



**North Carolina Department of Health and Human Services**

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Beverly Eaves Perdue, Governor

February 8, 2010

Lanier M. Cansler, Secretary

The Honorable Martin Nesbitt, Co-Chair  
Joint Legislative Oversight Committee on Mental Health,  
Developmental Disabilities and Substance Abuse Services  
North Carolina General Assembly  
Room 300B, Legislative Office Building  
Raleigh, NC 27603

Dear Senator Nesbitt:

Session Law 2009-451, Section 10.65A.(b), requires the North Carolina Department of Health and Human Services to submit a report on services funded by the NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services, which are received by individuals with developmental disabilities not currently being served through the Community Alternatives Program For Persons With Mental Retardation And Other Developmental Disabilities (CAP-MR/DD) Tier I waiver. Under this legislation, the report is to be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the Fiscal Research Division, by March 1, 2010.

In order to address this objective, there will be a delay in submission of this report until April 1, 2010 as information is still being compiled and additional time is needed to complete this report.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Lanier".

Lanier M. Cansler

LMC:mth

cc: Allen Feezor                      Leza Wainwright                      Michael Watson  
Dan Stewart                      Rennie Hobby                      Sharnese Ransome  
Jim Slate                      Jennifer Hoffman                      Legislative Committees  
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Beverly Eaves Perdue, Governor

February 8, 2010

Lanier M. Cansler, Secretary

The Honorable Verla Insko, Co-Chair  
Joint Legislative Oversight Committee on Mental Health,  
Developmental Disabilities and Substance Abuse Services  
North Carolina General Assembly  
Room 307-B1, Legislative Office Building  
Raleigh, NC 27603

Dear Representative Insko:

Session Law 2009-451, Section 10.65A.(b), requires the North Carolina Department of Health and Human Services to submit a report on services funded by the NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services, which are received by individuals with developmental disabilities not currently being served through the Community Alternatives Program For Persons With Mental Retardation And Other Developmental Disabilities (CAP-MR/DD) Tier I waiver. Under this legislation, the report is to be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the Fiscal Research Division, by March 1, 2010.

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**Report to the  
Joint Legislative Oversight Committee  
on Mental Health, Developmental Disabilities and  
Substance Abuse Services, House of Representatives  
Appropriations Subcommittee on Health and Human  
Services, Senate Appropriations Committee on Health  
and Human Services, and the Fiscal Research Division**

**on the**

**Review of Services Funded through DMH/DD/SAS for  
Individuals with Developmental Disabilities who are not  
Served through the CAP-MR/DD Waiver**

**Session Law 2009-451,  
Section 10.65A(b)**

**April 1, 2010**

**NC Department of Health and Human Services  
Division of Mental Health, Developmental Disabilities and  
Substance Abuse Services**

**Report on the Review of Services Funded through DMH/DD/SAS for Individuals  
with Developmental Disabilities who are not Served through the  
CAP-MR/DD Waiver**

**April 1, 2010**

Session Law 2009-451, Section 10.65A(b), requires the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS) in collaboration with Local Management Entities (LME) to report its findings regarding services funded through the Division to individuals with developmental disabilities who are not currently being served through the Community Alternatives Program for Persons with Mental Retardation And Other Developmental Disabilities (CAP-MR/DD) waiver funding. *This report is to determine (i) if those individuals could be better served through CAP-MR/DD waiver funding, and, (ii) if the State appropriations currently funding services for those individuals would be sufficient to provide the nonfederal match if they became eligible for the CAP-MR/DD Supports Waiver (Tier 1).*

The CAP-MR/DD programs are 1915(c) Home and Community Based Waivers approved by the Centers for Medicare and Medicaid Services (CMS). North Carolina currently operates three (3) 1915 (c) Waivers: the Piedmont Innovations Waiver which serves the five (5) counties of the Piedmont Behavioral Health (PBH) catchment area (Cabarrus, Davidson, Rowan, Stanly and Union counties); the Supports Waiver which offers services valued up to \$17,500 per year in the other 95 counties; and the Comprehensive Waiver which offers services valued between \$17,501-\$135,000 in the other 95 counties. The waivers offer services to individuals with developmental disabilities who would otherwise qualify for services in an Intermediate Care Facility for Persons with Mental Retardation (ICF/MR). There is no entitlement to waiver funding; however, once an individual receives waiver funding, they must continue to participate unless they voluntarily cease their participation, move from North Carolina, or enter an institution or community ICF-MR facility. This legislative request pertains to the CAP-MR/DD Supports Waiver.

**Methodology**

The Local Management Entities were requested to submit information to DMH/DD/SAS regarding the following:

- A. Number of individuals in the catchment area with Intellectual/Developmental Disabilities receiving only state funded developmental disabilities services.**
- B. Of the individuals identified in A., how many individuals' needs could be better met through the CAP-MR/DD Supports Waiver, recognizing the maximum amount of funding available to individuals being supported through the CAP-MR/DD Supports Waiver is \$17,500. [Note: individual's needs were determined**

**to be “better met” if: 1) the current level of services and supports the individual is receiving from state funds was judged to be equal to or less than what would otherwise be medically necessary, additional services and supports would be available through the Supports Waiver, and with those services and supports the person’s needs could be adequately met; or 2) the determination was made that the individual could benefit from services and supports available through the Supports Waiver that cannot currently be funded through state funds, for example, home or vehicle modifications.]**

