STUDY ADDITIONAL
1915(c) WAIVER

Session Law 2014-100, Section 12H.35

State of North Carolina

Department of Health and Human Services
Division of Medical Assistance

March 1, 2015

BACKGROUND

Session Law 2014-100, SECTION 12H.35 instructed the Department of Health and Human Services to design and draft a 1915(c) wavier that meets the following requirements:

1. Create 1,000 new slots each year, for 3 years, to serve a total of 3,000 additional adults with developmental disabilities from January 1, 2016, to June 30, 2019.

2. Establish a budget for each slot that is capped at twenty thousand dollars ($20,000) per plan year per beneficiary, and slots will target individuals on the registry of unmet needs.

3. Manage the slots as part of the LME/MCO managed care system.

The Department is directed to provide a report on the draft waiver, other findings, and any other options or recommendations to best serve the additional adults with developmental disabilities on the registry of unmet needs to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services by March 1, 2015.

WAIVER PURPOSE

The additional waiver would provide services to individuals who need a lower amount of service than currently provided by the Innovations waiver and who are not currently receiving services through an Innovations waiver slot.

TARGET POPULATION

The target population for the Supports waiver is beneficiaries who meet eligibility requirements for Intermediate Care Facilities for individuals with intellectual disabilities (ICF-IID). This target population and eligibility criteria is the same as the eligibility criteria for the already existing NC Innovations waiver. To meet ICF-IID level of care, an individual must:

a. Require active treatment necessitating the ICF/IID level of care; and

b. Have a diagnosis of Intellectual Disability per the Diagnostic and Statistical Manual on Mental Disorders, fifth edition, text (DSM-5), or a condition that is closely related to mental retardation.

Intellectual Disability is a disability characterized by significant limitations both in general intellectual function resulting in, or associated with, deficits or impairments in adaptive behavior. The disability manifests before age 18.

Persons with closely related conditions refers to individuals who have a severe, chronic disability that meets ALL of the following conditions:

a. is attributable to cerebral palsy, epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of

Intellectually Disabled persons, and requires treatment or services similar to those required for these persons;

b. the related condition manifested before age 22;
c. is likely to continue indefinitely; and
d. have Intellectual Disability or a related condition resulting in substantial functional limitations in three or more of the following major life activity areas:
    1. Self-Care (ability to take care of basic life needs for food, hygiene, and appearance)
    2. Understanding and use of language (ability to both understand others and to express ideas or information to others either verbally or non-verbally)
    3. Learning (ability to acquire new behaviors, perceptions and information, and to apply experiences to new situations)
    4. Mobility (ambulatory, semi-ambulatory, non-ambulatory)
    5. Self-direction (managing one's social and personal life and ability to make decisions necessary to protect one's life) VI. Capacity for independent living (age-appropriate ability to live without extraordinary assistance).

MOVEMENT TO INNOVATIONS WAIVERS

Additionally, the Centers for Medicaid and Medicare Services (CMS) requires that 1915 (c) Home and Community based waivers maintain the health, safety, and wellbeing of the individuals served through the service package. We anticipate that some individuals who enter the Supports Waiver will have service needs that exceed the waiver's cost limit of $20,000 per year. In order to maintain the health and safety of these individuals, we will need to develop a process for individuals to move between the Supports Waiver and the Innovations waiver.

To facilitate this movement between the Supports and Innovations' waivers, a finite number of reserve capacity slots will be built into the Innovations waiver. The reserve capacity process allows for slots to be held in reserve for individuals entering the Innovations waiver from the Supports waiver. The vacated Supports waiver slot could then be utilized by another individual who meets entrance criteria. Once the reserve capacity slots are exhausted, individuals would not be able to enter the Innovations waiver from the Supports waiver until the next waiver year, or unless they meet criteria for another reserve capacity slot (such as emergency or Money Follows the Person).

PROPOSED SERVICE ARRAY

In addition to Medicaid State Plan-covered services, recommended services for the additional waiver would include access to meaningful day activities, residential supports, respite for the primary caregivers, and assistive technology to allow individuals to be as independent as possible. A budget of $20,000 per person would offer a few hours of services for a few days per week.

