

FY 18-19 DHHS/County Agreement Final Draft Talking Points

4/26/2018

- Session Law 2017-41 requires all counties to enter into an annual agreement with the Department of Health and Human Services for all social services programs excluding medical assistance (Medicaid). The law requires the agreement to contain certain performance requirements and administrative responsibilities related to the social services programs.
- The Department issued two previous drafts of this agreement to the NC Association of County Commissioners and the DSS Directors Association, as well as all county DSS directors. In response, these groups, along with other county representatives from across the state, provided lengthy and detailed feedback on the agreement and proposed performance requirements.
- The county agreements will be the same for all counties in FY 18-19 with one exception: each county has its own performance measures for child support, so the attachment for child support will be individualized. Counties have been provided annual performance measures for Child Support Enforcement for a number of years. These county-specific performance measures are based on the counties prior years' performance.
- The Department considered every comment received in developing the new draft of this agreement. Highlights of comments and subsequent changes made to the agreement in response to the feedback include:
 - Multiple commenters focused on the formal and legalistic nature of the agreement. The law requires the parties to enter into an agreement. An agreement is a legally binding document and must contain certain provisions to give it force and effect. To the extent possible, the Department has conceded on certain terms and conditions that are otherwise standard for all agreements it signs. There other are certain legal terms that are required by law to be included in all agreements entered into by a state agency, such as the requirement allowing the Office of the State Auditor access to certain county records (Section 6.0). There are also other terms that are included for the mutual benefit of both the Counties and the Department. For example, provisions related to third-party beneficiaries (Section 1.0) and force majeure (Section 2.0).
 - Multiple commenters also expressed concern on the provision which authorizes the Department to withhold state or federal funding in the event the County fails to satisfy mandated performance requirements or comply with the terms of the agreement. This is a provision mandated by the law (HB630) to be included in these annual agreements. However, in response to the comments received, the Department has drafted a corrective action policy that will govern when a County fails to satisfy a performance requirement or otherwise comply with the terms of the agreement. The corrective action policy (Attachment XI) is based on recommendations from the Social Services Working Group Stage One Report, dated March 28, 2018 and from NCGS 108A-74(a4). The policy includes an opportunity for the county to present its potential disagreement with any non-compliance identified by the Department. The policy also outlines the steps the parties can take before any funds are withheld. The policy does not however,

diminish the Secretary's authority to assume control of a county under 108A-74 in urgent circumstances.

- Several commenters expressed confusion about who is required to sign the agreement. Given that child support enforcement is not always part of county DSS offices, it may make sense for the DSS Director and an authorized representative for the county (such as the County Manager) to both sign the agreement. However, each county will be able to decide who the appropriate authorized signatory should be. It should be noted that the individual signing the agreement is providing a warranty that he or she has the authority to sign and bind the parties to the agreement (Section 16.0).
- Several commenters noted that there were certain county responsibilities under this agreement that were not reciprocal responsibilities at the state level. Where possible, the Department identified related responsibilities to those of the county. For example, the availability of training opportunities for county personnel was noted as a concern for many comments. We added a responsibility that the Department will produce a semi-annual training calendar for state-wide trainings which will allow counties to plan in advance based on the needs of their workforce (Section 13.0(3a)). The calendar will continuously be updated as additional trainings and locations become available.
- Concern was raised by several commenters related to the NC FAST system and Department technology and data. The Department has included a provision noting its responsibility for the maintenance and functionality of the information systems utilized for the administration of social services programs and its responsibility in producing reliable data (contingent on correct data entry at the county level) (Section 13.0(3c)).
- Numerous commenters expressed concern about the breadth or specific content of the performance measures. The current version of the agreement reduces the total number of performance measures from 42 to 31. Of those, all are mandated by either federal policy or NC statute and status quo from prior years with 4 exceptions related Work First and 1 related to child care subsidy application processing. These five performance measures are included in our federal State Plans and are critical to providing timely benefits and supporting employment.
- It is important to note that the FY 18-19 performance measures are not intended to remain the only performance measures in future year agreements. Commenters on early drafts noted that the current performance measures do not adequately address the child or adult outcomes, but rather focus on process indicators. DHHS looks forward to working collaboratively with counties to consider future outcome-based measures.