**C. Of the individuals identified in B, calculate and report the total annualized amount of state funded services received by these individuals.**

The LMEs reported that currently 10,700 individuals with intellectual and developmental disabilities (I/DD) are receiving state funded services. In November, 2009, DMH/DD/SAS allocated an additional 950 CAP-MR/DD Supports Waiver slots funded by the 2009 Session of the General Assembly. The LMEs are currently working to fill those slots, primarily targeting individuals who have been receiving state-funded services. After the addition of these new slots, the LMEs reported that there are still approximately 3,700 individuals receiving state funded I/DD services whose needs could be better met through the CAP-MR/DD Supports Waiver. This assumes that those individuals would all meet ICF/MR level of care criteria, the prerequisite for waiver participation. The average annual state funds expended for these 3,700 individuals is \$5,541, for total state dollar expenditures of \$20.5 million.

A number of factors were taken into consideration when reporting the number of individuals currently receiving state funded services whose needs could be better met through the CAP-MR/DD Supports Waiver including:

- Individuals were excluded if their needs were at an intensity level which would result in the annualized cost of their services exceeding the maximum funding of \$17, 500 allowed on the Supports Waiver.
- Individuals receiving state funded residential services were excluded because the costs of residential services exceed the annual financial cap of the CAP-MR/DD Supports Waiver.
- Individuals whose current annualized state funding is less than \$17,500 may truly need more services and supports, so their needs might not be better met through the Supports Waiver. This is because the LME must manage within a finite amount of state funding, which they manage through an LME-specific benefit plan. As a result, the annualized amount of state funding the individual currently receives may not accurately reflect the amount of service and funding the individual actually needs.

If some or all of the funding currently associated with these 3,700 individuals were to be used as match for expansion of the Supports Waiver, the table below indicates that number of additional slots that could be funded at various contribution levels, assuming that all consumers received the maximum \$17,500 worth of services and supports available through the Supports Waiver.

State Funding 35.29%*	Federal Funding 64.71%*	Total	# of New Consumers if Supports Waiver is Expanded
\$5,000,000	\$9,168,320	\$14,168,320	810
\$10,000,000	\$18,336,639	\$28,336,639	1,619
\$15,000,000	\$27,504,959	\$42,504,959	2,429
\$20,000,000	\$36,673,279	\$56,673,279	3,238
\$20,500,000	\$37,590,110	\$58,090,110	3,320
**\$22,850,275	\$41,899,275	\$64,750,000	3,700

\*Disregarding American Recovery and Reinvestment Act Federal Medical Assistance Percentage (FMAP) enhanced match, the state portion of the Medicaid dollar is approximately 35.29% and the federal portion is approximately 64.71%

\*\* Exceeds the state funding available from current services.

Due to the limited period of time the Supports Waiver has been implemented there is no hard data available to state more definitely that individuals served through the Supports Waiver are “better served” than individuals receiving state-funded services only, although, it is the assumption that in most cases, if an individual’s needs can be adequately addressed by the services provided in the Supports Waiver, that is true. This assumption is due to multiple factors including the uncertainty and continued decline in available state funding, the relative financial stability of waiver funding, and the wider array of services and supports offered by the Supports Waiver than are available with only state funding. These factors imply that Supports Waiver funding may result in positive outcomes for individuals.

Further areas to consider if state dollars are used to leverage more federal dollars to expand the CAP-MR/DD Supports Waiver include:

- As individuals are moved from state funding to CAP-MR/DD Supports Waiver funding, LMEs need on-going state service dollars for individuals with developmental disabilities who are on their waiting lists and who are currently not receiving adequate services.
- There are individuals with developmental disabilities waiting for state funded services who will not meet ICF-MR criteria and will not be eligible for the CAP-MR/DD waivers; therefore, LMEs will need to continue to provide state funded services for these individuals. ICF/MR level of care determination is not made until a waiver slot is available.
- Movement into CAP-MR/DD Supports Waiver funding would be based on the individual’s appropriateness for the waiver. Some individual’s needs may be better met through state funded services. In cases, where the individual’s needs cannot be adequately met within the Supports Waiver due to the annual budget limit of \$17,500, state funding will be required.
- The General Assembly has directed the DMH/DD/SAS to implement a CAP-MR/DD waiver slot allocation formula that provides equal access to waiver

services across LME catchment areas. In response, DMH/DD/SAS has implemented a per capita slot allocation process. However, the availability and utilization of state funds is not similarly equitable. Therefore, the 3,700 individuals whose needs may be better met through the Supports Waiver are not evenly distributed across LMEs. If those funds were to be used to fund waiver slots, the slots would have to be allocated back to the LMEs in proportion to the reduction in state funds, rather than on the per capita formula, to avoid having some LMEs lose the funding currently supporting identified individuals. This would result in the waiver slots no longer being allocated on an equitable basis.

After completing this review, DMH/DD/SAS believes that there are individuals currently receiving state funded services whose needs could be better met through the CAP-MR/DD Supports Waiver and that the state funds currently supporting services for those individuals could be used as match for waiver expansion. However, in light of the caveats noted above, DMH/DD/SAS would recommend that the General Assembly take a cautious approach to undertaking this funding transfer and waiver expansion. DMH/DD/SAS recommends further testing this hypothesis by transferring no more than one-fourth of the funding identified in an effort to quantify the exceptions identified and determine if there are any unanticipated obstacles to implementation.