

§ 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:

- (1) In the event of the discontinuation of the 1915(b)/(c) Waivers, the following essential components of the 1915(b)/(c) Waivers shall be included in the 1115 Waiver:
 - a. Entities operating BH IDD tailored plans shall authorize, pay for, and manage services offered under the 1915(b)/(c) Waivers, including coverage of 1915(b)(3) services, within their capitation payments.
 - b. Entities operating BH IDD tailored plans shall operate care coordination functions.
 - c. Entities operating BH IDD tailored plans shall oversee home and community based services.
 - d. Repealed by Session Laws 2022-74, s. 9D.13(f), effective July 1, 2022.
 - e. Entities operating BH IDD tailored plans shall manage provider rates.
 - f. Repealed by Session Laws 2023-134, s. 9G.7A(a7), effective October 3, 2023.
 - g. The State Consumer and Family Advisory Committees shall continue to operate and advise the Department and entities operating the BH IDD tailored plans.
- (2) During the initial contract term for BH IDD tailored plans, an LME/MCO shall be the only entity that may operate a BH IDD tailored plan. LME/MCOs operating BH IDD tailored plans shall receive all capitation payments under the BH IDD tailored plan contracts. Entities operating BH IDD tailored plan contracts shall conduct care coordination administrative functions for all services offered through the BH IDD tailored plans, and shall bear all risk for service utilization. This subdivision shall not be construed to preclude an entity operating a BH IDD tailored plan from engaging in incentives, risk sharing, or other contractual arrangements.
- (3) During the initial contract term for BH IDD tailored plans, BH IDD tailored plans shall be operated only by LME/MCOs that meet certain criteria established by the Department. Any LME/MCO desiring to operate a BH IDD tailored plan shall make an application to the Department in response to this set of criteria. Approval to operate a BH IDD tailored plan will be contingent upon a comprehensive readiness review. The Department shall not issue any statewide BH IDD tailored plan contracts.
- (4) After the term of the initial contracts for BH IDD tailored plans, BH IDD tailored plan contracts shall be the result of requests for proposals issued by the Department and the submission of competitive bids from nonprofit PHPs and entities operating the initial BH IDD tailored plan contracts.
- (5) LME/MCOs operating BH IDD tailored plans shall contract with an entity that holds a PHP license and that covers the services required to be covered under a standard benefit plan contract.
- (6) [Reserved for future codification.]
- (7) Entities authorized to operate BH IDD tailored plans shall be in compliance with applicable State law, regulations, and policy and shall meet certain criteria established by the Department. These criteria shall include the ability to coordinate activities with local governments, county departments of social

services, the Division of Juvenile Justice of the Department of Public Safety, and other related agencies.

- (8) BH IDD tailored plans shall cover the behavioral health, intellectual and developmental disability, and traumatic brain injury services excluded from standard benefit plan coverage under G.S. 108D-35(1) in addition to the services required to be covered by all PHPs under G.S. 108D-35.
- (9) Entities authorized to operate BH IDD tailored plans shall continue to manage non-Medicaid behavioral health services funded with federal, State, and local funding in accordance with Chapter 122C of the General Statutes and other applicable State and federal law, rules, and regulations.
- (10) Recipients described in G.S. 108D-40(a)(12) shall be automatically enrolled with an entity operating a BH IDD tailored 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 to enroll with a PHP operating a standard benefit plan, provided that a recipient electing to enroll with a PHP operating a standard benefit plan would only have access to the services covered by the standard benefit plans and would no longer have access to the services excluded from standard benefit plan coverage under G.S. 108D-35(b)(1) and provided that the recipient's informed consent shall be required prior to the recipient's enrollment with a PHP operating a standard benefit plan.
- (11) Recipients described in G.S. 108D-40(a)(12) shall not have the option to voluntarily enroll with a PHP operating a standard benefit plan or the CAF specialty plan if they are any of the following:
 - a. Recipients enrolled in the Innovations waiver.
 - b. Recipients enrolled in the Traumatic Brain Injury waiver.
 - c. Recipients residing in or receiving respite services at an intermediate care facility for individuals with intellectual/developmental disabilities.
 - d. Recipients enrolled in and being served under Transitions to Community Living.
 - e. Recipients receiving State-funded residential services, including group living, family living, supported living, and residential supports.

(b) The Department may contract with entities operating BH IDD tailored plans under a capitated or other arrangement for the management of behavioral health, intellectual and developmental disability, and traumatic brain injury services for any recipients who are not enrolled in a BH IDD tailored plan or the CAF specialty plan.

(c) Notwithstanding G.S. 108D-40(a)(12) and subdivision (10) of subsection (a) of this section, upon the dissolution of an area authority under G.S. 122C-115.5 and as part of the orderly transfer of operations of the area authority being dissolved, the enrollees of the area authority being dissolved may be served temporarily through one, or any combination, of the following delivery systems, in the following priority order:

- (1) A BH IDD tailored plan that has received a certificate of compliance under G.S. 122C-124.2.
- (2) An arrangement authorized under subsection (b) of this section, including one operated by the area authority being dissolved, notwithstanding the requirement under subsection (b) of this section that such an arrangement must be with an entity operating a BH IDD tailored plan.
- (3) The Medicaid fee-for-service program.

- (4) A standard benefit plan.
- (5) Any other system allowed under State law for the delivery of Medicaid services.

(d) In exercising the authority under subsection (c) of this section, the Department shall select the delivery system based on priority order as long as the number of changes in delivery system for the enrollee are minimized and access to care is uninterrupted.

(e) Notwithstanding G.S. 108D-40(a)(12) and subdivision (10) of subsection (a) of this section, when an enrollee of an LME/MCO cannot access services covered for the enrollee under an LME/MCO's contract, as defined in G.S. 122C-124.2(g), from providers experienced in addressing the enrollee's health care needs, the Secretary may enroll the individual in any service delivery system available to the Department. (2015-245, s. 4; 2018-48, s. 1; 2019-81, s. 14(a); 2021-62, s. 3.4A(a); 2022-74, ss. 9D.7(c), 9D.13(f); 2023-65, s. 5.1(b); 2023-134, ss. 9E.22(j), 9G.7A(a7), (a14).)