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Social Services

In a year of budgetary belt tightening, the General Assembly established a Commission on Medicaid Reform and instituted several measures to contain increasing costs in the state's Medicaid program but did not enact legislation reducing the counties' responsibility for paying part of the cost of Medicaid. The General Assembly approved a revised state plan for Temporary Assistance for Needy Families (TANF) and designated nine "electing counties" for the period October 2003 through September 2005. As regards child welfare, the legislature directed the Division of Social Services to expand the pilot alternative response system of responding to reports of child abuse, neglect, and dependency and to evaluate the program in the existing demonstration counties. It also required that all child welfare services workers receive training specifically related to family-centered services and laws concerning parents' rights.

Children's Services

Child Protective Services

Amendments to the Juvenile Code and other legislation relating to child protection also are discussed in Chapter 3, "Children and Families."

Duty of school principal to report nonattendance. Effective July 4, 2003, S.L. 2003-304 (S 421) amends G.S. 115C-378 to require a school principal to notify the county social services director when

1. a child has accumulated ten unexcused absences in a school year, and
2. the principal determines that the child's parent, guardian, or custodian has not made a good faith effort to comply with the compulsory attendance law.

The social services director then must determine whether to undertake a child protective services investigation.

Social worker entry into home during investigation. S.L. 2003-304 amends G.S. 7B-302, effective July 4, 2003, to provide that a social services director or the director's representative may enter a private residence for purposes of a child protective services investigation only

- if the director has a reasonable belief that a child is in imminent danger of death or serious physical injury,

- with permission of the parent or person responsible for the child's care,
- if accompanied by a law enforcement officer who has legal authority to enter the residence, or
- pursuant to an order from a court of competent jurisdiction.

Determination of child's county of residence. G.S. 153A-257 provides rules for determining a person's residence for purposes of social services programs. Effective July 1, 2003, S.L. 2003-304 rewrites this section to authorize the state Division of Social Services in the Department of Health and Human Services to determine which county is responsible for providing protective services and financial support for a child when two or more social services departments disagree about the child's legal residence in an abuse, neglect, or dependency case.

Prerequisites for appointment of custodian or guardian. S.L. 2003-140 (H 1048), effective June 4, 2003, amends several Juvenile Code sections to require that whenever a court either places a child in the custody of someone other than a parent or appoints someone as guardian of the child's person, it verify that the person being given custody or appointed guardian

1. understands the legal significance of the placement or appointment and
2. will have adequate resources to care appropriately for the child.

Child Fatality Review Team. G.S. 143B-150.20(d) authorizes the state Child Fatality Review Team to obtain the information it needs to carry out its duties. Effective July 1, 2003, S.L. 2003-304 amends this subsection to provide that if the team does not receive information within thirty days of requesting it, the team may apply for an order compelling disclosure. The application must be filed in the district court of the county where the investigation is being conducted.

Assault on court officers. S.L. 2003-140 amends G.S. 14-16.10(1) to provide that the term *court officer*, for purposes of criminal offenses set out in G.S. Chapter 14, Article 5A ("Endangering Executive, Legislative, and Court Officers"), include

- social services department attorneys and employees acting on the department's behalf in juvenile proceedings under Subchapter I of the Juvenile Code,
- guardians ad litem and attorney advocates appointed to represent children in those proceedings, and
- any employee of the Guardian ad Litem Services Division of the Administrative Office of the Courts.

This amendment applies to offenses committed on or after December 1, 2003.

Child Welfare Worker Training

Section 4.2 of S.L. 2003-304 rewrites G.S. 131D-10.6A(b) to require the Division of Social Services to ensure that the mandatory preservice training for all child welfare services workers provides information on family-centered practices and state and federal law regarding individuals' basic rights relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent. It also requires that annual continuing education for child welfare services workers include an update on these same subjects. Uncodified provisions require the Division of Social Services to (1) ensure that all currently employed child welfare workers receive training in these subjects and (2) report by April 1, 2004, to the chairs of the Senate and House Appropriations Committees and the chairs of the Senate Appropriations Committee on Health and Human Services and the House Appropriations Subcommittee on Health and Human Services regarding the additional training requirements. The act was effective July 4, 2003.

