

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1237

Short Title: Establish Adult Day Health Overnight Respite. (Public)

Sponsors: Representatives Moore, England, Burris-Floyd (Primary Sponsors); Current, Dickson, Lucas, and Neumann.

Referred to: Health, if favorable, Appropriations.

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH ADULT DAY HEALTH OVERNIGHT RESPITE PROGRAMS  
3 AND TO DIRECT THE DIVISION OF MEDICAL ASSISTANCE TO PURSUE A  
4 MEDICAID WAIVER TO PROVIDE COVERAGE FOR RESPITE CARE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 1 of Chapter 131D is amended by adding a new section to  
7 read:

8 "**§ 131D-6.1. Certification of adult day health overnight respite programs; purpose;**  
9 **definition.**

10 (a) It is the policy of the State to support unpaid caregivers that provide care for  
11 individuals who would otherwise need full-time care. Adult day health overnight respite  
12 programs provide respite for unpaid caregivers.

13 (b) As used in this section, 'adult day health overnight respite program' means the  
14 provision of 24-hour group care and supervision on a temporary basis to six or fewer unrelated  
15 adults who may be physically or mentally disabled. Care provided to an individual in an adult  
16 day health overnight respite program shall not exceed seven consecutive calendar days, or more  
17 than a total of 21 calendar days of 24-hour care during a 365-day period.

18 (c) All rules adopted by the Social Services Commission and applicable to an adult day  
19 care program as defined in this Article shall apply to an adult day health overnight respite  
20 program.

21 (d) The Social Services Commission shall adopt rules to protect the health, safety, and  
22 welfare of persons in adult day health overnight respite programs. These rules shall include  
23 minimum standards relating to management of the program, staffing requirements, building  
24 requirements, fire safety, sanitation, nutrition, and program activities.

25 (e) The Department of Health and Human Services shall enforce the rules of the Social  
26 Services Commission and shall annually inspect and certify all adult day health overnight  
27 respite programs, under rules adopted by the Social Services Commission."

28 SECTION 2. G.S. 143B-181.10 reads as rewritten:

29 "**§ 143B-181.10. Respite care program established; eligibility; services; administration;**  
30 **payment rates.**

31 (a) A respite care program is established to provide needed relief to caregivers of  
32 impaired adults who cannot be left alone because of mental or physical problems.

33 (b) Those eligible for respite care under the program established by this section are  
34 limited to those unpaid primary caregivers who are caring for people 60 years of age or older  
35 and their spouses, or those unpaid primary caregivers 60 years of age or older who are caring  
36 for persons 18 years of age or older, who require constant supervision and who cannot be left



1 alone either because of memory impairment, physical immobility, or other problems that  
2 renders them unsafe alone.

3 (c) Respite care services provided by the programs established by this section may  
4 include:

- 5 (1) Counseling and training in the caregiving role, including coping mechanisms  
6 and behavior modification techniques;
- 7 (2) Counseling and accessing available local, regional, and State services;
- 8 (3) Support group development and facilitation;
- 9 (4) Assessment and care planning for the patient of the caregiver;
- 10 (5) Attendance and companion services for the patient in order to provide  
11 release time to the caregiver;
- 12 (6) Personal care services, including meal preparation, for the patient of the  
13 caregiver;
- 14 (7) Temporarily placing the person out of his home to provide the caregiver total  
15 respite when the mental or physical stress on the caregiver necessitates this  
16 type of respite.

17 Program funds may provide no more than the current adult care. An out of home placement is  
18 defined as placement in a hospital, skilled or intermediate nursing facility, adult care home,  
19 adult day health center, ~~or adult day care center~~, or adult day health overnight respite  
20 program. Duration of the service period may extend beyond a year.

21 (d) The respite care program established by this section shall be administered by the  
22 Division of Aging consistent with the policies and procedures of the Older Americans Act. The  
23 programs shall be coordinated with other appropriate Divisions in the Department of Health  
24 and Human Services, and with agencies and organizations concerned with the delivery of  
25 services to frail older adults and their unpaid caregivers. The Division shall choose respite care  
26 provider agencies in accordance with procedures outlined under the Older Americans Act and  
27 shall include the following criteria: documented capacity to provide care, adequacy of quality  
28 assurance, training, supervision, abuse prevention, complaint mechanisms, and cost. All funds  
29 allocated by the Division pursuant to this section shall be allocated on the same basis as  
30 funding under the Older Americans Act.

31 (e) Funding for the Division of Aging to administer this program shall not exceed the  
32 percentage allowed for administration as provided in the Older Americans Act but shall not be  
33 less than that budgeted for administration in fiscal year 1988-89.

34 (f) Unless prohibited by federal law, caregivers receiving respite care services through  
35 the program established by this section shall pay for some of the services on a sliding scale  
36 depending on their ability to pay. The Division of Aging, in consultation with the Councils of  
37 Governments in each region, shall specify rates of payment for the services."

38 **SECTION 3.** The Division of Medical Assistance of the Department of Health and  
39 Human Services shall pursue a Medicaid waiver to provide coverage for respite care including  
40 respite care provided in an adult day health overnight respite program.

41 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2010. The  
42 remainder of this act is effective when it becomes law.