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**TRAUMATIC BRAIN INJURY (TBI) WAIVER**

**REVISED 04/27/2022 - CHANGE NO. 04-22**

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**I. INTRODUCTION**

The North Carolina Traumatic Brain Injury (TBI) Waiver is authorized under Section 1915(c) of the Social Security Act. The Waiver is designed to provide home and community-based services (HCBS) to Medicaid beneficiaries who have suffered a traumatic brain injury and have significant cognitive, behavioral and rehabilitative needs. These services allow beneficiaries, through person-centered planning, to receive home and community-based services necessary to allow them to live in the community and avoid institutionalization.

TBI waiver participants receive an individual support plan (ISP) which provides a community-based alternative to institutional care. The Local Management Entity/Managed Care Organization (LME/MCO) operating as a fully capitated, prepaid inpatient health plan (PIHP) provides all waiver services which are authorized through the annual ISP.

**A. TBI Waiver Categories**

TBI Waiver services are offered in the following categories:

**1. TBI Hospital (BH)**

TBI/BH provides HCBS to individuals who:

- a. Are age 18 and older
- b. Are aged, blind, disabled or both (MAABD, SAABD)
- c. Are in need of specialty hospital rehabilitative level of care to support people with a diagnosed brain injury who have significant cognitive, behavioral, and rehabilitative needs (BH)
- d. Live in either a private living arrangement (PLA) or in living arrangements of 6 beds or less
- e. Reside in the Alliance Behavioral Health (Alliance) catchment area of Cumberland, Durham, Johnston, and Wake counties.
- f. Meet all financial and non-financial eligibility requirements

- g. When under the age of 65, have been determined to be disabled by disability determination Services (DDS) or the Social Security Administration (SSA).

2. **TBI Nursing Facility (BN)**

TBI/BH provides home and community-based services to individuals who:

- a. Are age 18 and older
- b. Are aged, blind, disabled or both (MAABD, SAABD)
- c. Are in need of specialized nursing facility level of care to support people with a diagnosed brain injury who have significant cognitive, behavioral, and rehabilitative needs (BN)
- d. Live in either a private living arrangement (PLA) or in living arrangements of 6 beds or less
- e. Reside in the Alliance Behavioral Health (Alliance) catchment area of Cumberland, Durham, Johnston, and Wake counties.
- f. Meet all financial and non-financial eligibility requirements

**II. REQUESTING TBI WAIVER SERVICES**

To receive TBI services an applicant/beneficiary (a/b) must meet the Medicaid eligibility requirements in one of the following programs:

- MAABD (Medicaid for the Aged, Blind and Disabled)
- SAAD (State/County Special Assistance for Aged or Disabled Adults)

**A. When the a/b has requested TBI services and the:**

- 1. Individual is currently not a Medicaid beneficiary
  - a. A Medicaid application must be submitted.
  - b. Evaluate for Medicaid eligibility in appropriate Medicaid programs.
- 2. Individual is currently a Medicaid Beneficiary
  - a. Process as a change in circumstance.
  - b. Evaluate for eligibility in appropriate Medicaid programs.

- c. If the a/b has a deductible, recalculate a deductible for months in the certification period prior to TBI authorization.
  - Multiply the monthly private living arrangement (PLA) deductible by the number of months in the certification period prior to TBI eligibility to calculate the new deductible amount.
  - The new deductible amount may change the authorization date of Medicaid eligibility.
  - Any excess expenses previously submitted, may be used towards the TBI monthly deductible.

For keying instructions refer to NC FAST job aid: Community Alternatives Program (CAP), Traumatic Brain Injury (TBI) and Innovations.

## **B. Retroactive Coverage**

Retroactive eligibility can be determined for 1, 2 or 3 months prior to application. Retroactive TBI cannot be authorized prior to May 1, 2018.

**C. Individuals requesting TBI waiver services must have an LME/MCO assessment to determine the need for services appropriate to the TBI waiver program.**

**D. Upon completion of LME/MCO assessment the local agency will receive a NC TBI Level of Care (LOC) Eligibility Determination indicating approval or denial of services.**

## **E. When Medicaid eligibility can be established regardless of TBI eligibility**

1. Do not wait for TBI waiver approval
2. Authorize Medicaid, if otherwise eligible or react to change in circumstance reported on an ongoing case.

## **F. When Medicaid eligibility cannot be established without TBI eligibility**

1. Verify the status of the ISP with the Care Coordinator, and
2. Deny the application if the TBI decision is not received by the 45/90<sup>th</sup> day

## **G. If approved for TBI waiver services**

1. The LME/MCO sends a Memorandum of Approval to the local agency along with a copy of the Individual Budget which contains the approved Medicaid waiver services for this person.

