

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 1003

Short Title: Jt Caucus for IDD/Omnibus. (Public)

Sponsors: Representatives Hawkins, Crawford, White, and Bradford (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 6, 2024

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT VARIOUS CHANGES RECOMMENDED BY THE
3 LEGISLATIVE JOINT CAUCUS FOR INTELLECTUAL AND DEVELOPMENTAL
4 DISABILITIES TO POSITIVELY IMPACT THE LIVES OF NORTH CAROLINA
5 CITIZENS WITH INTELLECTUAL OR OTHER DEVELOPMENTAL DISABILITIES.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. DIRECT CARE WORKER WAGE INCREASES**

9 **SECTION 1.(a)** It is the intent of the General Assembly to assist in increasing the
10 hourly wages of direct care workers in this State to a minimum of eighteen dollars (\$18.00) per
11 hour. To that end, the Department of Health and Human Services, Division of Health Benefits
12 (DHB), shall provide a Medicaid rate increase to all of the following:

- 13 (1) Home and community-based providers enrolled in the Medicaid program.
14 (2) Intermediate care facilities for individuals with intellectual disabilities
15 (ICF/IIDs), including ICF/IID-level group homes.
16 (3) Providers who provide services to Medicaid beneficiaries receiving services
17 through the North Carolina Innovations waiver program, the Community
18 Alternatives Program for Children, or the Community Alternatives Program
19 for Disabled Adults, and who are either (i) enrolled in the Medicaid program
20 or (ii) approved financial managers or financial support agencies billing for
21 personal care service or waiver service hours provided by direct care workers
22 that are hired by employers of record or managing employers under
23 consumer-directed or self-directed options in accordance with any of the
24 following Medicaid Clinical Coverage Policies:
25 a. 8-P: North Carolina Innovations.
26 b. 3K-1: Community Alternatives Program for Children (CAP/C).
27 c. 3K-2: Community Alternatives Program for Disabled Adults
28 (CAP/DA).

29 **SECTION 1.(b)** DHB shall determine the definition of direct care worker to be
30 applied and the amount of the rate increases to be implemented under this section. DHB shall
31 further determine the manner in which a provider or facility shall utilize the increased rate and
32 demonstrate compliance with those utilization requirements, including the documentation
33 required to be kept by the provider or facility. This documentation shall be made available upon
34 request by DHB or by the relevant local management entity/managed care organization
35 (LME/MCO).



1 SECTION 1.(c) Any rate increase provided under this section shall be effective on
2 the date approved by the Centers for Medicare and Medicaid Services. Upon implementation of
3 an applicable rate increase required by this section, DHB shall adjust the per member per month
4 (PMPM) capitation amount paid to LME/MCOs accordingly. All LME/MCOs shall be required
5 to implement the increase, and it shall also apply to BH IDD tailored plans.

6 SECTION 1.(d) In addition to other allowable reasons for recoupment of funds, if
7 DHB or an LME/MCO determines any funds related to a rate increase required under this section
8 were not used to the benefit of direct care workers, then DHB or the LME/MCOs shall recoup
9 part or all of those funds.

10 SECTION 1.(e) There is appropriated from the General Fund to the Department of
11 Health and Human Services, Division of Health Benefits, the sum of one hundred eighty million
12 dollars (\$180,000,000) in recurring funds for the 2024-2025 fiscal year to implement this section.
13 These funds shall provide a State match for three hundred thirty-eight million dollars
14 (\$338,000,000) in recurring federal funds for the 2024-2025 fiscal year, and those federal funds
15 are appropriated to the Division of Health Benefits for the same purpose.

16 SECTION 1.(f) This section is effective July 1, 2024.
17

18 **PART II. FUND ADDITIONAL INNOVATIONS WAIVER SLOTS AND DEVELOP A**
19 **10-YEAR PLAN TO ADDRESS THE REGISTRY OF UNMET NEEDS**

20 SECTION 2.(a) The Department of Health and Human Services, Division of Health
21 Benefits, shall amend the North Carolina Innovations waiver to increase the number of slots
22 available under the waiver by a minimum of 1,000 slots. These additional slots shall be made
23 available upon approval by the Centers for Medicare and Medicaid Services.

24 SECTION 2.(b) There is appropriated from the General Fund to the Department of
25 Health and Human Services, Division of Health Benefits, the sum of thirty-five million dollars
26 (\$35,000,000) in recurring funds for the 2024-2025 fiscal year to increase the number of slots
27 under the North Carolina Innovations waiver, as directed by subsection (a) of this section. These
28 funds shall provide a State match for sixty-six million dollars (\$66,000,000) in recurring federal
29 funds for the 2024-2025 fiscal year, and those federal funds are appropriated to the Division of
30 Health Benefits for the same purpose.

