

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1262*

Short Title: Extend Pilot/Clarify LME Functions/LME Admin. (Public)

Sponsors: Senators Nesbitt; Allran, Atwater, Cowell, Dannelly, Forrester, Malone, and Purcell.

Referred to: Health Care.

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE FIRST COMMITMENT PILOT PROGRAM, TO FURTHER CLARIFY LME CORE FUNCTIONS, AND TO ALLOW ADDITIONAL TIME FOR AN LME TO MERGE WHEN IT HAS GONE BELOW THE TWO HUNDRED THOUSAND POPULATION OR SIX COUNTY THRESHOLD DUE TO A CHANGE IN COUNTY MEMBERSHIP AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) S.L. 2003-178, as amended by S.L. 2006-66, Section 10.27, reads as rewritten:

"SECTION 1. The Secretary of Health and Human Services may, upon request of a ~~phase one local management entity~~ an LME, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from a ~~phase one local management entity~~ an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the ~~local management entity~~ LME shall ~~be submitted as part of the entity's local business plan and shall specifically describe:~~

- 1 a. How the purpose of the statutory requirement would be better
2 served by waiving the requirement and substituting the
3 proposed change under the waiver.
4 b. How the waiver will enable the ~~local management entity~~LME to
5 improve the delivery or management of mental health,
6 developmental disabilities, and substance abuse services.
7 c. How the services to be provided by the licensed clinical social
8 worker, the masters level psychiatric nurse, or the masters level
9 certified clinical addictions specialist under the waiver are
10 within each of these professional's scope of practice.
11 d. How the health, safety, and welfare of individuals will continue
12 to be at least as well protected under the waiver as under the
13 statutory requirement.
- 14 (2) The Secretary shall review the request and may approve it upon
15 finding that:
- 16 a. The request meets the requirements of this section.
17 b. The request furthers the purposes of State policy under
18 G.S. 122C-2 and mental health, developmental disabilities, and
19 substance abuse services reform.
20 c. The request improves the delivery of mental health,
21 developmental disabilities, and substance abuse services in the
22 counties affected by the waiver and also protects the health,
23 safety, and welfare of individuals receiving these services.
24 d. The duties and responsibilities performed by the licensed
25 clinical social worker, the masters level psychiatric nurse, or the
26 masters level certified clinical addictions specialist are within
27 the individual's scope of practice.
- 28 (3) The Secretary shall evaluate the effectiveness, quality, and efficiency
29 of mental health, developmental disabilities, and substance abuse
30 services and protection of health, safety, and welfare under the waiver.
31 The Secretary shall send a report on the evaluation to the Joint
32 Legislative Oversight Committee on Mental Health, Developmental
33 Disabilities, and Substances Abuse Services ~~on or before July 1, 2006.~~
34 by October 1, 2009. The report shall include data gathered from all
35 participating LMEs since the beginning of the pilot.
- 36 (4) The waiver granted by the Secretary under this section shall be in
37 effect until October 1, ~~2007.~~ 2010.
- 38 (5) The Secretary may grant a waiver under this section to up to ~~five~~10
39 ~~local management entities that have been designated as phase one~~
40 ~~entities as of July 1, 2003.~~LMEs.
- 41 (6) In no event shall the substitution of a licensed clinical social worker,
42 masters level psychiatric nurse, or masters level certified clinical
43 addictions specialist under a waiver granted under this section be
44 construed as authorization to expand the scope of practice of the

1 licensed clinical social worker, the masters level psychiatric nurse, or
2 the masters level certified clinical addictions specialist.

3 (7) The Department shall assure that staff performing the duties are
4 trained and privileged to perform the functions identified in the waiver.
5 The Department shall involve stakeholders including, but not limited
6 to, the North Carolina Psychiatric Association, The North Carolina
7 Nurses Association, National Association of Social Workers, The
8 North Carolina Substance Abuse Professional Certification Board,
9 North Carolina Psychological Association, The North Carolina Society
10 for Clinical Social Work, and the North Carolina Medical Society in
11 developing required staff competencies.

12 (8) The ~~local management entity~~LME shall assure that a physician is
13 available at all times to provide backup support to include telephone
14 consultation and face-to-face evaluation, if necessary.

15 **SECTION 2.** This act becomes effective July 1, 2003, and expires October 1, ~~2007-~~
16 2010."

17 **SECTION 1.(b)** The Joint Legislative Oversight Committee on Mental
18 Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall review
19 the report submitted by the Secretary under S.L. 2003-178, as amended by S.L.
20 2006-66, Section 10.27 and Section 1.(b) of this act. The LOC shall make
21 recommendations to the 2011 General Assembly regarding whether to further extend
22 the pilot or make it permanent and statewide.

