

1 requirements to provide for actuarially sound rates sufficient to operate and provide safe and
2 effective services.

3 In making the adjustment required by this section, DHB shall validate the actual
4 amounts necessary to adjust the relevant portion of the LME/MCO PMPM capitation payment
5 to wages paid to direct support personnel salaries with current wages paid to State employees in
6 State-owned developmental centers. The PMPM adjustments to increase wages paid to direct
7 care personnel shall be considered directed payments made to LME/MCOs under 42 C.F.R.
8 § 438.6, in order to assure that the increased amounts are used for wage increases as directed
9 under this section.

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

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

22 **SECTION 1.(b)** There is appropriated from the General Fund to the Department of
23 Health and Human Services, Division of Health Benefits (DHB), the amount of eleven million
24 three hundred thousand dollars (\$11,300,000) in recurring funds for the 2019-2020 fiscal year
25 and eleven million three hundred thousand dollars (\$11,300,000) in recurring funds for the
26 2020-2021 fiscal year to be used to implement this section.

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

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

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

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

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

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

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

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

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