SENATE BILL 350: LME/MCO Claims Reporting/Mental Health Amdts.

2017-2018 General Assembly

Committee:	House Health	**Date:**	June 21, 2017
Introduced by:	Sens. Britt, Tucker, J. Jackson	**Prepared by:**	Jennifer Hillman Staff Attorney
Analysis of:	PCS to Third Edition S350-CSTR-7		

OVERVIEW: The PCS to Senate Bill 350 modifies certain requirements pertaining to local management entities/managed care organizations (LME/MCOs), which manage the provision of publicly-funded behavioral health services throughout the State.

CURRENT LAW: S.L. 2011-264 (HB 916), as amended by Section 13, S.L. 2012-151 (SB 191), directed the Department of Health and Human Services (DHHS) to proceed with statewide restructuring of management responsibilities for the delivery of services to individuals with mental illness, intellectual and developmental disabilities, and substance abuse disorders, through the statewide expansion of the Section 1915(b)/(c) Medicaid Waiver and the operation of the waiver by regional LME/MCOs. As directed in the law, statewide expansion was completed by July 2013. LME/MCO operations are governed by Chapter 122C of the General Statutes.

BILL ANALYSIS: The PCS to SB 350 amends several sections of Chapter 122C, The Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985, and other provisions of law pertaining to LME/MCOs.

Section 1 requires DHHS to specify a standardized electronic format that all LME/MCOs must use to submit data to DHHS regarding claims billed for Medicaid and State-funded services and to work with LME/MCOs to ensure the success of the process for submitting this data. This section lists permissible uses of the data by DHHS and requires DHHS to report on the status of this requirement by February 1, 2018.

Section 2 amends the statute pertaining to the powers and duties of the Secretary of DHHS relevant to the mental health, developmental disabilities, and substance abuse services system to require DHHS to use contracts with LME/MCOs for the management of State-only funding, federal block grant funding, and Medicaid funding that include quality outcome measures for covered services. This section applies to contracts entered into on or after the bill becomes law.

Section 3 amends various definitions pertaining to the State's mental health, developmental disabilities, and substance abuse services system, including amending the definition of "area director" to clarify that the term refers to the administrative head of the LME/MCO, regardless of the title that individual uses. This section amends other definitions for clarity and to remove obsolete references.

Section 4 amends the statute establishing the primary functions of an LME to require the prior written approval of the Secretary of DHHS before the LME enters into contracts for certain primary functions. This section applies to contracts entered into on or after the date the bill becomes law.

Section 5 amends the statute pertaining to the status of an area authority to add cross references to other applicable laws governing area authorities and to remove obsolete references.

Section 6 amends the statute pertaining to the powers and duties of an area authority to codify certain powers and duties that were enacted in uncodified language in S.L. 2011-264. Among those powers is the authority to subcontract with other entities for certain managed care functions, and this section would require approval by the Secretary of DHHS of subcontracts entered into on or after the date the bill becomes law.

Section 7 amends the statute that provides for the establishment of the board of an area authority, to make the following changes:

- Would require all area boards to comply with statutory membership composition requirements no later than October 1, 2017,
- Would alter the scope of the membership composition category requiring expertise in managed care insurance to instead require expertise in health insurance, health plan administration, or business expertise, or a combination of these areas.
- Would allow area authorities to seek approval from the Secretary of DHHS to appoint board members through a process other than the one required by the statute by submitting an adopted resolution from three-quarters of the counties in the area authority. This approval becomes void upon the merger or consolidation of the area authority. Merged or consolidated area authorities may use the same procedure for seeking approval to appoint board members through a process other than the one required by the statute.
- Would require each LME/MCO to report annually to DHHS on the status of the area board and the board's compliance with certain requirements, including the appointment process and membership composition.

Section 8 adds a new section to Chapter 122C, which governs LME/MCOs, specifying that LME/MCOs can only use funds for purposes related to their functions and responsibilities under this Chapter, including operating the Medicaid waivers and carrying out other functions and responsibilities required by State or federal law or required by contract with DHHS. If an LME/MCO violates this statute, the Secretary of DHHS must transfer the operations of the LME/MCO to another compliant LME/MCO.

