

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS35208-MRa-73

Short Title: Direct Support Professional Wage Increases. (Public)

Sponsors: Senators Grafstein and Moffitt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A WAGE INCREASE TO DIRECT SUPPORT PROFESSIONALS
3 THAT SERVE MEDICAID BENEFICIARIES RECEIVING SERVICES UNDER THE
4 NORTH CAROLINA INNOVATIONS WAIVER.

5 Whereas, local management entities/managed care organizations (LME/MCOs) must
6 maintain adequate provider networks pursuant to their managed care contracts and 42 C.F.R. §
7 438.68 and must "assure clients' care is coordinated, received when needed, likely to produce
8 good outcomes, and is neither too little nor too much service to achieve the desired results"
9 pursuant to G.S. 122C-115.4(b)(5); and

10 Whereas, there is a serious shortage of direct support professionals (DSPs) available
11 to provide services under the North Carolina Innovations waiver and other funding sources
12 supporting the needs of people with intellectual and developmental disabilities (I/DD); and

13 Whereas, the DSP workforce shortage has caused significant disruption in services
14 for many Medicaid beneficiaries with I/DD; and

15 Whereas, a leading factor in the DSP workforce shortage is the inadequacy of
16 compensation rates; and

17 Whereas, legislatively provided, short-term DSPs pay enactments are not a substitute
18 for LME/MCO responsibility to maintain adequate rates and network adequacy in their
19 respective catchment areas on an ongoing basis; and

20 Whereas, appropriate and competitive compensation rates vary geographically, and
21 the monitoring of such local market conditions is within the purview and responsibility of each
22 LME/MCO; Now, therefore,

23 The General Assembly of North Carolina enacts:

24 **SECTION 1.(a)** It is the intent of the General Assembly to assist in increasing the
25 hourly wages of direct support professionals (DSPs) that serve Medicaid beneficiaries receiving
26 services under the North Carolina Innovations waiver by three dollars and twenty-five cents
27 (\$3.25) per hour for the 2023-2024 fiscal year and by three dollars and twenty-five cents (\$3.25)
28 per hour for the 2024-2025 fiscal year. To that end, the Department of Health and Human
29 Services, Division of Health Benefits (DHB), shall provide a rate increase for services provided
30 by DSPs to Medicaid beneficiaries receiving services under the Innovations waiver. This rate
31 increase shall be effective on the date approved by the Centers for Medicare and Medicaid
32 Services but no sooner than July 1, 2023. Any provider receiving a rate increase under this section
33 shall be required to use at least ninety percent (90%) of the funding that results from that rate
34 increase to increase the rate of pay paid to its DSP workforce. This wage increase shall be
35 provided in addition to the rate of pay each employee was receiving as of June 30, 2023. DHB



1 shall determine the amount of the rate increase under this section and the definition of DSP to be
2 applied.

3 **SECTION 1.(b)** Upon implementation of the rate increase under subsection (a) of
4 this section, DHB shall adjust the per member per month (PMPM) capitation amount paid to
5 local management entities/managed care organizations (LME/MCOs). These capitation rate
6 adjustments shall include amounts sufficient to implement the same rate increase for providers
7 paid by the LME/MCO and all LME/MCOs shall be required to implement that rate increase.
8 Providers receiving a rate increase under this section shall be subject to the requirements of this
9 section. This section shall continue to apply when the BH IDD tailored plans become fully
10 operational and are implemented.

11 **SECTION 1.(c)** Prior to receiving the rate increase under this section, all providers
12 employing DSPs that serve Medicaid beneficiaries receiving services through the Innovations
13 waiver shall attest and provide verification to DHB, or to the relevant LME/MCO, that at least
14 ninety percent (90%) of the funding that results from that rate increase is being used to increase
15 the rate of pay paid to its DSP workforce. DHB shall set the standards for documentation that
16 shall be required as verification that the provider used the rate increase in the manner required
17 by this section, and LME/MCOs shall use these same standards at a minimum. DHB and
18 LME/MCOs may require verifiable methods of accounting, such as payroll-based journals.
19 Providers receiving a rate increase under this section shall keep documentation of the use of that
20 rate increase and make the documentation available upon request by DHB or by the relevant
21 LME/MCO.

22 **SECTION 1.(d)** In addition to other allowable reasons for recoupment of funds,
23 DHB may recoup part or all of the funds related to the rate increase received by a provider
24 pursuant to this section if DHB determines that the provider did not use at least ninety percent
25 (90%) of the funding that results from that rate increase to increase the rate of pay paid to its DSP
26 workforce.

27 **SECTION 1.(e)** For the 2023-2025 fiscal biennium, LME/MCOs shall report on a
28 quarterly basis to DHB and to the Joint Legislative Oversight Committee on Medicaid regarding
29 provider development efforts and planned or enacted provider rate increases as they pertain to
30 the DSP workforce.

31 **SECTION 2.** Effective July 1, 2023, there is appropriated from the General Fund to
32 the Department of Health and Human Services, Division of Health Benefits, the sum of
33 seventy-two million dollars (\$72,000,000) in recurring funds for each year of the 2023-2025
34 fiscal biennium. These funds shall provide a State match for one hundred forty million dollars
35 (\$140,000,000) in recurring federal funds for each year of the 2023-2025 fiscal biennium, and
36 those federal funds are appropriated to the Division of Health Benefits.

37 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
38 law.