23 **SECTION 2.** G.S. 122C-115.4 reads as rewritten:

24 "**§ 122C-115.4. Functions of local management entities.**

25 (a) Local management entities are responsible for the management and oversight
26 of the public system of mental health, developmental disabilities, and substance abuse
27 services at the community level. An LME shall plan, develop, implement, and monitor
28 services within a specified geographic area to ensure expected outcomes for consumers
29 within available resources.

30 (b) The primary functions of an LME are designated in this subsection and shall
31 not be conducted by any other entity unless an LME voluntarily enters into a contract
32 with that entity under subsection (c) of this section. The primary functions include all of
33 the following:

34 (1) Access for all citizens to the core services described in G.S. 122C-2. In
35 particular, this shall include the implementation of a 24-hour a day,
36 seven-day a week screening, triage, and referral process and a uniform
37 portal of entry into care.

38 (2) Provider endorsement, monitoring, technical assistance, capacity
39 development, and quality control. An LME may remove a provider's
40 endorsement if a provider fails to meet defined quality criteria or fails
41 to provide required data to the LME.

42 (3) Utilization management, utilization review, and determination of the
43 appropriate level and intensity of services including the review and
44 approval of the person centered plans for consumers who receive

1 State-funded services. Concurrent review of person centered plans for
2 all consumers in the LME's catchment area who receive Medicaid
3 funded services.

4 (4) Authorization of the utilization of State psychiatric hospitals and other
5 State facilities. Authorization of eligibility determination requests for
6 recipients under a CAP-MR/DD waiver.

7 (5) Care coordination and quality management. This function includes the
8 direct monitoring of the effectiveness of person centered plans. It also
9 includes the initiation of and participation in the development of
10 required modifications to the plans for high risk and high cost
11 consumers in order to achieve better client outcomes or equivalent
12 outcomes in a more cost-effective manner. Monitoring effectiveness
13 includes reviewing client outcomes data supplied by the provider,
14 direct contact with consumers, and review of consumer charts.

15 (6) Community collaboration and consumer affairs including a process to
16 protect consumer rights, an appeals process, and support of an
17 effective consumer and family advisory committee.

18 (7) Financial management and accountability for the use of State and local
19 funds and information management for the delivery of publicly funded
20 services.

21 (c) Subject to subsection (b) of this section and all applicable State and federal
22 laws and rules established by the Secretary, an ~~area authority, or county program or~~
23 ~~consolidated human services agency-LME~~ may contract with a public or private entity
24 for the implementation of LME functions ~~articulated~~ designated under subsection (b) of
25 this section. Nothing in this subsection shall be construed to supercede the authority of
26 an LME to be the sole entity with the authority to implement the functions designated in
27 subsection (b) of this section.

28 (d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary
29 may not remove from an LME or designate another entity as also eligible to implement
30 any function enumerated under subsection (b) of this section unless all of the following
31 applies:

32 (1) The LME fails during the previous three months to achieve a
33 satisfactory outcome on any of the critical performance measures
34 developed by the Secretary under G.S. 122C-112.1(33).

35 (2) The Secretary provides focused technical assistance to the LME in the
36 implementation of the function. The assistance shall continue for at
37 least six months or until the LME achieves a satisfactory outcome on
38 the performance measure, whichever occurs first.

39 (3) If, after six months of receiving technical assistance from the
40 Secretary, the LME still fails to achieve or maintain a satisfactory
41 outcome on the critical performance measure, the Secretary shall enter
42 into a contract with another LME or agency to implement the function
43 on behalf of the LME from which the function has been removed.

1 (e) Notwithstanding subsection (d) of this section, in the case of serious financial
2 mismanagement or serious regulatory noncompliance, the Secretary may temporarily
3 remove an LME function after consultation with the Joint Legislative Oversight
4 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
5 Services.

6 (f) The Commission shall adopt rules regarding the following matters:

7 (1) The definition of a high risk consumer. Until such time as the
8 Commission adopts a rule under this subdivision, a high risk consumer
9 means a person who has been assessed as needing emergent crisis
10 services three or more times in the previous 12 months.

11 (2) The definition of a high cost consumer. Until such time as the
12 Commission adopts a rule under this subdivision, a high cost consumer
13 means a person whose treatment plan is expected to incur costs in the
14 top twenty percent (20%) of expenditures for all consumers in a
15 disability group.

16 (3) The notice and procedural requirements for removing one or more
17 LME functions under subsection (d) of this section."

18 **SECTION 3.** G.S. 122C-115(a1) reads as rewritten:

19 "(a1) Effective July 1, 2007, The the Department of Health and Human Services
20 shall reduce by ten percent (10%) annually the administrative funding for area
21 authorities and county programs-LMEs that do not comply with the catchment area
22 requirements of this section, subsection (a) of this section. However, an LME that does
23 not comply with the catchment area requirements because of a change in county
24 membership shall have 12 months from the effective date of the change to comply with
25 subsection (a) of this section."

26 **SECTION 4.** This act is effective when it becomes law.