

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH70200-SH-6 (03/03)

Short Title: Tier II Medicaid PCS for Alzheimers/Dementia. (Public)

Sponsors: Representative Dollar.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP TIER II – ENHANCED MEDICAID PERSONAL CARE SERVICES FOR INDIVIDUALS WITH A PRIMARY DIAGNOSIS OF ALZHEIMER'S OR OTHER SPECIFIED FORMS OF DEMENTIA AND TO REPORT TO THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES, THE SENATE APPROPRIATIONS COMMITTEE ON HEALTH AND HUMAN SERVICES, AND TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Sections 10.9F(c) and (d) of S.L. 2012-142, as amended by Section 70 of S.L. 2012-194, read as rewritten:

**"SECTION 10.9F.(c)** Eligibility for Tier I – Medicaid Personal Care Services – A Medicaid recipient who meets each of the following criteria is eligible for Tier I personal care services:

- (1) The recipient has a medical condition, disability, or cognitive impairment and demonstrates unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level.
- (2) The recipient (i) resides in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in G.S. 131E-101(1a); or (ii) resides in a group home licensed under Chapter 122C or the General Statutes and under 10A NCAC 27G .5601 as a supervised living facility for two or more adults whose primary diagnosis is mental illness, a developmental disability, or substance abuse dependency, and is eligible to receive personal care services under the Medicaid State Plan.

The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. For Medicaid recipients meeting the criteria above, ~~Personal~~ Tier I personal care services shall be available for up to 80 hours per month in accordance with an assessment conducted under subsection (d) of this section and a plan of care developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee.

Eligibility for Tier II – Enhanced Medicaid Personal Care Services – A Medicaid recipient is eligible for Tier II – Enhanced Personal Care Services if the individual meets the eligibility



1 criteria for Tier I – Medicaid Personal Care Services provided in subdivisions (1) and (2) of this  
2 subsection, in addition to the requirements listed below.

3 (3) The recipient's physician attests that the recipient has a primary diagnosis of  
4 one of the following: Alzheimer's Disease, Vascular Dementia, Dementia  
5 with Lewy Bodies, Pick's Disease, Parkinson's Disease, Creutzfeldt-Jakob  
6 Disease, or Huntington's Disease. A recipient may also meet this  
7 requirement with an attestation that the recipient has dementia-undetermined  
8 as long as this diagnosis is made and documented by a neurologist.

9 a. A recipient is not required to have a new attestation if they are  
10 identified by the Department of Health and Human Services,  
11 Division of Medical Assistance as having on record a physician's  
12 attestation of a primary diagnosis that meets the requirements of this  
13 subdivision.

14 b. A recipient is required to have a new attestation if one cannot be  
15 identified by the Division of Medical Assistance or if the one  
16 identified does not meet the requirements of this subdivision.

17 (4) Based on the physician's attestation in subdivision (3) of this subsection, the  
18 Medicaid recipient must receive an independent assessment conducted by a  
19 trained professional who is qualified to assess and has experience assessing  
20 the personal care services needs of individuals with the primary diagnoses  
21 outlined in subdivision (3) of this subsection. The independent assessment  
22 shall be conducted in accordance with subsection (d) of this section and shall  
23 determine the number of hours of personal care services needed by the  
24 individual. In response to the assessment, a plan of care shall be developed  
25 by the service provider and approved by the Department of Health and  
26 Human Services, Division of Medical Assistance, or its designee.

27 In accordance with an assessment and a plan of care, Medicaid recipients meeting all of the  
28 eligibility requirements for Tier II – Enhanced Medicaid Personal Care Services shall be  
29 eligible for up to a total of 130 hours per month which includes the maximum hours allowed in  
30 Tier I.

31 Personal care services shall not include nonmedical transportation; financial management;  
32 non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and  
33 household chores not directly related to the qualifying ADLs.

34 "**SECTION 10.9F.(d)** All assessments for personal care services, continuation of service,  
35 and change of status reviews shall be performed by an independent assessment entity (IAE).  
36 The IAE shall not be an owner of a provider business or provider of personal care services of  
37 any type.

38 A recipient shall be assessed by the IAE after the recipient's primary or attending physician  
39 provides written authorization for referral for the service and written attestation to the medical  
40 necessity for the service. A Medicaid recipient shall receive an assessment to determine  
41 eligibility of Tier II – Enhanced Medicaid Personal Care Services if a physician attests to the  
42 eligibility criteria required for Tier II services. The IAE shall determine and authorize the  
43 amount of service to be provided as determined by its review and findings of each recipient's  
44 degree of functional disability and level of unmet needs for personal care services in the five  
45 qualifying ADLs."

46 **SECTION 2.** The Department of Health and Human Services shall implement Tier  
47 II – Enhanced Medicaid Personal Care Services within available funds.

48 **SECTION 3.(a)** On or before May 1, 2013, the Department of Health and Human  
49 Services shall make an interim report on the implementation of this act to the House  
50 Appropriations Subcommittee on Health and Human Services and to the Senate Appropriations  
51 Committee on Health and Human Services. The report shall include the following: (i) an

1 estimate of the number of Medicaid recipients that would be eligible for Tier II – Enhanced  
2 Medicaid Personal Care Services, (ii) an estimate of the number of PCS hours potential Tier II  
3 recipients would need broken out in increments of 10 hours between 80 and 130 hours, (iii) a  
4 copy of the draft Medicaid State Plan Amendment (SPA), (iv) the estimated time line for  
5 approval of the SPA and a projected implementation date, and (v) any rate reductions necessary  
6 to implement this act.

7 **SECTION 3.(b)** On or before August 1, 2013, and on or before November 1, 2013,  
8 the Department of Health and Human Services shall report on the implementation of this act to  
9 the Joint Legislative Oversight Committee on Health and Human Services.

10 **SECTION 4.** Sections 1 and 2 of this act become effective July 1, 2013. The  
11 remainder of this act is effective when it becomes law.