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HOUSE BILL 144
Committee Substitute Favorable 3/9/21
Committee Substitute #2 Favorable 5/5/21
Senate Health Care Committee Substitute Adopted 6/2/22
Senate Health Care Committee Substitute Adopted 6/14/22

Short Title: Medicaid Children and Families Specialty Plan.

(Public)

Sponsors:

Referred to:

February 25, 2021

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CHILDREN AND FAMILIES SPECIALTY PLAN AS AN
ADDITIONAL MEDICAID MANAGED CARE PLAN AND MAKING OTHER
CHANGES TO MEDICAID MANAGED CARE STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services (DHHS) shall issue a request for proposals to procure a single statewide children and families specialty plan contract with a prepaid health plan, as defined in G.S. 58-93-5 or G.S. 108D-1, with services to begin no later than December 1, 2023. Each eligible responding entity may submit only one response to an RFP issued by DHHS. DHHS shall define the services available and the Medicaid and NC Health Choice beneficiaries who are eligible to enroll in the children and families specialty plan, except as otherwise specified in this act.

SECTION 1.(b) DHHS shall request approval from the Centers for Medicare and Medicaid Services (CMS) to require that a child who is automatically enrolled in the children and families specialty plan under G.S. 108D-62(f) may not elect to enroll instead in a standard benefit plan or a behavioral health and intellectual/developmental disabilities tailored plan unless doing so is in the best interest of the child.

SECTION 2. G.S. 108D-1 reads as rewritten:

"§ 108D-1. Definitions.

The following definitions apply in this Chapter:

...

(4) Behavioral health and intellectual/developmental disabilities tailored plan or BH IDD tailored plan. – A capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of this Chapter, including the requirements pertaining to BH IDD tailored ~~plans~~ plans, but excluding the requirements pertaining only to the CAF specialty plan.

...

(5a) Children and families specialty plan or CAF specialty plan. – A statewide capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of this Chapter, including the requirements pertaining to the CAF specialty plan, but excluding the requirements only pertaining to BH IDD tailored plans.



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1 (6) ~~Closed network.—The network of providers that have contracted with (i) a~~
 2 ~~local management entity/managed care organization operating the combined~~
 3 ~~1915(b) and (c) waivers or (ii) an entity operating a BH IDD tailored plan to~~
 4 ~~furnish mental health, intellectual or developmental disabilities, and substance~~
 5 ~~abuse services to enrollees.~~

6 ...

7 (30) Prepaid health plan or PHP. – A prepaid health plan, as defined in
 8 G.S. 58-93-5, that is under a capitated contract with the Department for the
 9 delivery of Medicaid and NC Health Choice services, or a local management
 10 entity/managed care organization that is under a capitated PHP contract with
 11 the ~~Department to operate a BH IDD tailored plan.~~Department.

12 ...

13 (36) Standard benefit plan. – A capitated prepaid health plan contract under the
 14 Medicaid transformation demonstration waiver that meets all of the
 15 requirements of Article 4 of this Chapter except for the requirements
 16 pertaining only to a BH IDD tailored ~~plan.~~plan and only to the CAF specialty
 17 plan."

18 **SECTION 3.** G.S. 108D-5.3 reads as rewritten:

19 **"§ 108D-5.3. Enrollee requests for disenrollment.**

20 ...

21 (b) Without Cause Enrollee Requests for Disenrollment. – An enrollee shall be allowed
 22 to ~~disenroll~~request disenrollment from the PHP without cause only during the times specified in
 23 42 C.F.R. § 438.56(c)(2), except that enrollees who are in any of the following groups may
 24 request to disenroll at any time:

- 25 (1) Beneficiaries who meet the definition of Indian under 42 C.F.R. § 438.14(a).
 26 (2) Beneficiaries who are ~~enrolled in the foster care system.~~described in
 27 G.S. 108D-40(a)(14).
 28 (3) ~~Beneficiaries who are in the former foster care Medicaid eligibility category.~~
 29 (4) ~~Beneficiaries who receive Title IV-E adoption assistance.~~
 30 (5) Beneficiaries who are receiving long-term services and supports in
 31 institutional or community-based settings.
 32 (6) Any other beneficiaries who are not required to enroll in a PHP under
 33 G.S. 108D-40.
 34 (7) Beneficiaries who are described in G.S. 108D-40(a)(12).

