

**Traumatic Brain Injury Waiver Quarterly Legislative
Report Quarter Ending March 31, 2024**

Session Law 2018-81, Section 1



Report to

**Joint Legislative Oversight Committee on
Health and Human Services**

Joint Legislative Oversight Committee on Medicaid

**House Appropriations Committee on
Health and Human Services**

**Senate Appropriations Committee on
Health and Human Services**

Fiscal Research Division

By

**North Carolina Department of Health and Human
Services**

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I. Background

Session Law 2018-81, Section 1 (see *Appendix A*) directed the NC Department of Health and Human Services (DHHS) to report quarterly to the Joint Legislative Oversight Committee on Health and Human Services on the status and implementation of the 1915(c) waiver for individuals with traumatic brain injury (TBI) submitted to the Centers for Medicare and Medicaid Services (CMS) in accordance with Session Law 2015-241, Section 12H.6. (see *Appendix B*).

DHHS worked with TBI advocates, stakeholders, and providers to develop the NC TBI Waiver. The waiver was approved by CMS for three years effective May 1, 2018. The first phase of the TBI Waiver is limited to one local management entity/managed care organization (LME/MCO) catchment area: Alliance Health (Alliance), which authorizes and coordinates care and services in Cumberland, Durham, Johnston, and Wake counties. After a 90-day agreed upon period to prepare, Alliance implemented the waiver on August 1, 2018. Alliance catchment area has expanded since the initial date. As of April 1, 2023, the North Carolina (NC) TBI Waiver is available in Orange and Mecklenburg counties.

The NC TBI Waiver provides community-based alternatives for individuals with traumatic brain injuries who are currently in nursing facilities or specialty rehabilitation hospitals, or who are in the community and at risk for placement in a nursing home or specialty rehabilitation hospital. The waiver provides for a continuum of care (see *Appendix C*) that includes both short- and long-term rehabilitation services that are provided within the home and community of enrolled individuals.

The target waiver population consists of adults with cognitive, behavioral, and physical support needs who require supervised and supportive care. Most targeted individuals have either completed a course of intensive rehabilitation and continue to need a less-intensive rehabilitative schedule or need long-term services and supports. Approximately 10% of the individuals served would benefit from a more intensive course of rehabilitation. The adults in the target population are Medicaid beneficiaries who:

- Have a traumatic brain injury, which occurred on or after their eighteenth birthday;
- Have a need for a combination and sequence of special interdisciplinary care or general care, treatment, or other services that are of a lifelong or extended duration and that are individually planned and coordinated;
- Meet admission criteria for placement in a nursing facility or specialty rehabilitation hospital; and
- Have needs that would not be better met under the NC Innovations Waiver for individuals with intellectual disabilities or the Community Alternatives Program for Disabled Adults (CAP-DA) Waiver.

II. Implementation overview

A. Beneficiaries

Effective April 1, 2022, the NC TBI Waiver was approved for five years by CMS. There are 107 slots available in Year 1 of the current NC TBI Waiver. Slots are awarded on a first-come, first-served basis. Alliance developed a TBI Waiver Interest List to track and support individuals who have expressed interest in the waiver and those individuals who have been identified as possibly benefiting from the waiver. Alliance also employs a TBI Guide staff member to assist individuals on the Interest List with gathering the clinical documentation necessary for the TBI Waiver Level of Care process that determines if the individual meets the level of care as outlined in the waiver. The TBI Guide assists individuals on the Interest List, who, if not already covered, need to apply for Medicaid. The renewal also included changing the date of injury to 18 and up and changing the Federal Poverty Level to 300% for TBI Waiver Eligibility. Effective April 1, 2023, the NC TBI Waiver was approved by CMS to expand to Mecklenburg and Orange Counties. It is now available in all six of the counties Alliance serves. Alliance has recruited and onboarded TBI Waiver Providers to serve Mecklenburg and Orange Counties. Alliance is in process of onboarding individuals who were on the TBI Waiver Interest List and live in Mecklenburg and Orange Counties to the TBI Waiver.

As of March 31, 2024, 73 individuals are actively receiving services and 114 Level of Care assessments have been performed to evaluate whether an individual qualifies for TBI services. At the end of this reporting period, 29 individuals are actively in the enrollment phase, which includes Level of Care evaluation process and person-centered plan development for those who qualify for services.

