

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 906

Short Title: Establish Adult Day Health Overnight Respite. (Public)

Sponsors: Senator Clary.

Referred to: Health Care.

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH ADULT DAY HEALTH OVERNIGHT RESPITE PROGRAMS
AND TO DIRECT THE DIVISION OF MEDICAL ASSISTANCE TO PURSUE A
MEDICAID WAIVER TO PROVIDE COVERAGE FOR RESPITE CARE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 131D is amended by adding a new section to read:

"§ 131D-6.1. Certification of adult day health overnight respite programs; purpose; definition.

(a) It is the policy of the State to support unpaid caregivers that provide care for individuals who would otherwise need full-time care. Adult day health overnight respite programs provide respite for unpaid caregivers.

(b) As used in this section, 'adult day health overnight respite program' means the provision of 24-hour group care and supervision on a temporary basis to six or fewer unrelated adults who may be physically or mentally disabled. Care provided to an individual in an adult day health overnight respite program shall not exceed seven consecutive calendar days, or more than a total of 21 calendar days of 24-hour care during a 365-day period.

(c) All rules adopted by the Social Services Commission and applicable to an adult day care program as defined in this Article shall apply to an adult day health overnight respite program.

(d) The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day health overnight respite programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities.

(d) The Department of Health and Human Services shall enforce the rules of the Social Services Commission and shall annually inspect and certify all adult day health overnight respite programs, under rules adopted by the Social Services Commission."

SECTION 2. G.S. 143B-181.10 reads as rewritten:

"§ 143B-181.10. Respite care program established; eligibility; services; administration; payment rates.

(a) A respite care program is established to provide needed relief to caregivers of impaired adults who cannot be left alone because of mental or physical problems.

(b) Those eligible for respite care under the program established by this section are limited to those unpaid primary caregivers who are caring for people 60 years of age or older and their spouses, or those unpaid primary caregivers 60 years of age or older who are caring for persons 18 years of age or older, who require constant supervision and who cannot be left



1 alone either because of memory impairment, physical immobility, or other problems that
2 renders them unsafe alone.

3 (c) Respite care services provided by the programs established by this section may
4 include:

- 5 (1) Counseling and training in the caregiving role, including coping mechanisms
6 and behavior modification techniques;
- 7 (2) Counseling and accessing available local, regional, and State services;
- 8 (3) Support group development and facilitation;
- 9 (4) Assessment and care planning for the patient of the caregiver;
- 10 (5) Attendance and companion services for the patient in order to provide
11 release time to the caregiver;
- 12 (6) Personal care services, including meal preparation, for the patient of the
13 caregiver;
- 14 (7) Temporarily placing the person out of his home to provide the caregiver total
15 respite when the mental or physical stress on the caregiver necessitates this
16 type of respite.

17 Program funds may provide no more than the current adult care. An out of home placement is
18 defined as placement in a hospital, skilled or intermediate nursing facility, adult care home,
19 adult day health center, ~~or adult day care center~~, or adult day health overnight respite
20 program. Duration of the service period may extend beyond a year.

21 (d) The respite care program established by this section shall be administered by the
22 Division of Aging consistent with the policies and procedures of the Older Americans Act. The
23 programs shall be coordinated with other appropriate Divisions in the Department of Health
24 and Human Services, and with agencies and organizations concerned with the delivery of
25 services to frail older adults and their unpaid caregivers. The Division shall choose respite care
26 provider agencies in accordance with procedures outlined under the Older Americans Act and
27 shall include the following criteria: documented capacity to provide care, adequacy of quality
28 assurance, training, supervision, abuse prevention, complaint mechanisms, and cost. All funds
29 allocated by the Division pursuant to this section shall be allocated on the same basis as
30 funding under the Older Americans Act.

31 (e) Funding for the Division of Aging to administer this program shall not exceed the
32 percentage allowed for administration as provided in the Older Americans Act but shall not be
33 less than that budgeted for administration in fiscal year 1988-89.

34 (f) Unless prohibited by federal law, caregivers receiving respite care services through
35 the program established by this section shall pay for some of the services on a sliding scale
36 depending on their ability to pay. The Division of Aging, in consultation with the Councils of
37 Governments in each region, shall specify rates of payment for the services."

38 **SECTION 3.** The Division of Medical Assistance of the Department of Health and
39 Human Services shall pursue a Medicaid waiver to provide coverage for respite care including
40 respite care provided in an adult day health overnight respite program.

41 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2010. The
42 remainder of this act is effective when it becomes law.