35 "

36 **SECTION 4.** G.S. 108D-21 reads as rewritten:

37 **"§ 108D-21. LME/MCO provider networks.**

38 Each LME/MCO operating the combined 1915(b) and (c) waivers shall develop and maintain
 39 a closed network of providers to furnish mental health, intellectual or developmental disabilities,
 40 and substance abuse services to its enrollees. The closed network is the network of providers that
 41 have contracted with the local management entity/managed care organization operating the
 42 combined 1915(b) and (c) waivers."

43 **SECTION 5.** G.S. 108D-22 reads as rewritten:

44 **"§ 108D-22. PHP provider networks.**

45 (a) Except as provided in ~~G.S. 108D-23,~~ G.S. 108D-23 and G.S. 108D-24, each PHP
 46 shall develop and maintain a provider network that meets access to care requirements for its
 47 enrollees. A PHP may not exclude providers from their networks except for failure to meet
 48 objective quality standards or refusal to accept network rates. Notwithstanding the previous
 49 sentence, a PHP must include all providers in its geographical coverage area that are designated
 50 essential providers by the Department in accordance with subdivision (b) of this section, unless

1 the Department approves an alternative arrangement for securing the types of services offered by
2 the essential providers.

3"

4 **SECTION 6.** G.S. 108D-23 reads as rewritten:

5 **"§ 108D-23. BH IDD tailored plan networks.**

6 Entities operating BH IDD tailored plans shall develop and maintain a closed network of
7 providers only for the provision of behavioral health, intellectual and developmental disability,
8 and traumatic brain injury services. The closed network is the network of providers that have
9 contracted with the entity operating a BH IDD tailored plan to furnish these services to enrollees."

10 **SECTION 7.** Article 3 of Chapter 108D of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 108D-24. Children and families specialty plan networks.**

13 The entity operating the children and families specialty plan shall develop and maintain a
14 closed network of providers only for the provision of the following services:

15 (1) Intensive in-home services.

16 (2) Multisystemic therapy.

17 (3) Residential treatment services.

18 (4) Services provided in private residential treatment facilities.

19 The closed network is the network of providers that have contracted with the entity operating
20 the CAF specialty plan to furnish the services specified in this section to enrollees."

21 **SECTION 8.(a)** G.S. 108D-35 reads as rewritten:

22 **"§ 108D-35. Services covered by PHPs.**

23 (a) Capitated PHP contracts shall cover all Medicaid and NC Health Choice services,
24 including physical health services, prescription drugs, long-term services and supports, and
25 behavioral health services for NC Health Choice recipients, except as otherwise provided in this
26 section.

27 (b) The capitated contracts required by this section shall not cover:

28 (1) Medicaid services covered by the local management entities/managed care
29 organizations (LME/MCOs) under the combined 1915(b) and (c) ~~waivers~~
30 waivers, or an approved 1915(i) waiver, shall not be covered under a standard
31 benefit plan, except that all capitated PHP contracts shall cover the following
32 services:

33 ...

34 q. Substance abuse comprehensive outpatient treatment program
35 services.

36 r. Substance abuse intensive outpatient program services.

37 s. Social setting detoxification services.

38 In accordance with this subdivision, 1915(b)(3) services shall not be covered
39 under a standard benefit plan.

40"

41 **SECTION 8.(b)** The Revisor of Statutes is authorized to change all references to
42 "G.S. 108D-35(1)" to "G.S. 108D-35(b)(1)" throughout Article 4 of Chapter 108D of the General
43 Statutes.

