



North Carolina Department of Health and Human Services

2001 Mail Service Center • Raleigh, North Carolina 27699-2001
Tel 919-733-4534 • Fax 919-715-4645

Beverly Eaves Perdue, Governor

October 11, 2010

Lanier M. Cansler, Secretary

The Honorable William Purcell, Co-Chair
Appropriations on Health and Human Services
North Carolina General Assembly
Room 625, Legislative Office Building
Raleigh, NC 27603

The Honorable Doug Berger, Co-Chair
Appropriations on Health and Human Services
North Carolina General Assembly
Room 526, Legislative Office Building
Raleigh, NC 27603

Dear Senators Purcell and Berger:

Session Law 2010-31, Section 10.7A., requires the Department of Health and Human Services to report on a new service definition within the CAP-MR/DD waiver, and the status of any necessary approval from the Centers for Medicare and Medicaid Services to implement the new service definition. Under this legislation, the report is to be submitted to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

In order to address this objective, there will be a delay in submission of the report as information is still being compiled. The report will be submitted by January 31, 2011.

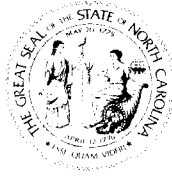
Sincerely,

Lanier M. Cansler

LMC:mth

- | | | | |
|-----|-------------------------------------|----------------|-------------------|
| cc: | Michael Watson | Steven Jordan | Beth Melcher |
| | Dan Stewart | Craig L. Gray | Tara Larson |
| | Sharnese Ransome | Jim Slate | John Dervin |
| | Rennie Hobby | Pam Kilpatrick | Committee Members |
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Beverly Eaves Perdue, Governor

January 10, 2011

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 300-B, Legislative Office Building
Raleigh, NC 27603

Dear Senator Nesbitt:

Session Law 2010-31, Section 10.7A., requires the NC Department of Health and Human Services to report on a new service definition within the CAP-MR/DD waiver and the status of any necessary approval from the Centers for Medicare and Medicaid Services to implement the new service definition. Under this legislation, the report is to be submitted to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

In order to address this objective, there will be a delay in submission of the report to allow sufficient time for the comment period to conclude and information to be compiled. The report will be submitted by June 30, 2011.

Sincerely,

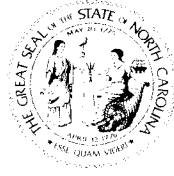
A handwritten signature in black ink, appearing to read "Lanier".

Lanier M. Cansler

LMC:mth

cc: Michael Watson Steven Jordan Beth Melcher
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Beverly Eaves Perdue, Governor

January 10, 2011

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 2010-31, Section 10.7A., requires the NC Department of Health and Human Services to report on a new service definition within the CAP-MR/DD waiver and the status of any necessary approval from the Centers for Medicare and Medicaid Services to implement the new service definition. Under this legislation, the report is to be submitted to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

In order to address this objective, there will be a delay in submission of the report to allow sufficient time for the comment period to conclude and information to be compiled. The report will be submitted by June 30, 2011.

Sincerely,

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Lanier M. Cansler

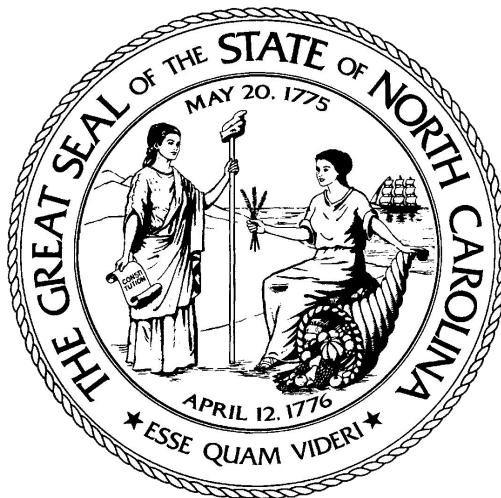
LMC:mth

cc: Michael Watson Steven Jordan Beth Melcher
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Report on
Development of Residential Supports Level 5 for Community Alternatives
Program for Persons with Mental Retardation and Other Developmental
Disabilities (CAP-MR/DD)

Session Law 2010-31, Section 10.7A



June 30, 2011

North Carolina Department of Health and Human Services,
Division of Mental Health, Developmental Disabilities
and Substance Abuse Services and
Division of Medical Assistance

Background

In 2010, the General Assembly passed legislation (S.L. 2010-31, Section 10.7A) requiring the Department of Health and Human Services, Division of Medical Assistance (DMA), to work with stakeholders to develop a new service definition within the Community Alternatives Program for Persons with Mental Retardation and Other Developmental Disabilities (CAP-MR/DD) waiver to better meet the needs of individuals who:

- (i) have a high intensity of behavioral needs,
- (ii) reside in small licensed residential placements, and
- (iii) require supervision 24 hours per day, seven days per week, three hundred sixty-five days per year.