31 SECTION 2.(c) The Department of Health and Human Services, Division of Health
32 Benefits (DHB), shall convene a workgroup of relevant stakeholders to develop a plan to satisfy
33 the registry of unmet needs for the North Carolina Innovations waiver within the next 10 years.
34 In developing the plan, the workgroup shall also consider the needs of individuals receiving
35 services approved under the 1915(i) option and may propose an alternative means of distributing
36 slots under the North Carolina Innovations waiver. The 10-year plan shall include a detailed cost
37 analysis of all recommendations and methods proposed to address the registry of unmet needs.
38 No later than February 1, 2025, DHB shall submit a report containing the 10-year plan to the
39 Joint Legislative Oversight Committee on Medicaid.

40 SECTION 2.(d) Subsections (a) and (b) of this section are effective July 1, 2024.
41

42 **PART III. BAN USE OF PRONE RESTRAINT AND REQUIRE INCREASED**
43 **PARENTAL NOTIFICATION AND TEACHER TRAINING ON THE USE OF**
44 **SECLUSION AND RESTRAINT**

45 SECTION 3.(a) G.S. 115C-391.1 reads as rewritten:

46 "§ 115C-391.1. Permissible use of seclusion and restraint.

47 ...
48 (c) Physical Restraint:

49 ...
50 (5) Physically restraining a student in a prone position is prohibited.

51 ...

- 1 (j) Notice, Consent, Reporting, and Documentation. –
- 2 (1) Notice of procedures. – Each governing body of a public school unit shall
- 3 provide copies of this section and all governing body policies developed to
- 4 implement this section to school personnel and parents or guardians at the
- 5 beginning of each school year. The public school unit shall request
- 6 confirmation that parents have received the policy.
- 7 (2) Notice of specified incidents:
- 8 a. School personnel shall promptly notify the principal or principal's
- 9 designee of:
- 10 1. Any use of aversive procedures.
- 11 2. Any ~~prohibited~~ use of mechanical restraint.
- 12 3. Any use of physical ~~restraint resulting in observable physical~~
- 13 ~~injury to a student~~ restraint.
- 14 4. Any ~~prohibited~~ use of ~~seclusion or seclusion that exceeds 10~~
- 15 ~~minutes or the amount of time specified on a student's behavior~~
- 16 ~~intervention plan~~ seclusion.
- 17 5. If the seclusion or restraint was used in a prohibited manner,
- 18 caused observable physical injury to a student, or exceeded 10
- 19 minutes or the amount of time specified on a student's behavior
- 20 intervention plan.
- 21 b. When a principal or principal's designee has personal knowledge or
- 22 actual notice of any of the events described in this subdivision, the
- 23 principal or principal's designee shall promptly notify the student's
- 24 parent or guardian and will provide the name of a school employee the
- 25 parent or guardian can contact regarding the incident.
- 26 (3) As used in subdivision (2) of this subsection, "promptly notify" means by the
- 27 end of the ~~workday~~ school day during which the incident ~~occurred when~~
- 28 ~~reasonably possible, but in no event later than the end of following~~
- 29 ~~workday occurred.~~

30"

31 **SECTION 3.(b)** G.S. 115C-270.30(b)(1) reads as rewritten:

32 "(1) For all teachers, at least eight continuing education credits with at least three

33 credits required in a teacher's academic subject ~~area~~ and at least one credit on

34 the use of seclusion and restraint, including State policies, safe techniques,

35 and trauma-informed practices."

36 **SECTION 3.(c)** This section is effective when it becomes law and applies beginning

37 with the 2024-2025 school year.

38

39 **PART IV. EXPAND SERVICES FOR INDIVIDUALS WITH INTELLECTUAL OR**

40 **OTHER DEVELOPMENTAL DISABILITIES.**

41 **SECTION 4.(a)** The Department of Health and Human Services, Division of Mental

42 Health, Developmental Disabilities, and Substance Use Services, shall convene a workgroup of

43 relevant stakeholders to develop a five-year plan for monthly housing rental subsidies to be

44 provided to individuals with intellectual or other developmental disabilities for use in integrated

45 settings. This plan shall create 200 new monthly housing rental subsidies to be provided to

46 individuals with intellectual or other developmental disabilities each year over the course of five

47 years, resulting in the creation of a total of 1,000 monthly housing rental subsidies by the end of

48 the five-year period. In developing the plan, the workgroup shall consider similar subsidy

49 programs in Virginia, Maryland, Connecticut, and Pennsylvania. The five-year plan shall include

50 a detailed cost analysis of the plan. Any plan developed under this subsection shall be in

51 furtherance of the State's compliance with the United States Supreme Court decision in Olmstead

1 v. L.C., 527 U.S. 581 (1999). No later than October 1, 2024, Division of Mental Health,
2 Developmental Disabilities, and Substance Use Services shall submit a report containing the
3 five-year plan to the Joint Legislative Oversight Committee on Medicaid and to the members of
4 the Legislative Joint Caucus for Intellectual and Developmental Disabilities.