Alliance triages TBI related calls and maintains contact with individuals with TBI through their Access Department. This allows callers to quickly receive information and to maintain contact with one staff person. Alliance has established a TBI Guide relationship with a nonprofit organization to assist individuals with gathering information needed to apply for the TBI waiver, to apply for Medicaid, and to make community connections.

B. Providers

Alliance is contracting with TBI providers to serve waiver participants. Providers added to the TBI waiver after CMS approval are reviewed to ensure compliance with the Home and Community Based Services (HCBS) Final Rule, which provides additional protections for waiver beneficiaries to ensure full access to the benefits of community living. The HCBS Final Rule applies to residential supports, day supports, adult day health, and supported employment services. There are currently approximately 40 providers in Alliance's TBI provider network and there is at least one provider for each TBI waiver service within the Alliance Network. Alliance continues to receive, review and vet TBI Waiver Provider Applications. Alliance's TBI Waiver Network is currently open in Mecklenburg and Orange County. Alliance plans to open the TBI Network in Harnett County, in alignment with the Harnett County TBI Waiver Go Live, anticipated July 1, 2024. Alliance is currently working with two providers to continue to enhance and develop TBI Specific Residential options for the TBI Waiver. Alliance continues work to expand Alliance's Specialized Consultative Services Provider Network, with providers who have a strong understanding of the TBI Rehabilitation Process.

C. Training

Alliance has a provider collaborative with its enrolled TBI waiver providers to ensure that its provider pool continues to expand its TBI specific knowledge base and understands both clinical practice guidelines and best practices related to TBI. Alliance contracts with the Brain Injury Association of North Carolina (BIANC) to offer providers and their staff access to the Certified Brain Injury Specialist (CBIS) Certification training program. The TBI Provider Collaborative has held twenty-seven (27) meetings/trainings between September 2018 and March 2024 covering the following topics:

- Collaborative Overview
- TBI Training – “Basics and Strategies”
- Provider Q&A
- What’s in a Behavior?
- TBI, Intellectual / Developmental Disabilities, and Behavioral De-escalation
- Provider Showcase with presentations directly from providers about the services and supports that their individual programs offer
- Continuation of the Provider Showcase and “Beyond Person-Centered Care: Philosophy to Action”
- Provider Network Development
- Traumatic Brain Injury Clinical Modules
- Provider Documentation
- NC Assistive Technology Center Presentation
- Supported Living
- Steps for Recovery – The Role of Allied Health in the Rehabilitative process post TBI
- Incident Reporting
- Assistive Technology
- TBI Clubhouse Models
- Community Skills: Therapy without Borders
- Presentation from Care Coordinator who is an Occupational Therapist
- “Falls Prevention and TBI” by BIANC
- Community Partnership Presentation
- Who Am I to Stop It: A TBI Awareness Event (A documentary on isolation, art, and transformation after traumatic brain injury. A panel discussion with individuals with lived experience and experts will follow, along with a question-and-answer period.)
- Direct Support Training: How do you engage direct support staff? What are some tips for success?
- Specialized Consultative Services
- Overview of the Brain Injury Association of NC
- General updates, Recognizing Brain Injury Awareness month, Certified Brain Injury Specialist training opportunity and Guest Presentation by Moses Cone Occupational Therapist who is a Certified Brain Injury Specialist
- TBI patients through various levels of care with a mock case study presented by Duke staff

Alliance typically holds these trainings at least quarterly. Alliance also provides TBI specific online trainings through their Recovery University. Alliance's Recovery University is an online learning program that utilizes Relias Learning Management and Training. Alliance also sponsored CBIS training, which is a national certification from the Brain Injury Association of America, for at least one staff member per provider agency.

D. Technical Support

Alliance facilitates TBI provider technical assistance calls to discuss the clinical and support needs of enrolled beneficiaries. These meetings also help guide the further development of supports and to ensure that provider sites are fully compliant with the HCBS Final Rule. The first call was held on August 27, 2018, and these calls continue on a monthly basis.

III. Continued Work and Updates

Alliance and DHHS activities through March 31, 2024, are reflected below.

