

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 340

Short Title: Medicaid Children & Families Specialty Plan. (Public)

Sponsors: Representatives Lambeth, Loftis, Potts, and Sasser (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Insurance, if favorable, Rules, Calendar, and Operations of the House

March 13, 2023

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CHILDREN AND FAMILIES SPECIALTY PLAN AS AN
ADDITIONAL MEDICAID MANAGED CARE PLAN AND MAKING OTHER
CHANGES TO RELATED STATUTES GOVERNING MEDICAID MANAGED CARE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services (DHHS) shall issue an initial request for proposals (RFP) to procure a single statewide children and families (CAF) specialty plan contract with services to begin no later than December 1, 2024. The RFP shall be subject to the requirements in G.S. 108D-62, as enacted by Section 10 of this act. DHHS shall define the services available under the CAF specialty plan and the Medicaid and NC Health Choice beneficiaries who are eligible to enroll in the CAF specialty plan, except as otherwise specified in this act or in law. For the purposes of this section, the CAF specialty plan shall be as defined under G.S. 108D-1, as amended by Section 2 of this act.

SECTION 1.(b) DHHS shall request approval from the Centers for Medicare and Medicaid Services (CMS) to require that a child who is automatically enrolled in the children and families specialty plan under G.S. 108D-62(f) may not elect to enroll instead in a standard benefit plan or a behavioral health and intellectual/developmental disabilities tailored plan unless doing so is in the best interest of the child, as determined by the county department of social services after consultation with the entity operating a CAF specialty plan.

SECTION 2. G.S. 108D-1 reads as rewritten:

"§ 108D-1. Definitions.

The following definitions apply in this Chapter:

...

(4) Behavioral health and intellectual/developmental disabilities tailored plan or BH IDD tailored plan. – A capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of this Chapter, including the requirements pertaining to BH IDD tailored ~~plans~~plans, but excluding the requirements pertaining only to the CAF specialty plan.

...

(5a) Children and families specialty plan or CAF specialty plan. – A statewide capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of this



Chapter, including the requirements pertaining to the CAF specialty plan, but excluding the requirements only pertaining to BH IDD tailored plans.

...

(30) Prepaid health plan or PHP. – A prepaid health plan, as defined in G.S. 58-93-5, that is under a capitated contract with the Department for the delivery of Medicaid and NC Health Choice services, or a local management entity/managed care organization that is under a capitated PHP contract with the Department to operate a BH IDD tailored plan.Department.

...

(36) Standard benefit plan. – A capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of this Chapter except for the requirements pertaining only to a BH IDD tailored plan-plan and only to the CAF specialty plan."

SECTION 3. G.S. 108D-5.3 reads as rewritten:

"§ 108D-5.3. Enrollee requests for disenrollment.

...

(b) Without Cause Enrollee Requests for Disenrollment. – An enrollee shall be allowed to ~~disenroll~~request disenrollment from the PHP without cause only during the times specified in 42 C.F.R. § 438.56(c)(2), except that enrollees who are in any of the following groups may request to disenroll at any time:

- (1) Beneficiaries who meet the definition of Indian under 42 C.F.R. § 438.14(a).
- (2) Beneficiaries who are ~~enrolled in the foster care system described in G.S. 108D-40(a)(14).~~
- (3) ~~Beneficiaries who are in the former foster care Medicaid eligibility category.~~
- (4) ~~Beneficiaries who receive Title IV-E adoption assistance.~~
- (5) Beneficiaries who are receiving long-term services and supports in institutional or community-based settings.
- (6) Any other beneficiaries who are not required to enroll in a PHP under G.S. 108D-40.
- (7) Beneficiaries who are described in G.S. 108D-40(a)(12).

...."

SECTION 4. G.S. 108D-22 reads as rewritten:

"§ 108D-22. PHP provider networks.

(a) Except as provided in ~~G.S. 108D-23~~, G.S. 108D-23 and G.S. 108D-24, each PHP shall develop and maintain a provider network that meets access to care requirements for its enrollees. A PHP may not exclude providers from their networks except for failure to meet objective quality standards or refusal to accept network rates. Notwithstanding the previous sentence, a PHP must include all providers in its geographical coverage area that are designated essential providers by the Department in accordance with subdivision (b) of this section, unless the Department approves an alternative arrangement for securing the types of services offered by the essential providers.