5 **SECTION 4.(b)** The Department of Health and Human Services, Division of Health
6 Benefits (DHB), shall study the feasibility of adding coverage of a new Medicaid service, entitled
7 "Community Activities and Employment Transitions" (CAET), that provides individualized
8 services and supports for individuals age 16 or older with intellectual or other developmental
9 disabilities and that meets the criteria established in this subsection. DHB shall consider the
10 feasibility of adding the coverage in any of the following ways: (i) by adding an "in-lieu-of"
11 service offered through the 1115 waiver for Medicaid transformation, (ii) by adding or amending
12 a 1915(i) home and community-based State Plan amendment to include the service, or (iii) by
13 adding the service to any existing Medicaid waiver in this State. The new CAET service shall
14 meet all of the following criteria:

- 15 (1) The new service shall be modeled after (i) the nonresidential components of
16 the service, entitled "Long-Term Community Supports," currently provided
17 by Vaya Health and (ii) similar services provided by Alliance Behavioral
18 Healthcare that support a meaningful week when used either separately or
19 with other available services.
- 20 (2) The CAET service shall not include any residential component.
- 21 (3) Services must originate from facilities that meet the home and
22 community-based services standards established by DHB and under federal
23 law.

24 **SECTION 4.(c)** In studying the feasibility of a new CAET service in accordance
25 with subsection (b) of this section, DHB shall collaborate with the Marketing Association for
26 Rehabilitation Centers (MARC), the North Carolina Association for Rehabilitation Facilities
27 (NCARF), the North Carolina Association of Professional Supported Employment (NCAPSE),
28 all LME/MCOs, and other appropriate stakeholders. Concurrent with the study of the feasibility
29 of a new CAET service, the Commission for Mental Health, Developmental Disabilities, and
30 Substance Abuse Services (Commission) established under Part 4 of Article 3 of Chapter 143B
31 of the General Statutes also shall collaborate with those stakeholders to review any relevant rules,
32 including 10A NCAC 27G .2301 through .2306. The Commission may amend any relevant rules
33 and, if necessary, may adopt additional rules to account for the numerous community-based
34 activities and employment services that may be provided to Medicaid beneficiaries as part of a
35 new CAET service.

36 **SECTION 4.(d)** Consistent with the authority granted under G.S. 108A-54(e), DHB
37 may submit any State Plan amendments or waivers, or request other approval from the Centers
38 for Medicare and Medicaid Services, necessary for the implementation of any new CAET service
39 determined to be feasible under subsection (b) of this section. Coverage of the new service may
40 not begin earlier than January 1, 2025.

41 **SECTION 4.(e)** No later than April 1, 2025, DHB shall submit a report to the Joint
42 Legislative Oversight Committee on Medicaid detailing the following information related to any
43 new CAET service determined to be feasible under this section:

- 44 (1) The definition for the CAET service and any new Medicaid clinical coverage
45 policy or changes to an existing Medicaid clinical coverage policy.
- 46 (2) The anticipated annual cost to the State of adding the CAET service.
- 47 (3) Any legislative changes necessary in order to implement the CAET service.
- 48 (4) Any recommendations regarding the future establishment of a new facility
49 license for facilities providing the CAET service.
- 50 (5) Whether DHB is able to add coverage for the CAET service pursuant to its
51 authority under G.S. 108A-54(e) or whether appropriations are required prior

1 to implementation. If DHB intends to add coverage of the CAET service
2 pursuant to its authority under G.S. 108A-54(e), the expected implementation
3 date.

4 **SECTION 4.(f)** There is appropriated from the General Fund to the Department of
5 Health and Human Services, Division of Health Benefits, the sum of two million dollars
6 (\$2,000,000) in nonrecurring funds for the 2024-2025 fiscal year to be used to support the
7 feasibility study required by subsection (b) of this section and for drafting the requests for the
8 authorities or supports needed to implement any proposed new CAET service determined to be
9 feasible under that section.

10 **SECTION 4.(g)** Subsection (f) of this section is effective July 1, 2024.

11

12 **PART V. DEVELOP AN OFFICE FOR ACCESSIBLE TRANSPORTATION**

13 **SECTION 5.(a)** The Secretary of the Department of Transportation shall create and
14 administer an office within the Department of Transportation to be known as the Office of
15 Accessible Transportation and Mobility.

16 **SECTION 5.(b)** The purpose of the Office is to provide resources and expertise for
17 expanding and improving accessible transportation and mobility across the State at the direction
18 of the Secretary.

19 **SECTION 5.(c)** All appropriate State and local agencies shall coordinate with the
20 Department of Transportation toward the goal of expanding and improving accessible
21 transportation and mobility across the State.

22 **SECTION 5.(d)** The Office shall consult with stakeholders, selected by the
23 Department, who are consumers of accessible transportation as well as professionals with
24 experience in transportation, disability, and aging.

25 **SECTION 5.(e)** No later than March 31, 2025, the Department shall submit a report
26 containing the following information to the House Appropriations Committee on Transportation,
27 the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research
28 Division:

- 29 (1) A detailed statement on the Office's mission and scope of responsibilities.
30 (2) A five-year strategic plan to guide the Office's work.

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32 **PART VI. EFFECTIVE DATE**

33 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
34 law.