A. Alliance

- Alliance will continue to provide technical assistance to its provider network on waiver operations and to educate and offer support to waiver beneficiaries.
- Alliance will continue to support its a local stakeholder group to solicit feedback on implementation issues, operational procedures, and policies. This Stakeholder group began in May of 2019 and meets at least quarterly and more frequently, if additional agenda topics are identified.
- Alliance previously established a relationship with a local nonprofit to assist with TBI Waiver onboarding and to help develop community connections prior to the individual accessing the TBI Waiver. As of the time of this report, Alliance has elected to have internal Alliance staff serve as a TBI Guide to support individuals with the eligibility and onboarding process.
- Alliance and DHHS are actively meeting to discuss needs related to residential programs.
- Alliance has operationalized the new Supported Living Service
- Alliance has operationalized the lowering the eligibility criteria for the age of injury from 22 to 18.
- Alliance and DHHS have operationalized the Remote Supports Service.

B. DHHS

- DHHS will continue to develop TBI waiver guidance based on assessment of the TBI Waiver's successes and barriers.
- DHHS will continue to work with Alliance to resolve issues related to eligibility, services, and supports.
- DHHS is leveraging connections of the Money Follows the Person Program to identify people with TBI who are in Skilled Nursing Facilities.

- DHHS is working with the State Prison system to determine the feasibility of screening for TBI in the Prison system.
- DHHS will continue to work with other states with successful TBI programs to refine operational tools, assessment tools, and policies, and will continue to provide waiver operations technical assistance as needed to Alliance.
- DHHS will continue to develop a best practice model system that includes the continuum of care in *Appendix C* and will review and adjust reimbursement rates as needed to maintain adequate reimbursement to attract and retain a network of quality, specialized providers.
- DHHS is continually gathering and analyzing NC TBI data to learn more about the TBI needs in NC. This data will help guide waiver renewal discussions.
- DHHS formed a state stakeholder group, including representation from the Alliance stakeholder group, to solicit feedback on implementation issues, operational procedures, and policies. This group will also assist the State in exploring the viability of statewide implementation. The State Stakeholder group's first meeting was held on December 3, 2018. The second meeting was held on May 6, 2019. The third meeting was held on August 5, 2019. The fourth meeting was held on January 13, 2020. The fifth meeting was held on June 29, 2020. The sixth meeting was held on October 28, 2020. This Stakeholder Group was placed on hold during the TBI Waiver Renewal and at this time we continue to engage with TBI Stakeholders in various meetings including the Brain Injury Advisory Council (BIAC), State CFAC, and DMH/DHB monthly calls.
- DHHS submitted and received approval from CMS to implement COVID-19 specific flexibilities through an Appendix K disaster application. DHHS has provided COVID-19 specific technical assistance to Alliance Health as well as providers.
- DHHS submitted Appendix K from CMS to allow for increased TBI Waiver rates effective March 1, 2022.
- DHHS has operationalized the increase of the Federal Poverty Level from 100% to 300% for the TBI Waiver population.
- DHHS has submitted an amendment to the TBI Waiver to extend some of the Appendix K flexibilities and make them permanent; this amendment was approved by CMS in November 2023.
- DHHS began planning for TBI Waiver Statewide Expansion activities in response to legislation in S.L. 2023-134, Section 9E.16.(d) (see *Appendix D*). DHHS consulted with CMS for guidance and formed an internal team with DHB and DMH. DHHS engaged with LME/MCOs to identify steps necessary for successful expansion.
- Harnett County consolidated into the Alliance catchment area effective 2/1/2024. It is anticipated that CMS will approve the TBI waiver expansion into Harnett County effective 7/1/24.
- DHHS conducted TBI Waiver expansion educational presentations with the LME/MCOs in February and March of 2024. Topics included a TBI waiver overview and TBI waiver eligibility. These educational presentations will continue monthly.
- DHHS formed the TBI Waiver Expansion Advisory Committee with DHHS stakeholders and external stakeholders and convened in March 2024. The primary objective is to make recommendations and provide support and guidance on the statewide expansion of the current TBI Waiver. This may include identification of waiver expansion needs, challenges (including how they may be addressed), and identifying best and/or promising practices to meet the needs of TBI waiver beneficiaries. This committee will meet monthly.

- DHHS is currently conducting a fiscal analysis to determine the feasibility of expansion in accordance with Session Law 2023-134, Section 9E.16.(d).

Appendix A: Session Law 2018-1, Section 1

AN ACT REGARDING IMPLEMENTATION OF THE 1915(C) MEDICAID WAIVER FOR INDIVIDUALS WITH TRAUMATIC BRAIN INJURY:

SECTION 1. Beginning October 1, 2018, the Department of Health and Human Services (DHHS) shall report quarterly to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, the chairs of the Senate Appropriations Committee on Health and Human Services, the chairs of the House of Representatives Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the status and implementation of the 1915(c) waiver for individuals with traumatic brain injury (TBI) that has been submitted to the Centers for Medicare and Medicaid Services in accordance with Section 12H.6 of S.L. 2015-241.