2. Select the appropriate TBI indicator code (BH/BN) in NC FAST. For keying instructions refer to NC FAST job aid: Community Alternatives Program (CAP), Traumatic Brain Injury and Innovations.

### **III. BUDGETING**

#### **A. Follow the basic Income rules**

IN ADDITION TO THE BASIC INCOME RULES, THE FOLLOWING APPLIES TO TBI WAIVER

1. There is no spouse-for-spouse or parent-for-child financial responsibility (income limit of 1).
2. Only the income of the **a/b** is used in determining financial eligibility, beginning the month of TBI Waiver approval.
3. The one-third reduction does not apply, even if applied by SSI.
4. **Income is compared to 300% of the current Federal Poverty Level.**

#### **B. Follow the basic Resource rules**

IN ADDITION TO THE BASIC RESOURCE RULES, THE FOLLOWING APPLIES TO TBI WAIVER

1. Evaluate all assets of a married a/b living with their spouse (jointly or individually owned) when one spouse receives TBI Waiver services.
2. Compare available resource amount to the resource limit of 1.
3. Evaluate spousal resource protection (if applicable)

For keying instructions refer to NC FAST job aid: Community Spouse Resource Protection

#### **C. Follow the basic Transfer of Assets rules**

Transfer of Assets sanctions apply.

#### **D. Follow the basic Deductible rules**

IN ADDITION TO THE BASIC MEDICAID DEDUCTIBLE RULES, THE FOLLOWING APPLIES TO TBI:

1. All TBI deductibles are calculated monthly

2. Expenses listed on the Level of Care (Medicaid) column are allowed in addition to other allowable Medicaid expenses

For keying instructions refer to NC FAST job aid: Managing Spend Down Evidence

#### **IV. TBI PARTICIPATION**

**A. The effective date for TBI waiver participation is the level of care effective date.**

##### **B. Certification Period**

1. 12-month certification period
2. SSI TBI Waiver certification periods are controlled by the Social Security Administration (SSA).

#### **V. TBI RECERTIFICATION**

A recertification must be completed:

**A. Once every 12 months**

**B. Continued Need Review (CNR) must be current**

**C. Apply the Ex - parte process.**

SSI beneficiaries do not require a recertification.

#### **VI. CHANGES IN SITUATION**

This section addresses how to handle ongoing Medicaid case maintenance when a change in situation occurs.

##### **A. TBI Waiver Services Terminated**

When a change in situation results in an individual's ineligibility for Medicaid authorization for the TBI Waiver program:

1. Re-compute the budget for the remainder of the certification period.
2. Apply spouse-for-spouse or parent-for-child responsibility.
3. Evaluate for other Medicaid aid programs.
  - a. If eligible send the appropriate notice and continue as regular Medicaid.
  - b. If eligible with a deductible, send the appropriate notice indicating that a deductible must be met.

- c. If ineligible, terminate and send a **timely notice (DSS 8110)** stating that both TBI Waiver participation and Medicaid will terminate.

## **B. County Transfer**

The NC TBI Waiver is only available to individuals in the Alliance Behavioral Health catchment area of Cumberland, Durham, Johnston, and Wake counties.

1. If the waiver participant transfers to a county **within** the Alliance Behavioral Health catchment area, the beneficiary will maintain eligibility in the waiver program.
2. Any transfer **outside** of the Alliance Behavioral Health catchment area will result in:
  - a. Removal from the TBI Waiver program.
  - b. Recertification of Medicaid eligibility.
  - c. Removal of the TBI waiver code by the Income Maintenance Caseworker.

For keying instructions refer to NC FAST job aid: Community Alternatives Program (CAP), Traumatic Brain Injury and Innovations and Completing a Case County Transfer.

## **VII. NOTICES**

Send the LME/MCO care coordinator a copy of all notices sent to the applicant/beneficiary (a/b).

## **VIII. APPEALS**

- A. Requests for an appeal related to TBI Waiver services start with the LME/MCO. Instruct the beneficiary to contact the assigned LME/MCO.**
- B. Requests for an appeal related to the need of TBI Waiver services go directly to the NC Office of Administrative Hearings (OAH).**
- C. Follow the basic Medicaid Eligibility appeal rules in the Appeals section MA-2420, Notice and Hearings Process for appeals related to eligibility. For keying instructions refer to NC FAST Job Aid: Appeals**