Alternate Response System Pilots

Section 10.56 of S.L. 2003-284 (H 397) directs the Division of Social Services of the Department of Health and Human Services (DHHS) to continue working with county departments of social services to implement an alternative child protection response system in at least ten and no more than thirty-three demonstration areas in the state. If a county specifically requests

inclusion and the division determines that resources are available, the division may exceed that number of demonstration areas. In addition, the act directs DHHS to expand the demonstration project if nonstate funds are identified for that purpose.

The alternative response system involves the use by county social services departments of a family-centered approach to child protective services, family assessment tools, and family support principles when responding to selected reports of suspected child neglect and dependency. The act requires DHHS to evaluate the original pilot demonstration areas to determine the program's impact in the areas of child safety, timeliness of response, timeliness of service, and coordination of local human services and to report on its findings and the program's expansion by April 1, 2004. Any recommended statutory changes in the report will be eligible for consideration in the 2004 session of the General Assembly.

Family Preservation

Section 10.48 of S.L. 2003-284 directs that the Intensive Family Preservation Services Program be developed and implemented statewide on a regional basis to provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and in cases of abuse where a child is not at imminent risk of removal.

The act requires DHHS

- to review the program with a focus on increasing its sustainability and effectiveness.
- to ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining the necessity of out-of-home placement.
- to ensure that any program or entity that receives funding for Intensive Family Preservation Services provides specified categories of data.
- to establish a performance-based funding protocol and fund only those programs and entities that provide the required data.
- to report on the program by April 1, 2004.

Special Needs Adoption Funds

Section 10.45 of S.L. 2003-284 adds new G.S. 108A-50A creating a Special Needs Adoptions Incentive Fund to provide financial assistance for the adoption of certain children who live in licensed foster care homes. The funds are to be used to remove financial barriers to adoption and to be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. The funds must be matched by county funds. The program does not create an entitlement and is subject to the availability of funds. The act directs the Social Services Commission to adopt rules to implement the new section.

Section 10.47 of S.L. 2003-284 directs that \$1.1 million of funds appropriated to the Department of Health and Human Services be used to support the existing Special Children Adoption Fund for each year of the 2003–2005 fiscal biennium. It directs the Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, to develop guidelines for awarding funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. No local match is required as a condition for receipt of these funds. The act requires that 20 percent of the total funds appropriated for the Special Children Adoption Fund each year be reserved for payment to participating private adoption agencies. If those funds have not been spent by March 31, 2004, the Division of Social Services may reallocate them to other participating adoption agencies.

Foster Care and Adoption Assistance Payments

Section 10.46 of S.L. 2003-284 establishes the maximum rates for state participation in the foster care assistance program as follows:

1. \$365 per child per month for children aged birth through five;
2. \$415 per child per month for children aged six through twelve; and
3. \$465 per child per month for children aged thirteen through eighteen.

Of these amounts, \$15 is a special needs allowance for the child.

This section also establishes the maximum rates for state participation in the adoption assistance program as follows:

1. \$365 per child per month for children aged birth through five;
2. \$415 per child per month for children aged six through twelve; and
3. \$465 per child per month for children aged thirteen through eighteen.

S.L. 2003-284 provides board payments to foster and adoptive families of HIV-infected children and directs that any unused funds appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home. It sets the maximum rates for state participation in HIV foster care and adoption assistance as follows:

1. \$800 per child per month for children with indeterminate HIV status;
2. \$1,000 per child per month for children confirmed HIV-infected, asymptomatic;
3. \$1,200 per child per month for children confirmed HIV-infected, symptomatic; and
4. \$1,600 per child per month for terminally ill children with complex care needs.

Foster Home Licensure and Regulation

Foster home applicant register. Section 5 of S.L. 2003-304 adds new G.S. 131D-10.6C requiring the state Division of Social Services to keep a register of all family foster and therapeutic foster home applicants and to include in the register the following:

- each applicant's name, age, and address;
- date of the application;
- the applicant's supervising agency;
- any mandated training the applicant has completed and dates of the training;
- whether the applicant is licensed and the date of initial licensure;
- the current licensing period;
- any adverse licensing actions;
- any other information the division deems necessary.