As part of the process of implementing the TBI waiver, DHHS shall adopt rules or medical coverage policies relating to service programs for individuals with traumatic brain injury, including setting standards that ensure that individuals with brain injuries who require residential treatment receive appropriate, effective, and high-quality treatment in community-based residential settings. Additionally, DHHS shall develop a best practice model system that includes a comprehensive continuum of care and an array of short-term and long-term treatments, rehabilitation options, and home and community support services as part of the TBI waiver. Finally, DHHS shall strive to maintain adequate reimbursement rates for residential and community-based care programs that serve individuals with traumatic brain injury, which will aid in attracting and retaining quality and highly specialized providers and programs into North Carolina.

Appendix B: Session Law 2015-241, Section 12H.6.

TRAUMATIC BRAIN INJURY MEDICAID WAIVER

SECTION 12H.6.(a) The Department of Health and Human Services, Division of Medical Assistance and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Department), shall submit to the Centers for Medicare and Medicaid Services a request for approval of the 1915(c) waiver for individuals with traumatic brain injury (TBI) that the Department designed pursuant to Section 12H.6 of S.L. 2014-100, which the Joint Legislative Oversight Committee on Health and Human Services recommended as part of its December 2014 report to the General Assembly, and which is further described in the Department's February 1, 2015, report to the General Assembly.

SECTION 12H.6. (b) The Department shall report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the Medicaid TBI waiver request and the plan for implementation no later than December 1, 2015. The Department shall submit an updated report by March 1, 2016. Each report shall include the following:

- (1) The number of individuals who are being served under the waiver and the total number of individuals expected to be served.
- (2) The expenditures to date and a forecast of future expenditures.
- (3) Any recommendations regarding expansion of the waiver.

SECTION 12H.6. (c) Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, one million dollars (\$1,000,000) for fiscal year 2015-2016 and two million dollars (\$2,000,000) for fiscal year 2016-2017 shall be used to fund the Medicaid TBI waiver.

SECTION 12H.6. (d) The waiver and any State Plan amendments required to implement this section shall not be subject to the 90-day prior submission requirement of G.S. 108A-54.1A(e).

Appendix C: Continuum of Care

The NC TBI Waiver offers support to people in their home and in a community setting. It includes services that support people in their homes and services for people who cannot or do not want to be supported in their home.

Services to Support a person in her/his own home:

Life Skills Training	Life Skills Training provides rehabilitation and skill building to enable the beneficiary to acquire and maintain skills that support independence.
Personal Care	Personal Care Services under North Carolina's State Medicaid Plan differ in service definition and provider type from the services offered under the waiver. Personal Care Services under the waiver include support, supervision and engaging participation with eating, bathing, dressing, personal hygiene, and other activities of daily living.
Respite Care (in-home or at a facility)	Respite services provide periodic or scheduled support and relief to the primary caregiver(s) from the responsibility and stress of caring for the individual with a TBI.
In-Home Intensive Supports	In- Home Intensive support is available to support beneficiaries in their private homes when they need extensive support and supervision.
Assistive Technology Equipment and Supplies	Technology and equipment used to increase, maintain, or improve functional capabilities of beneficiaries.
Home Modifications	Home Modifications are physical modifications to a private residence that are necessary to ensure the health, welfare, and safety of the beneficiary or to enhance the beneficiary's level of independence.
Vehicle Modifications	Alterations to a vehicle include devices, service or controls that enable beneficiaries to increase independence or physical safety by enabling safe transport in and around the community.
Natural Supports Education	Natural Supports Education provides training to families and the beneficiary's natural support network to enhance the decision-making capacity of the natural support network, provide orientation regarding the nature and impact of the TBI and its co-occurring disabilities upon the beneficiary, provide education and training on rehabilitation and/or compensatory intervention and strategies, and provide education and training in the use of specialized equipment and supplies.
Specialized Consultative Services	Specialized Consultative Services provide expertise, training and technical assistance in a specialty area (neuro/psychology, behavior intervention, speech therapy, therapeutic recreation, augmentative communication, assistive technology equipment, occupational therapy, physical therapy, nutrition, and other