...."

SECTION 5. Article 3 of Chapter 108D of the General Statutes is amended by adding a new section to read:

"§ 108D-24. Children and families specialty plan networks.

The entity operating the children and families specialty plan shall develop and maintain a closed network of providers only for the provision of the following services:

- (1) Intensive in-home services.
- (2) Multisystemic therapy.
- (3) Residential treatment services.

1 (4) Services provided in private residential treatment facilities.
 2 A closed network is the network of providers that have contracted with the entity operating
 3 the CAF specialty plan to furnish these services to enrollees."

4 **SECTION 6.** G.S. 108D-35(b) reads as rewritten:

- 5 "(b) The capitated contracts required by this section shall not cover any of the following:
 6 (1) Medicaid services covered by the local management entities/managed care
 7 organizations (LME/MCOs) under the combined 1915(b) and (c) ~~waivers~~
 8 waivers or an approved 1915(i) waiver shall not be covered under a standard
 9 benefit plan, except that all capitated PHP contracts shall cover the following
 10 services:
 11 a. Inpatient behavioral health services.
 12 b. Outpatient behavioral health emergency room services.
 13 c. Outpatient behavioral health services provided by direct-enrolled
 14 providers.
 15 d. Mobile crisis management services.
 16 e. Facility-based crisis services for children and adolescents.
 17 f. Professional treatment services in a facility-based crisis program.
 18 g. Outpatient opioid treatment services.
 19 h. Ambulatory detoxification services.
 20 i. Nonhospital medical detoxification services.
 21 j. Partial hospitalization.
 22 k. Medically supervised or alcohol and drug abuse treatment center
 23 detoxification crisis stabilization.
 24 l. Research-based intensive behavioral health treatment.
 25 m. Diagnostic assessment services.
 26 n. Early and Periodic Screening, Diagnosis, and Treatment services.
 27 o. Peer support services.
 28 p. Behavioral health urgent care services.
 29 q. Substance abuse comprehensive outpatient treatment program
 30 services.
 31 r. Substance abuse intensive outpatient program services.
 32 s. Social settings detoxification services.
 33 In accordance with this subdivision, 1915(b)(3) services shall not be covered
 34 under a standard benefit plan.

35 "

36 **SECTION 7.** G.S. 108D-40 reads as rewritten:

37 "**§ 108D-40. Populations covered by PHPs.**

- 38 (a) Capitated PHP contracts shall cover all Medicaid program aid categories except for
 39 the following categories:
 40 ...
 41 (12) Recipients with a serious mental illness, a serious emotional disturbance, a
 42 severe substance use disorder, an intellectual/developmental disability, or who
 43 have survived a traumatic brain injury and who are receiving traumatic brain
 44 injury services, who are on the waiting list for the Traumatic Brain Injury
 45 waiver, or whose traumatic brain injury otherwise is a knowable fact, until BH
 46 IDD tailored plans become operational, at which time this population will be
 47 enrolled with a BH IDD tailored plan in accordance with
 48 ~~G.S. 108D-60(a)(10). Recipients~~ G.S. 108D-60(a)(10), except as described in
 49 subdivision (14) of this subsection. Except as provided in
 50 G.S. 108D-60(a)(11), recipients in this category shall have the option to
 51 voluntarily enroll with a PHP, PHP operating a standard benefit plan, provided

that (i) a recipient electing to enroll with a PHP operating a standard benefit plan would only have access to the behavioral health services covered by ~~PHPs according to G.S. 108D-35(1)~~ standard benefit plans and would no longer have access to the behavioral health services excluded from standard benefit plans under G.S. 108D-35(1) and (ii) the recipient's informed consent shall be required prior to the recipient's enrollment with a ~~PHP~~ PHP operating a standard benefit plan. Recipients in this category shall include, at a minimum, recipients who meet any of the following criteria:

(13) Recipients in the following categories shall not be covered by PHPs for a period of time to be determined by the Department that shall not exceed five years after the date that capitated PHP contracts begin:

e. ~~Recipients who are (i) enrolled in the foster care system, (ii) receiving Title IV-E adoption assistance, (iii) under the age of 26 and formerly were in the foster care system, or (iv) under the age of 26 and formerly received adoption assistance.~~

(14) Until the CAF specialty plan becomes operational, recipients who are (i) children enrolled in foster care in this State, (ii) receiving adoption assistance, or (iii) former foster care youth until they reach the age of 26. When the CAF specialty plan becomes operational, recipients described in this subdivision will be enrolled in accordance with G.S. 108D-62.