44 **SECTION 9.** G.S. 108D-40 reads as rewritten:

45 **"§ 108D-40. Populations covered by PHPs.**

46 (a) Capitated PHP contracts shall cover all Medicaid and NC Health Choice program aid
47 categories except for the following categories:

48 ...

49 (12) Recipients with a serious mental illness, a serious emotional disturbance, a
50 severe substance use disorder, an intellectual/developmental disability, or who
51 have survived a traumatic brain injury and who are receiving traumatic brain

injury services, who are on the waiting list for the Traumatic Brain Injury waiver, or whose traumatic brain injury otherwise is a knowable fact, until BH IDD tailored plans become operational, at which time this population will be enrolled with a BH IDD tailored plan in accordance with ~~G.S. 108D-60(10)~~. ~~Recipients~~ G.S. 108D-60(a)(10), except as described in subdivision (14) of this subsection. Except as provided in G.S. 108D-60(a)(11), recipients in this category shall have the option to voluntarily enroll with a PHP, PHP operating a standard benefit plan, provided that (i) a recipient electing to enroll with a PHP operating a standard benefit plan would only have access to the behavioral health services covered by PHPs according to G.S. 108D-35(1) standard benefit plans and would no longer have access to the behavioral health services excluded from standard benefit plan coverage under G.S. 108D-35(1) and (ii) the recipient's informed consent shall be required prior to the recipient's enrollment with a PHP. PHP operating a standard benefit plan. Recipients in this category shall include, at a minimum, recipients who meet any of the following criteria:

(13) Recipients in the following categories shall not be covered by PHPs for a period of time to be determined by the Department that shall not exceed five years after the date that capitated PHP contracts begin:

e. ~~Recipients who are (i) enrolled in the foster care system, (ii) receiving Title IV E adoption assistance, (iii) under the age of 26 and formerly were in the foster care system, or (iv) under the age of 26 and formerly received adoption assistance.~~

(14) Until the CAF specialty plan becomes operational, recipients who are (i) children enrolled in foster care in this State, (ii) receiving adoption assistance, or (iii) former foster care youth until they reach the age of 26. When the CAF specialty plan becomes operational, recipients described in this subdivision will be enrolled in accordance with G.S. 108D-62.

...."

SECTION 10. G.S. 108D-45 reads as rewritten:

"§ 108D-45. Number and nature of ~~capitated PHP contracts~~ contracts for standard benefit plans.

The number and nature of the contracts for standard benefit plans required under ~~G.S. 108D-65(3)~~ G.S. 108D-65(6) shall be as follows:

(3) ~~The limitations on the number of contracts established in this section shall not apply to BH IDD tailored plans described in G.S. 108D-60.~~

...."

SECTION 11. G.S. 108D-60 reads as rewritten:

"§ 108D-60. BH IDD tailored plans.

(a) BH IDD tailored plans shall be defined as capitated PHP contracts that meet all requirements in this Article pertaining to capitated PHP contracts, except as specifically provided in this section. With regard to BH IDD tailored plans, the following shall occur:

(10) Recipients described in G.S. 108D-40(a)(12) shall be automatically enrolled with an entity operating a BH IDD tailored ~~plan and plan~~, except that recipients who are also described in G.S. 108D-40(a)(14) shall be enrolled in accordance with G.S. 108D-62. Except as provided in subdivision (11) of this subsection, recipients described in G.S. 108D-40(a)(12) shall have the option

1 to enroll with a PHP operating a standard benefit plan, provided that a
2 recipient electing to enroll with a PHP operating a standard benefit plan would
3 only have access to the behavioral health services covered by the standard
4 benefit plans and would no longer have access to the behavioral health
5 services excluded from standard benefit plan coverage under G.S. 108D-35(1)
6 and provided that the recipient's informed consent shall be required prior to
7 the recipient's enrollment with a PHP operating a standard benefit plan.

