

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 665

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

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

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

April 27, 2021

A BILL TO BE ENTITLED
AN ACT TO ADDRESS THE STAFFING CRISIS IMPACTING INTERMEDIATE CARE
FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

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

Whereas, direct support personnel are front-line health care service providers who are responsible for all aspects of the day-to-day habilitation, care, and support of persons with intellectual and other developmental disabilities; and

Whereas, it is the intent of the General Assembly to preserve and improve the quality and consistency of care for persons with intellectual and other developmental disabilities who receive services and support in intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs), including ICF/IID group homes; and

Whereas, it is the intent of the General Assembly to improve the retention rates and hiring rates for qualified direct support personnel who are the front line of care provision and service delivery in ICF/IIDs; and

Whereas, because recruitment and retention of qualified direct support personnel are critical to the delivery of quality, effective habilitation and support services, it is imperative that the hourly wages paid to direct care personnel be competitive and comparable to the hourly wages paid to employees in retail, food service, and State-operated developmental centers; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) ICF/IID Support Personnel. – The Department of Health and Human Services, Division of Health Benefits (DHB), shall adjust the per member per month (PMPM) capitation amount paid to local management entity/managed care organizations (LME/MCOs) operating capitated contracts for mental health, intellectual and other development disabilities, and substance abuse services to include amounts sufficient to increase wages paid to direct support personnel working in intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs), including ICF/IID group homes, to align the wages paid to these direct support personnel with the current wages paid to State employees in State-owned developmental centers. The following shall apply to PMPM capitation amount adjustments made under this section:



- 1 (1) The adjustments shall be consistent with the North Carolina Medicaid State
2 Plan requirements to provide for actuarially sound rates sufficient to operate
3 and provide safe and effective services.
- 4 (2) DHB shall validate the actual amounts necessary to adjust the relevant portion
5 of the LME/MCO PMPM capitation payment to align wages paid to direct
6 support personnel with current wages paid to State employees in State-owned
7 developmental centers.
- 8 (3) The adjustments shall be considered directed payments made to LME/MCOs
9 under 42 C.F.R. § 438.6, in order to assure that the increased amounts are used
10 for wage increases.
- 11 (4) Providers receiving any increase in funds from LME/MCOs to be used for
12 wage increases shall attest and provide verification that those increased funds
13 are being used for the purpose of increasing wages paid to direct support
14 personnel and employees who support direct support personnel. LME/MCOs
15 may require verifiable methods of accounting, such as payroll-based journals.

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

21 **SECTION 1.(b) Funds for Rate Adjustments Made Under This Section.** – There is
22 appropriated from the General Fund to the Department of Health and Human Services, Division
23 of Health Benefits, the sum of seventeen million five hundred thousand dollars (\$17,500,000) in
24 recurring funds for the 2021-2022 fiscal year and the sum of twenty-one million eight hundred
25 thousand dollars (\$21,800,000) in recurring funds for the 2022-2023 fiscal year to be used to
26 adjust the PMPM capitation amount paid to LME/MCOs in accordance with this section. These
27 funds shall provide a State match for fifty-nine million four hundred thousand dollars
28 (\$59,400,000) in recurring federal funds for the 2021-2022 fiscal year and fifty-five million six
29 hundred thousand dollars (\$55,600,000) for the 2022-2023 fiscal year, and those federal funds
30 are appropriated to the Division of Health Benefits to be used to adjust the PMPM capitation
31 amount paid to LME/MCOs in accordance with this act.

32 In addition to the appropriations under this section, DHB shall maximize the ICF/IID
33 assessment, established under Section 10.8(a) of S.L. 2004-124, and, notwithstanding Section
34 10.8(c) of S.L. 2004-124, shall utilize the proceeds for the purpose of implementing this act.

35 **SECTION 1.(c) Cost-of-Living Adjustments.** – To the extent practicable, the
36 General Assembly recommends that, when setting the PMPM capitation amount paid to
37 LME/MCOs for future capitation rate cycles, DHB take into account cost-of-living adjustments
38 and wage and hour cost-of-living adjustments for direct support personnel working in ICF/IIDs,
39 including ICF/IID group homes, in an amount equal to those adjustments made for similar
40 personnel working in State-operated developmental centers.

41 **SECTION 2. Methodology for Determining Appropriate Wages to Be Paid.** – To
42 establish a baseline methodology for determining the appropriate wages to be paid in accordance
43 with this act, the Department of Health and Human Services, Division of Health Benefits (DHB),
44 shall use information from the Office of State Human Resources job classification and wage and
45 hour data for the specific employees working at State-operated developmental centers who are
46 in comparable job classifications as those direct support personnel working in intermediate care
47 facilities for individuals with intellectual disabilities (ICF/IIDs), including ICF/IID group homes.
48 DHB shall make appropriate adjustments for health insurance, retirement benefits, and other key
49 factors that drive total labor costs. DHB shall also take into consideration market-based wage
50 comparisons of direct support personnel working in ICF/IIDs with State employees working in
51 the State-operated developmental centers, direct support personnel working in private work

1 settings, including health care facilities and health services settings, and employees working in
2 private sector businesses that compete to hire the same employees, such as retail and fast food.
3 DHB may accept actuarially sound projections of competitive wage and hour data and other cost
4 data from non-State entities in order to calculate forward looking wage analysis formulas and
5 finalize the exact rates needed to implement this act.

6 **SECTION 3. Mid-Rate Cycle Adjustments.** – If a local management entity/managed
7 care organization implements a provider rate increase or adjustment in accordance with this act
8 at any time other than the beginning of a rate cycle, then the Department of Health and Human
9 Services, Division of Health Benefits, shall provide the funds necessary to sustain that rate
10 increase or adjustment in the applicable per member per month capitation amount for the next
11 rate cycle.

12 **SECTION 4. Approval by the Centers for Medicare and Medicaid Services Required**
13 **Before Implementation.** – The Department of Health and Human Services, Division of Health
14 Benefits (DHB), is directed to seek approval from the Centers for Medicare and Medicaid
15 Services (CMS) prior to implementing the rate increases described under Section 1 of this act.
16 Upon approval, DHB shall implement the rate increases to the extent allowed by CMS.

17 **SECTION 5. Effective Date.** – Sections 1, 2, and 3 of this act become effective upon
18 the approval by CMS required by Section 4 of this act. The Secretary shall notify and provide
19 verification to the Office of State Budget and Management and the Fiscal Research Division
20 upon receipt of this approval. The remainder of this act becomes effective July 1, 2021. If the
21 approval required by Section 4 of this act is not granted by CMS prior to June 30, 2023, then this
22 act shall expire on that date.