

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

March 27, 2023

Jay Ludlum, Deputy Secretary
North Carolina Medicaid
NC Department of Health and Human Services
Division of Health Benefits
1985 Umstead Drive, Kirby Building
Raleigh, NC 2703

RE: North Carolina 1915(b)/1915(c) Waiver Amendments NC-02.R05.M03 / NC-1326.R01.02

Dear Mr. Ludlum:

The Centers for Medicare & Medicaid Services (CMS) is approving your request to amend North Carolina's Traumatic Brain Injury (TBI) home and community-based services (HCBS) waiver, for individuals over the age of 18 who have brain injuries and would require Skilled Nursing Facility (SNF) or Specialty Hospital Level of Care (LOC). The CMS Control Number for the amendment is NC-1326.R01.02. Please use this number in future correspondence relevant to this waiver action. With this amendment, the state is to adding Orange and Mecklenburg Counties for areas served by the TBI Waiver and clarifying that treatment planning can be done by care coordinators or care managers.

It is important to note that CMS' approval of this waiver amendment solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at http://www.ada.gov/olmstead/q&a_olmstead.htm.

Furthermore, CMS reminds the state that the state must have an approved spending plan in order to use the money realized from section 9817 of the American Rescue Plan (ARP). Approval of this action does not constitute approval of the state's spending plan.

Concurrently, CMS is approving North Carolina's request to amend its 1915(b) waiver, CMS control number NC-02.R05.M03, titled NC Mental Health, Developmental Disabilities and Substance Abuse Services (MH/IDD/SAS) Health Plan. This waiver allows North Carolina to mandate enrollment of individuals into the state's Prepaid Inpatient Health Plans (PIHPs) for certain mental health and substance abuse services and HCBS approved under the TBI and Innovations waivers. This managed care program is authorized under sections 1915(b)(1),

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1915(b)(3), and 1915(b)(4) of the Social Security Act (the Act) and provides a waiver of the following sections of Title XIX:

- Section 1902(a)(1) Statewide for the TBI waiver only
- Section 1902(a)(10)(B) Comparability of Services
- Section 1902(a)(23) Freedom of Choice
- Section 1902(a)(4) to permit the State to mandate beneficiaries into a single PIHP and restrict disenrollment

Our decision is based on the evidence submitted to CMS demonstrating that the state's proposal is consistent with the purposes of the Medicaid program, will meet all of the statutory and regulatory requirements for assuring beneficiaries' access to and quality of services, and will be a cost-effective means of providing services to those beneficiaries in North Carolina's Medicaid population.

With this 1915(b) amendment, the state is enrolling new populations in the MH/IDD/SAS Health Plan (children 0 – 3 and fully qualified legal immigrants) and transitioning S-CHIP members to M-CHIP. This waiver amendment is approved effective April 1, 2023.

We appreciate the cooperation and effort provided by you and your staff during the review of these waiver amendments. If you have any questions concerning this information, please contact Carshena Harvin at 206-615-2400 or via email at Carshena.Harvin@cms.hhs.gov for the 1915(c) waiver or Sarah Abbott at 410-786-8286 or via email at Sarah.Abbott@cms.hhs.gov for the 1915(b) waiver.

Sincerely,

George P. Failla, Jr., Director
Division of HCBS Operations and Oversight

Bill Brooks, Director
Division of Managed Care Operations

cc: Betty Staton, NC DHHS
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