...."

SECTION 8. G.S. 108D-45 reads as rewritten:

"§ 108D-45. Number and nature of ~~capitated PHP contracts~~contracts for standard benefit plans.

The number and nature of the contracts for standard benefit plans required under ~~G.S. 108D-65(3)~~ G.S. 108D-65(6) shall be as follows:

(3) ~~The limitations on the number of contracts established in this section shall not apply to BH IDD tailored plans described in G.S. 108D-60.~~

...."

SECTION 9. G.S. 108D-60 reads as rewritten:

"§ 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:

(10) Recipients described in G.S. 108D-40(a)(12) shall be automatically enrolled with an entity operating a BH IDD tailored ~~plan and 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 behavioral health services covered by the standard benefit plans and would no longer have access to the behavioral health services excluded from standard benefit plan coverage under G.S. 108D-35(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.

1 (11) Recipients described in G.S. 108D-40(a)(12) shall not have the option to
 2 voluntarily enroll with a PHP operating a standard benefit plan or the CAF
 3 specialty plan while receiving services offered by the programs or in the
 4 settings specified below:

- 5 a. Recipients enrolled in the Innovations waiver.
 6 b. Recipients enrolled in the Traumatic Brain Injury waiver.
 7 c. Recipients residing in or receiving respite services at an intermediate
 8 care facility for individuals with intellectual/developmental
 9 disabilities.
 10 d. Recipients enrolled in and being served under Transitions to
 11 Community Living.
 12 e. Recipients receiving State-funded residential services, including
 13 group living, family living, supported living, and residential supports.

14 (b) The Department may contract with entities operating BH IDD tailored plans under a
 15 capitated or other arrangement for the management of behavioral health, intellectual and
 16 developmental disability, and traumatic brain injury services for any recipients ~~excluded from~~
 17 ~~PHP coverage under G.S. 108D-40(a)(4), (5), (7), (10), (11), (12), and (13).~~ who are not enrolled
 18 in a BH IDD tailored plan or the CAF specialty plan."

19 **SECTION 10.** Article 4 of Chapter 108D of the General Statutes is amended by
 20 adding a new section to read:

21 **"§ 108D-62. Children and families specialty plan.**

22 (a) The following definitions apply in this section:

- 23 (1) Caretaker relative. – As defined in 42 C.F.R. § 435.4.
 24 (2) Child. – A person who is under the age of 18, is not married, and has not been
 25 legally emancipated.
 26 (3) Custodian. – As defined in G.S. 7B-101.
 27 (4) Foster care. – The placement of a child who is described in
 28 G.S. 108D-40(a)(14) whose custody has been awarded by court order or
 29 pursuant to a voluntary placement agreement from the parent, custodian, or
 30 guardian (i) to the county department of social services or (ii) to the Eastern
 31 Band of Cherokee Indians' Department of Public Health and Human Services.
 32 (5) Guardian. – A guardian of the person as defined in G.S. 35A-1202.
 33 (6) Minor. – A person who is under the age of 18.
 34 (7) Parent. – As defined in 42 C.F.R. § 435.603(b).
 35 (8) Reunification. – As defined in G.S. 7B-101.
 36 (9) Sibling. – As defined in 42 C.F.R. § 435.603(b).

37 (b) All of the following shall apply with regard to the CAF specialty plan:

- 38 (1) The capitated contract for the CAF specialty plan shall be the result of a
 39 request for proposals issued by the Department. Only entities that meet the
 40 definition of PHP under G.S. 58-93-5 or under this Chapter are eligible to
 41 respond to the request for proposals issued by the Department to operate the
 42 CAF specialty plan. Each eligible responding entity may submit only one
 43 response to an RFP issued by the Department.
 44 (2) An entity operating the CAF specialty plan shall authorize, pay for, and
 45 manage all Medicaid services covered under the plan.
 46 (3) An entity operating the CAF specialty plan shall operate care coordination
 47 functions and provide whole-person, integrated care across healthcare and
 48 treatment settings and foster care placements for recipients enrolled in the plan
 49 to support family preservation, advance the reunification of families, support
 50 the permanency goals of children, and support the health of former foster
 51 youth.