The act specifies that the register is a public record under G.S. Chapter 132, but it also requires that information other than the required contents listed above be considered confidential and not subject to disclosure. The act was effective July 4, 2003.

Foster home criminal checks. Effective July 4, 2003, Section 4 of S.L. 2003-304 amends G.S. 131D-10.3A(b) to require that county and state criminal history checks required as part of foster home licensure be repeated upon relicensure, but not necessarily annually as specified previously.

Licensure. G.S. 131D-10.3 sets out the licensure requirements for operating, establishing, or providing foster care services for children as well as for receiving and placing children in residential care facilities, family foster homes, or adoptive homes. Effective July 4, 2003, S.L. 2003-294 (S 926) rewrites the section to expand specified disqualifications (and to add some exceptions) for licensure or for enrolling as a new Medicaid provider.

Out-of-Home Placements

S.L. 2003-294, effective July 4, 2003, requires the Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention and the Department of Public Instruction, to report demographic and other information regarding children who are placed outside their own homes. The act also requires these agencies to report on

the methods used for identifying and reporting child placements outside the family unit and into group homes or therapeutic foster care home settings by April 1, 2004, to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

County Appeal from Payment Orders

The juvenile court may order various kinds of evaluation or treatment for children who have been adjudicated undisciplined or delinquent and may charge the costs, however great, to the county when the juvenile's parent is unable to pay. (The court also may place these children in the custody of a county department of social services.) Previously, counties have not had the right to appeal from these orders. S.L. 2003-171 (H 925) rewrites G.S. 7B-2604 to authorize a county, in delinquency and undisciplined cases, to appeal any order requiring it to pay for medical, psychological, or other evaluation or treatment of a juvenile or the juvenile's parent. The act was effective October 1, 2003, and applies to petitions for appeal filed on or after that date.

Infant Homicide Prevention Act Education and Awareness

Section 10.8B of S.L. 2003-284 directs the Division of Social Services and the Division of Public Health in the Department of Health and Human Services to incorporate education about and methods to promote awareness of the Infant Homicide Prevention Act (S.L. 2001-291) into other state-funded programs at the local level. It requires DHHS to report on its activities to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by April 1, 2004.

Medicaid

The state's Medicaid program pays hospitals, doctors, nursing homes, pharmacies, and other health care providers for the medical care and medications they provide to about one million low-income children, pregnant women, disabled persons, elderly persons, and recipients of public assistance.

Budget, Cost Containment, and Funding

State funding for the Medicaid program (approximately \$4.4 billion for 2003–2005) comprises about 15 percent of the state's General Fund budget and pays approximately 32 percent of the program's total cost. The federal government pays about 62 percent of total Medicaid costs; county Medicaid funding (approximately \$450 million per year), pays about 6 percent.

Enhanced federal funding. In May 2003 Congress enacted legislation (Pub. Law 108-27) providing \$10 billion in additional temporary emergency federal funding for state Medicaid programs. S.L. 2003-284 makes a one-time reduction of \$191.6 million in state Medicaid funding for fiscal year 2003–2004 due to the receipt of this additional federal funding. Section 10.24 of S.L. 2003-284 provides that any state funds that become available as a result of this increased federal funding may be used to increase state funding for Medicaid without any reduction in appropriations. In addition, DHHS may reinstate eligibility policies modified under S.L. 2003-284 if the modified policies would affect state eligibility for enhanced federal financial participation and if the enhanced federal funding would exceed the anticipated savings in state funding resulting from the changes.

County fiscal responsibility. The Senate and House considered several bills (S 55, S 467, H 410, H 411, H 451, H 640) that would have reduced or eliminated the counties' responsibility for paying part of the nonfederal share of the cost of Medicaid benefits provided to county residents. However, none of these bills was enacted.