8 (11) Recipients described in G.S. 108D-40(a)(12) shall not have the option to
9 voluntarily enroll with a PHP operating a standard benefit plan or the CAF
10 specialty plan while receiving services offered by the programs or in the
11 settings specified below:

- 12 a. Recipients enrolled in the Innovations waiver.
- 13 b. Recipients enrolled in the Traumatic Brain Injury waiver.
- 14 c. Recipients residing in or receiving respite services at an intermediate
15 care facility for individuals with intellectual/developmental
16 disabilities.
- 17 d. Recipients enrolled in and being served under Transitions to
18 Community Living.
- 19 e. Recipients receiving State-funded residential services, including
20 group living, family living, supported living, and residential supports.

21 (b) The Department may contract with entities operating BH IDD tailored plans under a
22 capitated or other arrangement for the management of behavioral health, intellectual and
23 developmental disability, and traumatic brain injury services for any recipients excluded from
24 PHP coverage under G.S. 108D-40(a)(4), (5), (7), (10), (11), (12), ~~and (13)-(13)~~, and, until the
25 CAF specialty plan becomes operational, any Medicaid recipients excluded from PHP coverage
26 under G.S. 108D-40(a)(14)."

27 **SECTION 12.** Article 4 of Chapter 108D of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 108D-62. Children and families specialty plan.**

30 (a) The following definitions apply in this section:

- 31 (1) Caretaker relative. – As defined in 42 C.F.R. § 435.4.
- 32 (2) Child. – A person who is under the age of 18, is not married, and has not been
33 legally emancipated.
- 34 (3) Custodian. – As defined in G.S. 7B-101.
- 35 (4) Foster care. – The placement of a child who is described in
36 G.S. 108D-40(a)(14) whose custody has been awarded by court order or
37 pursuant to a voluntary placement agreement from the parent, custodian, or
38 guardian (i) to the county department of social services or (ii) to the Eastern
39 Band of Cherokee Indians' Department of Public Health and Human Services.
- 40 (5) Guardian. – A guardian of the person as defined in G.S. 35A-1202.
- 41 (6) Minor. – A person who is under the age of 18.
- 42 (7) Parent. – As defined in 42 C.F.R. § 435.603(b).
- 43 (8) Reunification. – As defined in G.S. 7B-101.
- 44 (9) Sibling. – As defined in 42 C.F.R. § 435.603(b).

45 (b) The CAF specialty plan is defined as one statewide capitated PHP contract that meets
46 all the requirements in this Article pertaining to capitated PHP contracts, excluding the
47 requirements that only apply to BH IDD tailored plan contracts, except as specifically provided
48 in this section. With regard to the CAF specialty plan, all of the following shall occur:

- 49 (1) The capitated contract for the CAF specialty plan shall be the result of a
50 request for proposals issued by the Department. Only entities that meet the
51 definition of PHP under G.S. 58-93-5 or under this Chapter are eligible to