- 1 (4) An entity operating the CAF specialty plan shall be the single point of care
2 management accountability.
- 3 (5) The Department shall establish requirements for the effective operation of the
4 CAF specialty plan that, at a minimum, shall address all of the following:
- 5 a. Continuity of care and support across healthcare settings, changes in
6 placement, and when the child transitions into the former foster youth
7 Medicaid eligibility category.
- 8 b. Managing care according to competencies specific to the recipients
9 described in G.S. 108D-40(a)(14) and to recipients receiving child
10 protective services in-home services, including medication
11 management, utilization of trauma-informed care, and any other areas
12 determined appropriate by the Department.
- 13 c. Coordination of activities with local governments, county departments
14 of social services, the Division of Juvenile Justice of the Department
15 of Public Safety, and other related agencies that support the child
16 welfare system.
- 17 d. Approaches to address unmet health-related resource needs.
- 18 (c) In addition to the services required to be covered by all PHPs under G.S. 108D-35,
19 the CAF specialty plan shall cover the behavioral health, intellectual and developmental
20 disability, and traumatic brain injury services excluded from standard benefit plan coverage
21 under G.S. 108D-35(1), except that the CAF specialty plan shall not cover any of the following
22 services:
- 23 (1) Innovations waiver services.
- 24 (2) Traumatic Brain Injury waiver services.
- 25 (3) Services provided to recipients residing in or receiving respite services at an
26 intermediate care facility for individuals with intellectual disabilities.
- 27 (4) Services provided to recipients determined eligible to participate in and be
28 served under Transitions to Community Living.
- 29 (5) Non-Medicaid behavioral health services funded with federal, State, and local
30 funding in accordance with Chapter 122C of the General Statutes or other
31 applicable State and federal law, rules, and regulations.
- 32 (d) Unless ineligible under subsection (e) of this section, the following Medicaid
33 recipients shall be eligible to enroll in the CAF specialty plan:
- 34 (1) Recipients described in G.S. 108D-40(a)(14) and their children. The children
35 shall be enrolled in the CAF specialty plan for as long as the parent remains
36 enrolled, unless the parent elects to enroll the child in another plan in
37 accordance with subsection (g) of this section.
- 38 (2) Adults identified on an open child protective services in-home family services
39 agreement case and any minor children living in the same home.
- 40 (3) Adults identified in an open Eastern Band of Cherokee Indians Department of
41 Public Health and Human Services Family Safety program case and any
42 children living in the same home.
- 43 (4) The minor siblings of a child in foster care who lived in the same home as that
44 child at the time of the child's removal and with whom household reunification
45 efforts are ongoing.
- 46 (5) Recipients who have a child temporarily in foster care if all of the following
47 are met:
- 48 a. A court of competent jurisdiction has not found that aggravated
49 circumstances exist in accordance with G.S. 7B-901(c).