	licensed professionals who assist individuals with traumatic brain injury). These services help family members, support staff and other natural supports in assisting individuals with traumatic brain injury.
Extended Clinical Services	Physical therapy, occupational therapy, speech and language services, performed by credentialed professionals at a level higher than or not otherwise covered under the State Plan.
Cognitive Rehabilitation (CR)	Cognitive Rehabilitation is a one-on-one therapy used for the development of thinking skills to improve functional abilities including but not limited to: attention, memory, and problem solving, and to help identify impaired thinking. The initial goal of therapy is to improve cognitive functioning to the fullest extent possible. Compensatory strategies will be introduced as progress slows.
Supported Living	Supported Living provides supports beneficiary to live in their own home with support. The service includes direct assistance as needed with activities of daily living, household chores essential to the health and safety of the beneficiary, budget management, attending appointments, and interpersonal and social skills building to enable the beneficiary to live in a home in the community.
Remote Supports	Remote support means the support of a beneficiary through staff working from a remote location using one or more modes of remote support equipment systems. The purpose of remote supports is to enable beneficiaries to exercise greater independence over their lives and promote community inclusion.

Services to support a person in an out-of-home setting:

Residential Supports	Residential Supports provide individualized services and supports to enable a person to live successfully in a Group Home or Alternate Family Living setting of their choice and be an active participant in his or her community. Residential Supports includes three tiers of support. Tier 1 includes individuals with lower needs, and Tier 3 includes individuals with more significant support needs.
Natural Supports Education	Natural Supports Education provides training to families and the beneficiary's natural support network to enhance the decision-making capacity of the natural support network, provide orientation regarding the nature and impact of the TBI and its co-occurring disabilities upon the beneficiary, provide education and training on rehabilitation and/or compensatory intervention and strategies, and provide education and training in the use of specialized equipment and supplies.

Specialized Consultative Services	Specialized Consultative Services provide expertise, training and technical assistance in a specialty area (neuro/psychology, behavior intervention, speech therapy, therapeutic recreation, augmentative communication, assistive technology equipment, occupational therapy, physical therapy, nutrition, and other licensed professionals who assist individuals with traumatic brain injury). These services help family members, support staff and other natural supports in assisting individuals with traumatic brain injury.
Extended Clinical Services	Physical therapy, occupational therapy, speech and language services, performed by credentialed professionals at a level higher than or not otherwise covered under the State Plan.
Cognitive Rehabilitation (CR)	Cognitive Rehabilitation is a one-on-one therapy used for the development of thinking skills to improve functional abilities including but not limited to: attention, memory, and problem solving, and to help identify impaired thinking. The initial goal of therapy is to improve cognitive functioning to the fullest extent possible. Compensatory strategies will be introduced as progress slows.

Services to support a person in the community*:

Adult Day Health	This service is for beneficiaries who need a structured day program of activities and services with nursing supervision.
Day Supports	Day Supports is a group, facility-based service that provides assistance to individuals with rehabilitation, retention, or modification of socialization and daily living skills and is one option for a meaningful day.
Supported Employment	Provides assistance with choosing, acquiring, and maintaining a job when competitive employment has not been achieved, has been interrupted, or is intermittent. This includes pre- job training, coaching, and long term follow along.
Community Networking	Community Networking services provide individualized day activities that support the beneficiary's definition of a meaningful day in an integrated community setting with persons who are not disabled.
Resource Facilitation	Resource Facilitation promotes the coordination of medical, behavioral, social and unpaid supports to address the beneficiary's needs. Resource Facilitation also informs the planning process with the team and assists beneficiaries with assuring coordinated supports, including direct services.

* These services can be utilized to support an individual who lives in their own home or in an out-of-home placement

Appendix D: Session Law 2023-134, Section 9E.16.(d)

SECTION 9E.16.(d): It is the intent of the General Assembly that the Medicaid Traumatic Brain Injury waiver be expanded throughout the State. Within 60 days after the effective date of this act, DHHS shall submit an amended waiver application to expand the Traumatic Brain Injury waiver statewide by January 1, 2025, or any later date approved by the Centers for Medicare and Medicaid Services. DHHS shall not implement the waiver expansion if that implementation exceeds the authority of the Division of Health Benefits under G.S. 108A-54(e)(1) or creates a recurring cost to the State that would reasonably be anticipated to exceed a future authorized budget for the Medicaid program.