strategies and agency responsibilities for the achievement of the objectives and deadlines set
4 forth in this Act.

5 **SECTION 1.(l)** The Department shall submit status reports to the General
6 Assembly on the restructuring and expansion authorized in this section on January 1, 2012,
7 April 1, 2012, October 1, 2012, February 1, 2013, and October 1, 2013.

8 **SECTION 2.** G.S. 122C-115(a) reads as rewritten:

9 "(a) A county shall provide mental health, developmental disabilities, and substance
10 abuse services through an area authority or through a county program established pursuant to
11 G.S. 122C-115.1. ~~The catchment area of an area authority or a county program shall contain~~
12 ~~either a minimum population of at least 200,000 or a minimum of six counties. Beginning July~~
13 ~~1, 2012, the catchment area of an area authority or a county program shall contain a minimum~~
14 ~~population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority~~
15 ~~or a county program shall contain a minimum population of at least 500,000. To the extent this~~
16 ~~section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.~~

17 (a1) ~~Effective July 1, 2007, the Department of Health and Human Services shall reduce~~
18 ~~by ten percent (10%) annually the administrative funding for LMEs that do not comply with the~~
19 ~~catchment area requirements of subsection (a) of this section. However, an LME that does not~~
20 ~~comply with the catchment area requirements because of a change in county membership shall~~
21 ~~have 12 months from the effective date of the change to comply with subsection (a) of this~~
22 ~~section. Effective July 1, 2012, the Department shall reduce the administrative funding for~~
23 ~~LMEs that do not comply with the minimum population requirement of 300,000 to a rate~~
24 ~~consistent with the funding rate provided to LMEs with a population of 300,000.~~

25 (a2) ~~Effective July 1, 2013, the Department shall reassign management responsibilities~~
26 ~~for Medicaid funds and State funds away from LMEs that are not in compliance with the~~
27 ~~minimum population requirement of 500,000 to LMEs that are fully compliant with all~~
28 ~~catchment area requirements, including the minimum population requirements specified in this~~
29 ~~section.~~

30 (b) Counties shall and cities may appropriate funds for the support of programs that
31 serve the catchment area, whether the programs are physically located within a single county or
32 whether any facility housing a program is owned and operated by the city or county. Counties
33 and cities may make appropriations for the purposes of this Chapter and may allocate for these
34 purposes other revenues not restricted by law, and counties may fund them by levy of property
35 taxes pursuant to G.S. 153A-149(c)(22).

36 (c) Except as authorized in G.S. 122C-115.1, within a catchment area designated in the
37 business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more
38 boards of county commissioners jointly shall establish an area authority with the approval of
39 the Secretary.

40 (d) Except as otherwise provided in this subsection, counties shall not reduce county
41 appropriations and expenditures for current operations and ongoing programs and services of
42 area authorities or county programs because of the availability of State-allocated funds, fees,
43 capitation amounts, or fund balance to the area authority or county program. Counties may
44 reduce county appropriations by the amount previously appropriated by the county for
45 one-time, nonrecurring special needs of the area authority or county program."

46 **SECTION 3.** G.S. 122C-115.3(a) reads as rewritten:

47 "(a) Whenever the board of commissioners of each county constituting an area authority
48 determines that the area authority is not operating in the best interests of consumers, it may
49 direct that the area authority be dissolved. In addition, whenever a board of commissioners of a
50 county that is a member of an area authority determines that the area authority is not operating
51 in the best interests of consumers of that county, it may withdraw from the area authority. An

1 area authority that does not meet the minimum population requirements specified in
2 G.S. 122C-115 may dissolve at any time during a fiscal year. Dissolution of an area authority
3 or withdrawal from the area authority by a county for other reasons shall be effective only at
4 the end of the fiscal year in which the action of dissolution or withdrawal transpired."

5 **SECTION 4.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

6 "(20) The Department of Health and Human Services in implementing, operating,
7 or overseeing new 1915(b)/(c) Medicaid Waiver programs or amendments to
8 existing 1915(b)/(c) Medicaid Waiver programs."

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