

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 488
Mar 27, 2019
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40235-MRa-89

Short Title: Address Direct Sup. Personnel Staffing Crisis. (Public)

Sponsors: Representatives Dobson, Bell, Presnell, and Ball (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS THE STAFFING CRISIS IMPACTING INTERMEDIATE CARE
3 FACILITY GROUP HOMES FOR INDIVIDUALS WITH INTELLECTUAL
4 DISABILITIES AND NORTH CAROLINA INNOVATIONS WAIVER SERVICES.

5 Whereas, staffing turnover rates for direct support personnel providing services and
6 support to individuals with intellectual and other developmental disabilities living in the
7 community have increased substantially during the past two years; and

8 Whereas, direct support personnel are frontline health care service providers who are
9 responsible for all aspects of the day-to-day habilitation, care, and support of persons with
10 intellectual and other developmental disabilities living in the community; and

11 Whereas, it is the intent of the General Assembly to preserve and improve the quality
12 and consistency of care for persons with intellectual and other developmental disabilities who
13 receive services and supports in community-based group homes and through the North Carolina
14 Innovations waiver; and

15 Whereas, it is the intent of the General Assembly to improve the retention rates and
16 hiring rates for qualified direct support personnel who are the front-line of care provision and
17 service delivery in Intermediate Care Facility Group Homes for Individuals with Intellectual
18 Disabilities (ICF/IIDs) and through the North Carolina Innovations waiver; and

19 Whereas, recruitment and retention of qualified direct support personnel are critical
20 to the delivery of quality and effective habilitation and support services, and it is imperative that
21 wages paid to direct care personnel be competitive and comparable with wages paid to employees
22 in retail, food service, and State-operated developmental centers; Now, therefore,
23 The General Assembly of North Carolina enacts:

24 **SECTION 1.(a)** ICF/IID Group Homes. – The Department of Health and Human
25 Services, Division of Health Benefit (DHB), shall adjust the per member per month (PMPM)
26 capitation amount paid to local management entity/managed care organizations (LME/MCOs)
27 operating capitated contracts for mental health, intellectual and other development disabilities,
28 and substance abuse services to include amounts sufficient to increase wages paid to direct
29 support personnel working in community-based Intermediate Care Facility for Individuals with
30 Intellectual Disabilities (ICF/IIDs) group homes for individuals with intellectual and other
31 developmental disabilities to align the wages paid to these direct support personnel with the
32 current wages paid to State employees in State-owned developmental centers. The adjustment
33 made under this section shall be consistent with the North Carolina Medicaid State Plan
34 requirements to provide for actuarially sound rates sufficient to operate and provide safe and
35 effective services.



1 In making the adjustment required by this section, DHB shall validate the actual
2 amounts necessary to adjust the relevant portion of the LME/MCO PMPM capitation payment
3 to wages paid to direct support personnel salaries with current wages paid to State employees in
4 State-owned developmental centers. The PMPM adjustments to increase wages paid to direct
5 care personnel shall be considered directed payments made to LME/MCOs under 42 C.F.R.
6 § 438.6, in order to assure that the increased amounts are used for wage increases as directed
7 under this section.

8 LME/MCOs are encouraged to implement the adjustments under this section as
9 quickly as possible but shall implement the adjustments no later than September 1, 2019.
10 Providers receiving any increase in funds from LME/MCOs to be used for wage increases, as
11 required by this section, shall attest and provide verification that those increased funds are being
12 used for the purpose of increasing wages paid to direct support personnel and employees who
13 support direct support personnel. LME/MCOs may require verifiable methods of accounting such
14 as payroll-based journals.

15 In the implementation of this section, DHB shall continue to work with stakeholders
16 and service providers in order to develop an appropriate methodology, to track progress towards
17 increasing direct support personnel wages, and to determine if any additional resources are
18 necessary to achieve alignment of these wages with the current wages paid to State employees in
19 State-owned developmental centers.

20 **SECTION 1.(b)** There is appropriated from the General Fund to the Department of
21 Health and Human Services, Division of Health Benefits (DHB), the amount of eleven million
22 three hundred thousand dollars (\$11,300,000) in recurring funds for the 2019-2020 fiscal year
23 and eleven million three hundred thousand dollars (\$11,300,000) in recurring funds for the
24 2020-2021 fiscal year to be used to implement this section.

25 In addition to the appropriations under this section, DHB shall maximize the ICF/IID
26 assessment to increase the capitation payment rates for ICF/IIDs. DHB shall use all available
27 proceeds of the adjusted ICF/IID assessment combined with appropriations under this section for
28 the purpose of implementing this section.