DMA, with the Division of Mental Health/Developmental Disabilities/Substance Abuse Services (DMH/DD/SAS), developed a definition for Residential Supports Level 5. This definition targets the population of CAP-MR/DD recipients who could not be supported by the highest level of Residential Supports (Level IV) under the current waiver and those individuals who lost State-funded services through budget reductions.

Residential Supports Level 5

Residential Supports Level 5 is a 24 hour (per diem) service for the individual who has extreme behavioral support needs that require 24 hours per day one-on-one direct contact and supervision. It is a blended service, which includes personal care and habilitation. Services are expected to be provided with a one-to-one staffing ratio for 24 hours per day. As such, Alternative Family Living (AFL) arrangements are excluded from providing this level of Residential Support.

Residential Supports provides assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in a non-institutional setting.

Habilitation, training, and instruction are coupled with elements of support, supervision, and engaging participation to reflect the natural flow of training, practice of skills, and other activities as they occur during the course of the person's day. This service is distinctive in that it includes habilitation and training activities, as well as care and assistance with activities of daily living when the individual is dependent on others to ensure health and safety. Interactions with the person are designed to achieve outcomes identified in the person-centered plan. Support and supervision of the person's activities to sustain skills gained through habilitation and training is also an acceptable goal of Residential Supports. Residential Supports is available to individuals in the Comprehensive Waiver.

DMA submitted its definition for review to the Physicians' Advisory Group (PAG) in June 2010, and received PAG recommendations in August 2010. The definition was resubmitted to PAG in October 2010, received final approval, and the policy was posted for a 45 day public comment on November 24, 2010. The public comment posting period ended January 8, 2011. DMA and

DMH/DD/SAS reviewed public comments on January 21, 2011, and revised the definition to incorporate stakeholder feedback.

Rates

On January 25, 2011, DMA and DMH/DD/SAS held a meeting with the NC Providers' Council to discuss rate setting proposals for the new service definition. DMA Rate Setting proposed a rate of \$487 per day, which included 24-hour/day one-to-one staffing. Service at this rate would exceed the annual \$135,000 budget for this CAP-MR/DD service level; therefore, DMA proposed an alternative rate/definition of \$369/day with an expectation that all services for the individual that would normally fall within the CAP-MR/DD service range would be provided by the Residential Supports Level 5 provider.

The NC Providers' Council considered both of these options and provided the following feedback to DMA/DMH on February 18, 2011:

- *Issue:* The Level 5 service as proposed does not replace the combined use of CAP-MR/DD and State funds in meeting the needs of many people with high acuity behavioral/medical challenges. With the service as described in the definition, Level 5 would only be appropriate for a very low number of people (NC Department of Health and Human Services (DHHS) estimates 30 – 45); and with the annual limit of \$135,000 per person and a \$487/day rate considered by DMA, Level 5 would use a disproportionate amount of the person's yearly allowance in a short period. With even the best interventions there is concern that some people would utilize their annual allowance, still require additional intensive support longer term, but would have inadequate funding to cover the cost of additional services for the remainder of the year.
- *Recommendation:* Continue with the Level 5 service at the \$487 daily rate that would be inclusive of residential and day services and with the expectation that it would be approved in 4-month authorizations for only the most challenging people. Then create a Level 4 service that would serve as a step-down service at the discussed \$369.86 daily rate that would be inclusive of residential and day services; with the expectation that it would be approved in 6-month authorizations only for very challenging people, but for people that may require longer term residential services and for people who may not require 24/7 one-on-one supervision during sleeping hours. It allows flexibility for high levels of staffing support based on the time of day and situation where the person needs support.

Estimated Cost

At a rate of \$487 per day, the entire annual CAP MR/DD budget of \$135,000 per individual would be exhausted within 277 days. If eight months of Residential Supports Level 5 was provided at this rate, it would leave enough funding for Residential Supports Level 2 to be provided for the remaining four months, but not enough funding to allow for day programming or any substantial crisis/behavioral supports during the provision of Residential Supports Level 5, or after. The cost difference between this option and the cost of Residential Supports Level 4

and 30 hours per week of Day Supports is \$36,055.93 per year. This is an additional cost of \$721,118.60 for 20 recipients served for one year.

Recommendation Regarding Pursuit of Definition

Due to projected costs and waiver allowances, it appears that implementing this service would be cost prohibitive at this time. DMA and DMH/DD/SAS are currently reviewing the individual needs for those identified people whose needs were not met by increasing their current residential supports level (from II to III or from III to IV). DMA and DMH/DD/SAS are also reviewing habilitation models to allow for more flexible day programming for these individuals who have been unsuccessful in traditional day program models.