- 1 respond to the request for proposal issued by the Department to operate the
2 CAF specialty plan.
- 3 (2) An entity operating the CAF specialty plan shall authorize, pay for, and
4 manage all Medicaid and NC Health Choice services covered under the plan.
- 5 (3) An entity operating the CAF specialty plan shall operate care coordination
6 functions and provide whole-person, integrated care across healthcare and
7 treatment settings and foster care placements for recipients enrolled in the plan
8 to support family preservation, advance the reunification of families, support
9 the permanency goals of children, and support the health of former foster
10 youth.
- 11 (4) An entity operating the CAF specialty plan shall be the single point of care
12 management accountability.
- 13 (5) The Department shall establish requirements for the effective operation of the
14 CAF specialty plan that, at a minimum, shall address all of the following:
- 15 a. Continuity of care and support across health care settings, changes in
16 placement, and when the child transitions into the former foster youth
17 Medicaid eligibility category.
- 18 b. Managing care according to competencies specific to the recipients
19 described in G.S. 108D-40(a)(14) and to recipients receiving child
20 protective services in-home services, including medication
21 management, utilization of trauma-informed care, and any other areas
22 determined appropriate by the Department.
- 23 c. Coordination of activities with local governments, county departments
24 of social services, the Division of Juvenile Justice of the Department
25 of Public Safety, and other related agencies that support the child
26 welfare system.
- 27 d. Approaches to address unmet health-related resource needs.
- 28 (c) In addition to the services required to be covered by all PHPs under G.S. 108D-35,
29 the CAF specialty plan shall cover the behavioral health, intellectual and developmental
30 disability, and traumatic brain injury services excluded from standard benefit plan coverage
31 under G.S. 108D-35(1), except that the CAF specialty plan shall not cover:
- 32 (1) Innovations waiver services.
- 33 (2) Traumatic Brain Injury waiver services.
- 34 (3) Services provided to recipients residing in or receiving respite services at an
35 intermediate care facility for individuals with intellectual/developmental
36 disabilities.
- 37 (4) Services provided to recipients determined eligible to participate in and be
38 served under Transitions to Community Living.
- 39 (5) Non-Medicaid behavioral health services funded with federal, State, and local
40 funding in accordance with Chapter 122C of the General Statutes and other
41 applicable State and federal law, rules, and regulations.
- 42 (d) Unless ineligible under subsection (e) of this section, the following Medicaid and NC
43 Health Choice recipients shall be eligible to enroll in the CAF specialty plan:
- 44 (1) Recipients described in G.S. 108D-40(a)(14) and their children. The children
45 shall be enrolled in the CAF specialty plan for as long as the parent remains
46 enrolled, unless the parent elects to enroll the child in another plan in
47 accordance with subsection (g) of this section.
- 48 (2) Adults identified on an open child protective services in-home family services
49 agreement case and any minor children living in the same home.

- 1 (3) Adults identified in an open Eastern Band of Cherokee Indians Department of
2 Public Health and Human Services Family Safety program case and any
3 children living in the same home.
- 4 (4) The minor siblings of a child in foster care who lived in the same home as that
5 child at the time of the child's removal and with whom household reunification
6 efforts are ongoing.
- 7 (5) Recipients who have a child temporarily in foster care if all of the following
8 are met:
- 9 a. A court of competent jurisdiction has not found that aggravated
10 circumstances exist in accordance with G.S. 7B-901(c).
- 11 b. A court of competent jurisdiction has not found that a plan of
12 reunification would be unsuccessful or would be inconsistent with the
13 child's health or safety in accordance with G.S. 7B-906.1(d).
- 14 c. The recipient is any of the following:
- 15 1. A parent.
- 16 2. A caretaker relative.
- 17 3. A custodian.
- 18 4. A guardian.
- 19 (6) Any other recipients who have had involvement with the child welfare system
20 and whom the Department has determined would benefit from enrollment in
21 the CAF specialty plan.
- 22 (e) The following Medicaid and NC Health Choice recipients shall be not eligible to
23 enroll in the CAF specialty plan:
- 24 (1) Recipients who require services that are excluded from coverage by the CAF
25 specialty plan under subsection (c) of this section.
- 26 (2) Temporary safety provider caregivers identified on an open child protective
27 services in-home family services agreement case or an open Eastern Band of
28 Cherokee Indians Department of Public Health and Human Services Family
29 Safety program case.
- 30 (3) Recipients who are excluded from PHP coverage under G.S. 108D-40(a).
- 31 (f) Recipients described in subdivision (d)(1) of this section shall be automatically
32 enrolled in the CAF specialty plan, unless they are also described in G.S. 108D-40(a)(5), in which
33 case they may enroll voluntarily. All other recipients described under subsection (d) of this
34 section may enroll voluntarily in the CAF specialty plan.
- 35 (g) Except as limited by any provision of a waiver or State Plan amendment approved by
36 CMS, recipients eligible to enroll in the CAF specialty plan under subsection (d) of this section
37 shall have the option to enroll with a PHP operating a standard benefit plan or, if eligible under
38 G.S. 108D-40(a)(12), a BH IDD tailored plan. A recipient enrolled in the CAF specialty plan
39 who elects to enroll with a PHP operating a standard benefit plan would only have access to the
40 behavioral health services covered by the standard benefit plans and would no longer have access
41 to the behavioral health services excluded from standard benefit plan coverage under
42 G.S. 108D-35(1). The recipient's informed consent, or, as applicable, the informed consent of the
43 recipient's custodian or guardian, shall be required prior to the recipient's enrollment with a PHP
44 operating a standard benefit plan.
- 45 (h) Recipients described in G.S. 108D-40(a)(14)(i) who exit the custody of the county
46 department of social services may elect to remain enrolled in the CAF specialty plan for 12
47 months after the date the recipient exits custody. In the case of recipients who achieve
48 reunification, any of the following individuals with whom the recipient reunifies may also elect
49 to remain enrolled in the CAF specialty plan as long as the recipient remains enrolled:
- 50 (1) A parent.
- 51 (2) A caretaker relative.