- 1 b. A court of competent jurisdiction has not found that a plan of
- 2 reunification would be unsuccessful or would be inconsistent with the
- 3 child's health or safety in accordance with G.S. 7B-906.1(d).
- 4 c. The recipient is any of the following:
- 5 1. A parent.
- 6 2. A caretaker relative.
- 7 3. A custodian.
- 8 4. A guardian.
- 9 (6) Any other recipients who have had involvement with the child welfare system
- 10 and whom the Department has determined would benefit from enrollment in
- 11 the CAF specialty plan.
- 12 (e) The following Medicaid recipients shall be not eligible to enroll in the CAF specialty
- 13 plan:
- 14 (1) Recipients who require services that are excluded from coverage by the CAF
- 15 specialty plan under subsection (c) of this section.
- 16 (2) Temporary safety provider caregivers identified on an open child protective
- 17 services in-home family services agreement case or an open Eastern Band of
- 18 Cherokee Indians Department of Public Health and Human Services Family
- 19 Safety program case.
- 20 (3) Recipients who are excluded from PHP coverage under G.S. 108D-40(a).
- 21 (f) Recipients described in subdivision (d)(1) of this section shall be automatically
- 22 enrolled in the CAF specialty plan, unless they are also described in G.S. 108D-40(a)(5), in which
- 23 case they may enroll voluntarily. All other recipients described under subsection (d) of this
- 24 section may enroll voluntarily in the CAF specialty plan.
- 25 (g) Except as limited by any provision of a waiver or State Plan amendment approved by
- 26 CMS, recipients eligible to enroll in the CAF specialty plan under subsection (d) of this section
- 27 shall have the option to enroll with a PHP operating a standard benefit plan or, if eligible under
- 28 G.S. 108D-40(a)(12), a BH IDD tailored plan. A recipient enrolled in the CAF specialty plan
- 29 who elects to enroll with a PHP operating a standard benefit plan would only have access to the
- 30 behavioral health services covered by the standard benefit plans and would no longer have access
- 31 to the behavioral health services excluded from standard benefit plan coverage under
- 32 G.S. 108D-35(1). The recipient's informed consent, or, as applicable, the informed consent of the
- 33 recipient's custodian or guardian, shall be required prior to the recipient's enrollment with a PHP
- 34 operating a standard benefit plan.
- 35 (h) Recipients described in G.S. 108D-40(a)(14)(i) who exit the custody of the county
- 36 department of social services may elect to remain enrolled in the CAF specialty plan for 12
- 37 months after the date the recipient exits custody. In the case of recipients who achieve
- 38 reunification, any of the following individuals with whom the recipient reunifies may also elect
- 39 to remain enrolled in the CAF specialty plan as long as the recipient remains enrolled:
- 40 (1) A parent.
- 41 (2) A caretaker relative.
- 42 (3) A custodian.
- 43 (4) A guardian.
- 44 (5) A minor sibling."

SECTION 11. G.S. 122C-3 reads as rewritten:

"§ 122C-3. Definitions.

The following definitions apply in this Chapter:

- 48 ...
- 49 (4a) Children and families specialty plan or CAF specialty plan. – As defined in
- 50 G.S. 108D-1.
- 51 ...

(20c) Local management entity/managed care organization (LME/MCO). – A local management entity that is under contract with the Department to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(c) of the Social Security Act or to operate a ~~BH IDD tailored plan~~ capitated PHP contract under Article 4 of Chapter 108D of the General Statutes.

...."

SECTION 12. G.S. 122C-115 reads as rewritten:

"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

...

(e) ~~Beginning on the date that capitated contracts under Article 4 of Chapter 108D of the General Statutes begin, July 1, 2021, LME/MCOs shall cease managing Medicaid services for all Medicaid recipients other than recipients described in G.S. 108D-40(a)(1), (4), (5), (6), (7), (10), (11), (12), and (13), who are enrolled in a standard benefit plan.~~

(e1) Until BH IDD tailored plans become operational, all of the following shall occur:

(1) LME/MCOs shall continue to manage the Medicaid services that are covered by the LME/MCOs under the combined 1915(b) and (c) waivers for Medicaid recipients ~~described in G.S. 108D-40(a)(1), (4), (5), (6), (7), (10), (11), (12), and (13), who are covered by the those waivers and who are not enrolled in a standard benefit plan.~~

...

(f) ~~Entities LME/MCOs operating the BH IDD tailored plans under G.S. 108D-60 may continue to manage the behavioral health, intellectual and developmental disability, and traumatic brain injury services for any Medicaid recipients described in G.S. 108D-40(a)(4), (5), (7), (10), (11), (12), and (13) under any contract with the Department in accordance with G.S. 108D-60(b), who are not enrolled in a BH IDD tailored plan or the CAF specialty plan."~~

SECTION 13. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-115.5. Children and families specialty plan operation.

An area authority is authorized to operate the CAF specialty plan under a contract with the Department. For purposes of operating the CAF specialty plan only, all of the following apply:

(1) The area authority shall have a statewide catchment area.

(2) Counties are prohibited from withdrawing from or declining to participate in the statewide catchment area of the CAF specialty plan."

SECTION 14. Except as otherwise provided, this act is effective when it becomes law.