29 **SECTION 2.** North Carolina Innovations Waiver. – There is appropriated from the
30 General Fund to the Department of Health and Human Services, Division of Health Benefits
31 (DHB), the sum of two hundred fifty thousand dollars (\$250,000) in nonrecurring funds for the
32 2019-2020 fiscal year to conduct an actuarial analysis and a wage and hour study of the North
33 Carolina Innovations waiver program. This actuarial analysis and study shall aid in determining
34 the appropriate adjustments to the per-slot service costs that would be necessary to align wages
35 paid to direct support personnel providing services under the North Carolina Innovations waiver
36 with wages paid to State employees in State-owned developmental centers. The analysis and
37 study shall be completed prior to the next local management entity/managed care organization
38 (LME/MCO) rate negotiation cycle, but no later than January 15, 2020. DHB shall provide a
39 copy of the analysis and wage and hour study to the Joint Legislative Oversight Committee on
40 Medicaid and NC Health Choice and the Fiscal Research Division no later than January 15, 2020.

41 Upon completion of the analysis and the wage and hour study, DHB shall draft a plan
42 that provides for multiyear adjustments, to be phased in over a two- to three-year period, to the
43 per-slot cap on costs necessary to align wages paid to direct support personnel providing services
44 under the Innovations waiver with wages paid to State employees working in State-operated
45 developmental centers. This plan shall require that LME/MCOs and providers receiving an
46 increase in funds as a result of the adjustments to attest and provide verification that those
47 increased funds are being used for the purpose of increasing wages paid to direct support
48 personnel and employees who supervise and support direct support personnel. The plan may
49 require verifiable methods of accounting such as payroll-based journals.

50 The actuarial analysis conducted and the plan developed under this section shall
51 include all of the following components:

- 1 (1) The average cost per Innovations waiver slot.
- 2 (2) The percent of average Innovations waiver slot costs that are related to labor
- 3 costs.
- 4 (3) Current labor costs for direct support personnel providing services through the
- 5 Innovations waiver.
- 6 (4) The percent of other indirect and administrative costs related to direct support
- 7 personnel providing services through the Innovations waiver.
- 8 (5) Current indirect and administrative costs related to direct support personnel
- 9 providing services through the Innovations waiver.
- 10 (6) An accurate number of full-time equivalents (FTEs) for direct support
- 11 personnel providing services through the Innovations waiver.
- 12 (7) Current average hourly wage for direct support personnel providing services
- 13 through the Innovations waiver.
- 14 (8) The total cost to increase the wages of direct support personnel providing
- 15 services through the Innovations waiver to a minimum of fifteen dollars
- 16 (\$15.00) per hour, or the current wage paid to State employees working in
- 17 State-operated developmental centers.
- 18 (9) Recommended resources necessary to add additional Innovations waiver
- 19 slots.
- 20 (10) Recommended resources necessary to increase the wages of direct support
- 21 personnel providing services through the Innovations waiver to a minimum of
- 22 fifteen dollars (\$15.00) per hour, or the current wage paid to State employees
- 23 working in State-operated developmental centers.

24 No later than March 1, 2020, DHB shall submit a copy of the plan and any related
25 recommendations to the Joint Legislative Oversight Committee on Medicaid and NC Health
26 Choice. DHB shall not pursue any State Plan amendments or any changes to the North Carolina
27 Innovations waiver that would be necessary to increase the wages of direct support personnel
28 providing services through the Innovations waiver to a minimum of fifteen dollars (\$15.00) per
29 hour, or the current wage paid to State employees working in State-operated developmental
30 centers, without further legislation directing the implementation of the wage increase.

31 **SECTION 3.** Implementation of this Act. – In order to implement this act and to
32 establish a baseline methodology for determining the appropriate wages to be paid in accordance
33 with this act, the Department of Health and Human Services, Division of Health Benefits (DHB),
34 shall use information from the Office of State Human Resources job classification and wage and
35 hour data for the specific employees working at State-operated developmental centers who are
36 in comparable job classifications as those direct support personnel working in community-based
37 Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) group homes
38 and those direct support personnel providing services through the North Carolina Innovations
39 waiver. DHB shall make appropriate adjustments for health insurance, retirement benefits, and
40 other key factors that drive total labor costs. DHB shall also take into consideration market-based
41 wage comparisons between direct support personnel working in community-based ICF/IID group
42 homes and those direct support personnel providing services through the North Carolina
43 Innovations waiver and State employees working in the State-operated development centers,
44 direct support personnel working in private work settings, including health care facilities and
45 health services settings, and employees working in private sector businesses that compete to hire
46 the same employees, such as retail and fast food.

47 DHB may accept actuarially sound projections of competitive wage and hour data and
48 other cost data from non-State entities in order to calculate forward-looking wage analysis
49 formulas and finalize the exact rates needed to meet this urgent need, as required by this act.

50 **SECTION 4.** This act becomes effective July 1, 2019.