

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 492  
Committee Substitute Favorable 4/24/13

Short Title: Safeguard Qualified Individuals-Medicaid PCS. (Public)

Sponsors:

Referred to:

April 2, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO  
3 ADJUST MEDICAID PERSONAL CARE SERVICES TO PROVIDE ADDITIONAL  
4 SAFEGUARDS FOR QUALIFIED INDIVIDUALS AND TO REPORT TO THE HOUSE  
5 APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES, THE  
6 SENATE APPROPRIATIONS COMMITTEE ON HEALTH AND HUMAN SERVICES,  
7 AND TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND  
8 HUMAN SERVICES.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. Sections 10.9F(c) and (d) of S.L. 2012-142, as amended by Section  
11 70 of S.L. 2012-194, read as rewritten:

12 "SECTION 10.9F.(c) A Medicaid recipient who meets each of the following criteria is  
13 eligible for up to 80 hours of personal care services:

- 14 (1) The recipient has a medical condition, disability, or cognitive impairment  
15 and demonstrates unmet needs for, at a minimum, (i) three of the five  
16 qualifying activities of daily living (ADLs) with limited hands-on assistance;  
17 (ii) two ADLs, one of which requires extensive assistance; or (iii) two  
18 ADLs, one of which requires assistance at the full dependence level.
- 19 (2) The recipient (i) resides in a private living arrangement, a residential facility  
20 licensed by the State of North Carolina as an adult care home, or a  
21 combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group  
22 home licensed under Chapter 122C or the General Statutes and under  
23 10A NCAC 27G .5601 as a supervised living facility for two or more adults  
24 whose primary diagnosis is mental illness, a developmental disability, or  
25 substance abuse dependency, and is eligible to receive personal care services  
26 under the Medicaid State Plan.

27 The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For  
28 Medicaid recipients meeting the criteria above, ~~Personal~~ personal care services shall be  
29 available for up to 80 hours per month in accordance with an assessment conducted under  
30 subsection (d) of this section and a plan of care developed by the service provider and approved  
31 by the Department of Health and Human Services, Division of Medical Assistance, or its  
32 designee.

- 33 (3) A Medicaid recipient who meets the eligibility criteria provided in  
34 subdivisions (1) and (2) of this subsection and all of the criteria provided  
35 below is eligible for up to 50 additional hours of Medicaid Personal Care



1 Services per month for a total of up to 130 hours per month in accordance  
2 with an assessment and a plan of care.

3 a. The recipient requires an increased level of supervision.

4 b. The recipient requires caregivers with training or experience in  
5 caring for individuals who have a degenerative disease, characterized  
6 by irreversible memory dysfunction, that attacks the brain and results  
7 in impaired memory, thinking, and behavior including gradual  
8 memory loss, impaired judgment, disorientation, personality change,  
9 difficulty in learning, and the loss of language skills.

10 c. Regardless of setting, the recipient requires a physical environment  
11 that includes modifications and safety measures to safeguard the  
12 recipient because of the recipient's gradual memory loss, impaired  
13 judgment, disorientation, personality change, difficulty in learning,  
14 and the loss of language skills.

15 d. The recipient exhibits safety concerns related to inappropriate  
16 wandering, ingestion, aggressive behavior, and an increased  
17 incidence of falls.

18 Physician attestation. – A recipient must have a physician's attestation that  
19 the recipient meets each of the criteria in sub-subdivisions a. through d. of  
20 subdivision 3 of this subsection. A recipient is not required to have a new  
21 attestation if he or she is identified by the Department of Health and Human  
22 Services, Division of Medical Assistance, as having on record a physician's  
23 attestation that meets the requirements of this subdivision. A recipient is  
24 required to have a new attestation if one cannot be identified by the Division  
25 of Medical Assistance or if the one identified does not meet the requirements  
26 of this subdivision.

27 Independent assessment. – Based on the physician's attestation, the Medicaid  
28 recipient must receive an independent assessment conducted by a trained  
29 professional who is qualified to assess and has experience assessing  
30 individuals with the needs for additional safeguards identified by this  
31 subdivision. The independent assessment shall be conducted in accordance  
32 with subsection (d) of this section and shall determine the number of hours  
33 of personal care services needed by the individual. In response to the  
34 assessment, a plan of care shall be developed by the service provider and  
35 approved by the Department of Health and Human Services, Division of  
36 Medical Assistance, or its designee.

37 Personal care services shall not include nonmedical transportation; financial management;  
38 non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and  
39 household chores not directly related to the qualifying ADLs.

40 **"SECTION 10.9F.(d)** All assessments for personal care services, continuation of service,  
41 and change of status reviews shall be performed by an independent assessment entity (IAE).  
42 The IAE shall not be an owner of a provider business or provider of personal care services of  
43 any type.

44 A recipient shall be assessed by the IAE after the recipient's primary or attending physician  
45 provides written authorization for referral for the service and written attestation to the medical  
46 necessity for the service. The IAE shall determine and authorize the amount of service to be  
47 provided as determined by its review and findings of each recipient's degree of functional  
48 disability and level of unmet needs for personal care services in the five qualifying ADLs."

49 **SECTION 2.** The Department of Health and Human Services shall implement  
50 Section 1 of this act within available funds.

1           **SECTION 3.(a)** On or before May 1, 2013, the Department of Health and Human  
2 Services shall make an interim report on the implementation of this act to the House  
3 Appropriations Subcommittee on Health and Human Services and to the Senate Appropriations  
4 Committee on Health and Human Services. The report shall include the following: (i) an  
5 estimate of the number of Medicaid recipients that would be eligible for Medicaid Personal  
6 Care Services under this act, (ii) an estimate of the number of PCS hours potential recipients  
7 would need broken out in increments of 10 hours between 80 and 130 hours, (iii) a copy of the  
8 draft Medicaid State Plan Amendment (SPA), (iv) the estimated time line for approval of the  
9 SPA and a projected implementation date, and (v) any rate reductions necessary to implement  
10 this act.

11           **SECTION 3.(b)** On or before August 1, 2013, and on or before November 1, 2013,  
12 the Department of Health and Human Services shall report on the implementation of this act to  
13 the Joint Legislative Oversight Committee on Health and Human Services.

14           **SECTION 4.** Sections 1 and 2 of this act become effective July 1, 2013. The  
15 remainder of this act is effective when it becomes law.