Cost containment. S.L. 2003-284 reduces projected state spending for Medicaid by approximately \$213.3 million based on specified cost-containment measures and the elimination of inflation-based increases for specified services. Section 10.23 of the act authorizes DHHS to use up to \$8 million in state Medicaid funds for additional cost-containment activities.

Commission on Medicaid Reform. Section 6.14A of S.L. 2003-284 establishes the North Carolina Commission on Medicaid Reform. The commission will consist of six members (no more than three of whom may be legislators) appointed by the Speaker of the House and six members (no more than three of whom may be legislators) appointed by the Senate President Pro Tempore. The commission will consider methods to responsibly restrain growth in Medicaid spending. It must submit an interim report and recommendations to the General Assembly by April 1, 2004, and a final report by February 1, 2005.

Medicaid trust fund. Section 10.20 of S.L. 2003-284 transfers \$125 million from the state's Medicaid Trust Fund and provides that, notwithstanding G.S. 143-23.2(b), the transferred funds will replace reduced General Fund appropriations for Medicaid. S.L. 2003-283 (S 274) provides that cost savings resulting from measures identified by the state's Blue Ribbon Commission on Medicaid Reform must be used to replenish the Medicaid Trust Fund to meet expected obligations for the 2004–2005 fiscal year. If these cost savings are not realized by July 1, 2004, the General Assembly will identify other funds to replenish the Medicaid Trust Fund.

Financial assessment on skilled nursing facilities. Effective October 1, 2003, Section 10.28 of S.L. 2003-284 requires DHHS to impose a financial assessment on skilled nursing facilities licensed under G.S. Chapter 131E and to use the funds generated thereby to pay 100 percent of the nonfederal share of Medicaid costs related to implementing the new reimbursement plan for nursing homes and increasing nursing facility rates in accordance with the plan. Funds realized from the assessment may not be used to supplant state funds appropriated for nursing facility services.

Eligibility and Services

Except as otherwise noted, the provisions of S.L. 2003-284 regarding Medicaid eligibility and services are the same as those under prior law (S.L. 2001-424 as amended by S.L. 2002-126).

Transitional Medicaid coverage for former public assistance recipients. Children, families, and elderly or disabled persons who are covered by Medicaid based on their receipt of public assistance (Supplemental Security Income or Work First) remain eligible for “transitional” Medicaid coverage if they lose their eligibility for public assistance due to increased earnings. S.L. 2003-284 reduces the maximum duration of “transitional” Medicaid coverage from twenty-four to twelve months.

Transfer of assets. Federal law restricts the Medicaid eligibility of some individuals who attempt to qualify for Medicaid by transferring their property, resources, or assets for less than market value. G.S. 108A-58 implemented the federal Medicaid transfer of assets restrictions with respect to transfers made before July 1, 1988. Administrative rules adopted by DHHS apply with respect to transfers made on or after July 1, 1988. Section 10.26 of S.L. 2003-284 amends the Medicaid transfer of assets restrictions contained in G.S. 108A-58 but the amendments have little or no effect because the statute, as amended, applies only to transfers made before July 1, 1988 and therefore is inconsistent with the federal transfer of assets restrictions the amendments attempt to incorporate.

Medicare-eligible recipients. The federal Medicaid law requires Medicaid recipients who are also eligible for federal Medicare coverage to apply for Medicare so that Medicare, rather than Medicaid, will pay some or all of the cost of medical care covered under both Medicare and Medicaid. Section 10.27 of S.L. 2003-284 codifies this requirement into state law by enacting a new statute, G.S. 108A-55.1. The new law also provides that if a Medicaid recipient qualifies for Medicare and fails to apply for Medicare, Medicaid will not pay for medical care covered under Medicare and a Medicaid provider may seek payment from the Medicaid recipient for this care.

Prior authorization of services. Effective until July 1, 2006, S.L. 2003-179 (S 897) prohibits utilization of any prior authorization requirement for antihemophilic factor drugs that are

prescribed for the treatment of hemophilia and blood disorders when there is no generically equivalent drug available. Section 10.19(i) of S.L. 2003-284 prohibits DHHS from imposing prior authorization requirements or other restrictions with respect to medications prescribed for the treatment of HIV/AIDS or mental illnesses (including schizophrenia, bipolar disorder, and major depressive disorder).

