

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 440

Short Title: Direct Care Work Wage Increases/Innov. Waiver. (Public)

Sponsors: Representatives Sasser, Potts, Cunningham, 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

March 23, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE CERTAIN MEDICAID RATES IN ORDER TO RAISE THE
3 WAGES OF DIRECT CARE WORKERS WHO PROVIDE SERVICES TO MEDICAID
4 BENEFICIARIES RECEIVING SERVICES THROUGH THE NORTH CAROLINA
5 INNOVATIONS WAIVER PROGRAM.

6 The General Assembly of North Carolina enacts:

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8 **ESTABLISH A DIRECTED PAYMENT PROGRAM/INNOVATIONS WAIVER**

9 **SECTION 1.(a)** It is the intent of the General Assembly to assist in increasing the
10 hourly wages of direct care workers who provide services to Medicaid beneficiaries receiving
11 services through the North Carolina Innovations waiver program, to be termed "Innovations
12 direct care workers" for the purpose of this act, by an industry average rate of six dollars and fifty
13 cents (\$6.50) per hour above the North Carolina industry average hourly wage rate cited in the
14 most recent report submitted to the Joint Legislative Oversight Committee on Medicaid and NC
15 Health Choice in accordance with Section 9D.15C of S.L. 2021-180.

16 To that end, the Department of Health and Human Services, Division of Health
17 Benefits (DHB), shall provide a rate increase to providers who provide services to Medicaid
18 beneficiaries receiving services through the North Carolina Innovations waiver program who are
19 either (i) enrolled in the Medicaid program or (ii) approved financial managers or financial
20 support agencies billing for waiver service hours provided by direct care workers that are hired
21 by employers of record or managing employers under a self-directed option in accordance with
22 Medicaid Clinical Coverage Policy 8-P: North Carolina Innovations.

23 **SECTION 1.(b)** The wage increase described in subsection (a) of this section shall
24 be effectuated through a directed payment in accordance with 42 C.F.R. § 438.69(c). All
25 LME/MCOs shall be required to implement the wage increase. This shall continue to apply when
26 the BH IDD tailored plans become fully operational and are implemented. DHB shall determine
27 the amount of the directed payment under this section in consultation with relevant stakeholders.
28 The definition of an Innovations direct care worker under this section includes all workers
29 required for compliance with, or delivery of, the relevant Innovations waiver service definitions
30 and the delivery of a unit of Innovations services to individuals in the definition of direct care
31 worker to be applied and shall include only caregivers who are contracted for the provision of
32 services in a legally appropriate manner. The directed payment under this section shall be
33 effective on the effective date of the directed payment preprint approved by the Centers for
34 Medicare and Medicaid Services.



1 **SECTION 1.(c)** Prior to receiving any funding passed through the directed payment
2 under this section, providers who employ Innovations direct care workers shall attest and provide
3 verification to the relevant LME/MCO that at least seventy-five percent (75%) of the funding
4 that results is being used to increase the rate of pay paid to its Innovations direct care workers.
5 DHB shall set the standards for documentation that shall be required for verification that the
6 provider used the rate increase in the manner required by this section, and LME/MCOs shall use
7 these same standards. DHB and LME/MCOs shall require verifiable methods of accounting, such
8 as payroll-based journals. Providers receiving a rate increase under this section shall keep
9 documentation of the use of that rate increase and make the documentation available upon request
10 by DHB or by the relevant LME/MCO.

11 **SECTION 1.(d)** In addition to other allowable reasons for recoupment of funds,
12 DHB shall recoup part or all of the funds related to the directed payment or the associated rate
13 increase received by a provider pursuant to this section if DHB determines that the provider did
14 not use at least seventy-five percent (75%) of the resulting funding to increase the rate of pay
15 paid to Innovations direct care worker employees.

16 17 **REIMBURSEMENT METHODOLOGY/INNOVATIONS WAIVER AND ICF/IID** 18 **GROUP HOME SERVICES**

19 **SECTION 2.(a)** The Department of Health and Human Services, Division of Health
20 Benefits (DHB), shall amend the Medicaid State Plan so that the reimbursement methodology
21 used for services provided through the North Carolina Innovations waiver program and for
22 intermediate care facilities for individuals with intellectual disabilities (ICF/IID) level group
23 homes computes, on an annual basis, the impact of medical and wage inflation on the costs to
24 providers providing services to Medicaid beneficiaries who receive services through the
25 Innovations waiver program or who reside in an ICF/IID level group home. Beginning with the
26 2025-2026 fiscal year, the reimbursement methodology shall annually adjust the rates for the
27 services provided through the Innovation waiver and for ICF/IIDs. DHB shall make the
28 corresponding adjustments to the capitation amounts paid to local management entities/managed
29 care organizations (LME/MCOs), prepaid health plans operating a BH IDD tailored plan, or both,
30 as appropriate.

31 **SECTION 2.(b)** DHB is directed to consider the feasibility of developing and
32 implementing a provider or payroll assessment mechanism for providers that provide services to
33 Medicaid beneficiaries receiving services through the Innovation waiver.

34 35 **FUNDING REQUIRED**

36 **SECTION 3.** There is appropriated from the General Fund to the Department of
37 Health and Human Services, Division of Health Benefits, the sum of ninety million dollars
38 (\$90,000,000) in recurring funds for each year of the 2023-2025 fiscal biennium. These funds
39 shall provide a State match for one hundred seventy-four million dollars (\$174,000,000) in
40 recurring federal funds for each year of the 2023-2025 fiscal biennium, and those federal funds
41 are appropriated to the Division of Health Benefits.

42 43 **EFFECTIVE DATES**

44 **SECTION 4.** Section 3 of this act is effective July 1, 2023. The remainder of this act
45 is effective when it becomes law.