



## North Carolina Department of Health and Human Services

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July 18, 2008

### MEMORANDUM

**TO:** Legislative Oversight Committee Members  
Local CFAC Chairs  
NC Council of Community Programs  
County Managers  
State Facility Directors  
LME Board Chairs  
Advocacy Organizations  
MH/DD/SAS Stakeholder Organizations

Commission for MH/DD/SAS  
State CFAC  
NC Assoc. of County Commissioners  
County Board Chairs  
LME Directors  
DHHS Division Directors  
Provider Organizations  
NC Assoc. of County DSS Directors

**FROM:** William W. Lawrence, Jr., MD   
Leza Wainwright 

**SUBJECT:** SPECIAL Implementation Update #46: Legislative Changes to Community Support Services

Governor Easley signed House Bill 2436, known as the Appropriations Act of 2008, on July 16, 2008. Now that this bill has become law (Session Law 2008-107), the Division of Medical Assistance (DMA) and the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (D MH/DD/SAS) will begin to implement the various requirements of the legislation. The intent of this memo is provide an overview about specific items within Section 10.15A Improve and Strengthen Fiscal Oversight of Community Support Services of the Act which require immediate action. Providers, Local Management Entities, consumers and families and other stakeholders are encouraged to read the section in its entirety (available on the internet at <http://www.ncga.state.nc.us/Sessions/2007/Bills/House/PDF/H2436v9.pdf>) and to expect updates in the regular August and September DMA/DMH Implementation Updates. In addition, both Divisions will be providing further guidance over the next several weeks on the implementation of the other sections of the Act which impact our respective Divisions and other parts of the public mental health, developmental disabilities and substance abuse services system.

Highlights of Section 10.15A include:

Section 10.15A(a)(b) required DMA to submit to the Centers for Medicare and Medicaid Services (CMS) by June 30, 2008 a State Plan Amendment (SPA) that revised the adult and child community support service definition and changed the payment methodology from a blended rate to a tiered rate based upon the individual qualifications of the staff providing the service. The SPA was submitted on June 30, 2008. The packet submitted to CMS will be posted soon on the DMA and DMH websites. Service definition changes were presented and approved by the Physician's Advisory Group (PAG) prior to the submission to CMS. The revised service definition and the tiered rates cannot be implemented until CMS grants approval. We will provide updates on the approval status on the Divisions' websites and through the Implementation Updates.

Section 10.15A(c) creates a new statute in Article 3A of Chapter 122C (G. S. 122C-81) to establish national accreditation benchmarks and requirements which affect provider endorsement, Medicaid provider enrollment and termination of a provider's ability to provide community support services. **These changes are effective immediately.**

Section 10.15A(i) rewrites Sections 10.49(ee)(5) and (6) of Session Law 2007-323. **Effective August 1, 2008**, all community support services are subject to prior approval. This means that the unmanaged 4 hours for adults and 8 hours for children will no longer be allowed. Providers must request prior authorization before the delivery of **any** community support services. Upon CMS approval of the June 30<sup>th</sup> community Support SPA and the implementation of the tiered rates, not less than 50% of all community support services will be required to be delivered by qualified professionals.

Section 10.15A(j) requires that the Department to adopt policy which reduces the maximum allowable hours of community support service to 8 hours per week. **This change is effective August 1, 2008.** This is a hard benefit limit for adults. ValueOptions will return to the provider any authorization request received for more than 8 hours. The provider should review the consumer's clinical needs to determine if another service is more appropriate or if 8 or less hours per week of community support will meet the consumer's clinical needs. Since this is a benefit limit, the consumer is not entitled to appeal rights for the denial of authorization for more than 8 hours. Requests for 8 or less hours will be processed following the regular authorization procedures. For those adults currently receiving more than 8 hours of community support per week, the benefit limit will be applied at the time of the request for reauthorization. Providers and LMEs should begin to make transition plans for recipients currently authorized to receive more than 8 hours per week of community support and review those consumers' need for other mh/dd/sa services.

There are some adult recipients who have filed appeals for community support. If the request under appeal is for more than 8 hours of community support per week, the appeal officer will not be able to grant more than 8 hours under any circumstance. Providers should immediately work with families and recipients regarding this change. DMA will begin to triage the cases currently under appeal to determine which recipients are affected by this change in benefit. Either DMA staff or the Hearing Officer will notify the recipient or their representative of the status prior to or at the time of the hearing.

Under Early Periodic Screening, Diagnosis and Treatment (EPSDT) regulations governing Medicaid services for children, Medicaid may not have a hard benefit limit on children's services. However, any request received for a child for more than 8 hours per week of community support will require an additional review to assure that EPSDT criteria and conditions are met. This may result in VO issuing a request for additional information. In order to expedite this review, providers are encouraged to submit any additional clinical information, assessments or supporting documentation in addition to the ITR or the PCP to support the additional hours requested at the time of the authorization request. Please note that EPSDT requirements do not override prior authorization requirements.

As noted previously, additional information will be outlined in subsequent Implementation Updates. Please email any questions related to this Implementation Update to [ContactDMH@ncmail.net](mailto:ContactDMH@ncmail.net)

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