Sections 9 and 10 amend the statutes pertaining to an area board's employment of an area director and other employees, to make the following changes:

- Would require the area director to be a full-time employee of the area board who cannot hold any other employment.
- Would clarify that an area director and other employees of the area authority may only be paid a salary above the range established by the State Human Resources Commission if the area board submits a request to both the Director of the Office of State Human Resources (OSHR) and the Secretary of DHHS and receives written approval for the salary or salary adjustment. Written approval must be based on documentation of comparable salaries in "comparable operations within a comparable region of North Carolina," as that term is defined by the Secretary of DHHS.
- Would specify that an area director cannot be paid a salary above the range, if the salary exceeds by more than 30% the average salary of the area directors of the other area authorities.
- Would specify that the area director's total compensation, including salary, benefits, and bonuses, cannot be increased without the written approval of the Director of OSHR and the Secretary of DHHS, and would require annual review of each area director's total compensation for written approval.

- Would require that if the Secretary of DHHS determines that an area director's total compensation or salary exceeds the limitations in the statute, then the area board must bring the area director's total compensation or salary into compliance with the statute within 60 days after the Secretary's determination. If the area board does not bring the area director's total compensation or salary into compliance within that timeframe, then the Secretary must give notice to the area board related to the determination of noncompliance and allow the board another 60 days to bring the area director's total compensation or salary into compliance. If the area board does not comply within that timeframe, the Secretary must appoint a caretaker board for the area authority according to procedures in G.S. 122C-124.1, and the Secretary may terminate the employment of the area director.
- Would require the area board to annually submit to the Secretary of DHHS and the Director of OSHR all employment agreements and all documents relating to the area director's total compensation, and would require that these documents be submitted within 30 days after the bill becomes law.
- Would require the area director to ensure the area authority's compliance with its statutory powers and duties.
- Would require the appointment of an area director to be based on the recommendation of at least two candidates from a search committee of the area board, to include a consumer board member, a county commissioner, and an appointee of the Secretary of DHHS.
- Would require the area board to give an area director 30 days' notice prior to termination of employment, except after the merger or consolidation of the LME/MCO with another LME/MCO or if directed by the Secretary of DHHS.

Section 11 amends the statute governing the establishment of local personnel systems to specify that a determination by the State Human Resources Commission that an LME/MCO's personnel system is substantially equivalent to standards established for certain other local governmental entities becomes void upon the merger or consolidation of two or more LME/MCOs. A newly merged or consolidated LME/MCO would be allowed to petition the State Human Resources Commission for a determination of substantial equivalency with the approval of three-quarters of the counties in the LME/MCO.

Section 12 amends a provision in the 2015 Budget Act governing the timing of when DHHS makes single-stream funding payments to the LME/MCOs to establish a timeframe within which DHHS must make monthly distributions of this funding to LME/MCOs, beginning July 1, 2017.

Sections 13, 14, and 15 remove obsolete references from Chapter 122C.

EFFECTIVE DATE: Section 12 of the PCS would become effective July 1, 2017. The remainder of the bill would be effective when it becomes law.

BACKGROUND: Originally, 11 LME/MCOs were formed, and those have consolidated to the 7 LME/MCOs that currently exist in the State, which include Vaya Health, Partners Behavioral Health, Cardinal Innovations Healthcare Solutions, Sandhills Center, Alliance Behavioral Health, Eastpointe, and Trillium Health Resources.

LME/MCOs originated from area authorities, county programs, and consolidated human services agencies, which later became local management entities (LMEs). Today, all LME/MCOs are structured as area authorities, and county programs and consolidated human services agencies no longer operate. The terms "area authority," "LME," and "LME/MCO" all refer to the same entities.

The LME/MCOs manage funding from 4 primary sources: State-only (single-stream) funding, State and federal Medicaid funds, federal block grant funds, and county funds.