SERVICE	DESCRIPTION
Assistive Technology Equipment and Supplies	This service covers purchases, leasing, shipping costs, and as necessary, repair of equipment required to enable beneficiaries to increase, maintain or improve their functional capacity to perform daily life tasks that would not be possible otherwise. All items must meet applicable standards of manufacture, design, and installation.
Day Programming	Day programming is an individual or group service that provides assistance to the beneficiary with acquisition, retention, regaining or improvement in self-help, socialization and adaptive skills. Day Supports are furnished in a non-residential setting, separate from the home or facility where the beneficiary resides. Day Supports focuses on enabling the beneficiary to attain, regain, or maintain his or her maximum functional level and is coordinated with any physical, occupational, or speech therapies listed in the Individual Support Plan.
Respite Care (in-home or at a facility)	Respite provides periodic support and relief to the primary caregiver(s) from the responsibility and stress of caring for the beneficiary. This service enables the primary caregiver to meet or participate in planned or emergency events, and to have planned time for him/her and/or family members. Respite may include in and out-of-home services, inclusive of overnight, weekend care, or emergency care (family emergency based, not to include out of home crisis). The primary caregiver is the person principally responsible for the care and supervision of the beneficiary and must maintain his/her primary residence at the same address as the beneficiary.
Residential Support	Service is available in licensed and non-licensed settings that meet the CMS Home and Community Based Services. This service provides individualized support for the beneficiary to live in more independent setting.

ESTIMATED WAIVER COST

To estimate overall cost of the waiver, DHHS is assuming that the cost limit for the Supports waiver is $20,000.

DMA COSTS - SERVICES

	SFY2016*	SFY2017	SFY2018	SFY2019
# Recipients	1000	2000	3000	3000
Average annual cost/recipient	$20,000	$20,000	$20,000	$20,000
Total Costs	$10,000,000	$40,000,000	$60,000,000	$60,000,000
Federal Share	$6,624,000	$26,496,000	$39,744,000	$39,744,000
State Appropriation	$3,376,000	$13,504,000	$20,256,000	$20,256,000
FMAP	*0.6624*	*0.6624*	*0.6624*	*0.6624*

DMA COSTS – STAFF (1)

	SFY2016*	SFY2017	SFY2018	SFY2019
Total Costs	$128,153	$256,305	$256,305	$256,305
Federal Share	$64,076	$128,153	$128,153	$128,153
State Appropriation	$64,077	$128,152	$128,152	$128,152
FMAP	*0.5000*	*0.5000*	*0.5000*	*0.5000*

**** Effective date January 1, 2016***

RELATED ISSUES

1. Individuals will not be required to withdraw their name from the Registry of Unmet Needs as they will still meet ICF IID Level of Care. As such, the creation of a Supports waiver will not substantively reduce the Innovations waiver Registry of Unmet Needs. This addresses concerns that individuals will be 'locked' into the lower limit waiver and struggle to get on the higher limit waiver.

2. No matching funds have yet been identified to fund this waiver. It is possible that MH/DD/SAS funds that are currently being used to support individuals with IDD could be utilized towards the matching funds. There is a concern that State funds being utilized toward the matching funds would be less money in State funds to the MCOs. DHHS is currently reviewing options for use of state funds as a match.

3. The individuals moving to this waiver may currently be receiving State funded services or (b)(3) services. The (b)(3) funding would be able to serve other individuals who do not receive (c) waiver funding.

4. Waiting list does not need to be 'first come, first served' as it is in the Innovations waiver.

5. Cost of managing an additional waiver will need to be taken into consideration when factoring administrative costs paid to the LME/MCOs.

6. Stakeholder feedback suggested the possibility of adding additional slots to the Innovations waiver instead of creating a separate waiver. As the average cost of a slot for the Innovations waiver is $60,000/year, only one-third the number of people recommended by the legislation would be able to be served. This would change with the advent of resource allocation mandated by Session Law 2011-264, which directs DHHS to:

> *Use managed care strategies, including care coordination and utilization management, to reduce the trend of escalating costs in the State Medicaid program while ensuring medically necessary care and deploy a system for the allocation of resources based on the reliable assessment of intensity of need. The Department shall design these strategies to efficiently direct consumers to appropriate services and to ensure that consumers receive no more and no less than the amount of services determined to be medically necessary and at the appropriate funding level.*

To that end, DHHS is working to transition all waiver beneficiaries by January 1, 2016 to a resource allocation-based waiver slot based upon the results of the Supports Intensity Scale (SIS) assessment, required by the waiver every three years. The transition will provide services to beneficiaries based upon their demonstrated need. Additional slots for the current Innovations waiver may alleviate the need for an additional waiver.

NEXT STEPS

Should the NCGA approve moving forward with an additional 1915(c) waiver, DHHS would:

1. Prepare the waiver for submission to the CMS. This will include gathering stakeholder feedback and posting for public comment.
2. Submit waiver to CMS and follow up with requests for additional information as needed.
3. Amend LME/MCO contract to include the administration of this waiver.
4. Upon approval by CMS, offer training and guidance on the implementation of the waiver