- 1 (3) A custodian.
2 (4) A guardian.
3 (5) A minor sibling."

4 **SECTION 13.** G.S. 122C-3 reads as rewritten:

5 "**§ 122C-3. Definitions.**

6 The following definitions apply in this Chapter:

- 7 ...
8 (4a) Children and families specialty plan or CAF specialty plan. – As defined in
9 G.S. 108D-1.

- 10 ...
11 (20c) Local management entity/managed care organization (LME/MCO). – A local
12 management entity that is under contract with the Department to operate the
13 combined Medicaid Waiver program authorized under Section 1915(b) and
14 Section 1915(c) of the Social Security Act or to operate a ~~BH IDD tailored~~
15 plan, capitated PHP contract under Article 4 of Chapter 108D of the General
16 Statutes.

17 "

18 **SECTION 14.** G.S. 122C-115 reads as rewritten:

19 "**§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and**
20 **cities.**

21 ...

22 (e) Beginning on the date that capitated contracts under Article 4 of Chapter 108D of the
23 General Statutes begin, LME/MCOs shall cease managing Medicaid services for all Medicaid
24 recipients other than recipients described in G.S. 108D-40(a)(1), (4), (5), (6), (7), (10), (11), (12),
25 ~~and (13).~~ (13), and (14).

26 (e1) Until BH IDD tailored plans become operational, all of the following shall occur:

- 27 (1) LME/MCOs shall continue to manage the Medicaid services that are covered
28 by the LME/MCOs under the combined 1915(b) and (c) waivers for Medicaid
29 recipients described in G.S. 108D-40(a)(1), (4), (5), (6), (7), (10), (11), (12),
30 ~~and (13).~~ (13), and (14).

31 ...

32 (f) Entities operating the BH IDD tailored plans under G.S. 108D-60 may continue to
33 ~~manage~~ manage, under any contract with the Department in accordance with G.S. 108D-60(b),
34 the behavioral health, intellectual and developmental disability, and traumatic brain injury
35 services for any Medicaid recipients described in G.S. 108D-40(a)(4), (5), (7), (10), (11), (12),
36 ~~and (13) under any contract with the Department in accordance with G.S. 108D-60(b).~~ (13), and
37 until the CAF specialty plan becomes operational, recipients excluded from PHP coverage under
38 G.S. 108D-40(a)(14)."

39 **SECTION 15.** Part 2 of Article 4 of Chapter 122C of the General Statutes is amended
40 by adding a new section to read:

41 "**§ 122C-115.5. Children and families specialty plan operation.**

42 An area authority is authorized to operate the CAF specialty plan under a contract with the
43 Department. For purposes of operating the CAF specialty plan only, all of the following apply:

- 44 (1) The area authority shall have a statewide catchment area.
45 (2) Counties are prohibited from withdrawing from or declining to participate in
46 the statewide catchment area of the CAF specialty plan."

47 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
48 law.