Medicaid-eligible students with disabilities. Section 10.29A of S.L. 2003-284 enacts a new statute, G.S. 108A-55.1, requiring DHHS to work with the Department of Public Instruction and local educational agencies to maximize funding for Medicaid-related services for Medicaid-eligible students with disabilities.

Vision screening for children. Section 10.19(aa) of S.L. 2003-284 requires DHHS to convene a work group to determine whether the current Medicaid standards for vision screening are meeting the needs of Medicaid-eligible children. The work group must report its findings and recommendations to the General Assembly's Fiscal Research Division, the Senate Appropriations Committee for Health and Human Services, and the House Appropriations Subcommittee for Health and Human Services by March 1, 2004.

Administration

Fiscal analysis of proposed Medicaid policy changes. Section 10.19(z) of S.L. 2003-284 prohibits DHHS from changing Medicaid policies related to authorized Medicaid providers or the amount, sufficiency, scope, or duration of Medicaid services (unless the change is required by federal law) unless the DHHS Division of Medical Assistance first prepares a five-year fiscal analysis of the cost of the proposed change. If the fiscal impact of the policy change exceeds \$3 million, DHHS must submit the policy change and fiscal analysis to the Office of State Budget and Management (OSBM) and the General Assembly's Fiscal Research Division for review and may not implement the change unless a source of state funding for the change is identified and approved by the OSBM. DHHS must provide quarterly reports to the OSBM and the Fiscal Research Division with respect to policy changes involving a fiscal impact of less than \$3 million.

Development and adoption of Medicaid coverage policies. Section 10.19(bb) of S.L. 2003-284 requires that before DHHS adopts new or amended Medicaid coverage policies, it must

- consult with the Physician Advisory Group of the North Carolina Medical Society and other health care professionals regarding changes under consideration,
- notify all Medicaid providers about the proposed changes, and
- consider oral or written comments with respect to the proposed changes.

CAP-DA audit and review. Section 10.29B of S.L. 2003-284 requires the State Auditor, contingent on appropriation of state funds, to perform an audit of the Medicaid Community Alternatives Program for Disabled Adults (CAP-DA) to determine whether the program is operating within waiver guidelines and program goals. The audit results must be reported to the North Carolina Study Commission on Aging by January 1, 2004. Section 10.29B also requires that DHHS report on the program to the Study Commission on Aging by January 1, 2004. The DHHS report must include a review of compliance with eligibility requirements, the current client assessment process, waiting list procedures, quality of care received, and program costs.

State–County Special Assistance

The State–County Special Assistance program provides financial assistance to low-income elderly or disabled residents of adult care homes. The program is administered by the state Division of Social Services and county social services departments. The state and counties share equally the cost of the assistance.

Eligibility and Payment Limits

Effective October 1, 2003, S.L. 2003-284 reduces the maximum payment rate and income eligibility limit under the State–County Special Assistance program (except in cases of recipients protected under the law’s “grandfather” provisions) from \$1,091 to \$1,066 per month, subject to further adjustment by DHHS based on authorized cost shifting from the State–County Special Assistance program to Medicaid personal care services for adult care home residents. Section 10.52 of S.L. 2003-284 also allows state funding for the State–County Special Assistance program to be used as the state’s match for federal Medicaid funding for personal care services for adult care home residents.

S.L. 2003-284 also provides funding to increase the personal needs allowance (the amount of income a recipient is allowed to retain to pay for personal needs) from \$36 to \$46 per month.

In-Home Demonstration Project

Section 10.51 of S.L. 2003-284 continues, revises, and expands a demonstration project, established by S.L. 1999-237 and S.L. 2001-237, allowing the payment of State–County Special Assistance benefits to individuals who do not live in adult care homes but who would otherwise be eligible to receive assistance under this program. The maximum payment under the demonstration project generally may not exceed 50 percent of the maximum payment provided to adult care home residents who receive State–County Special Assistance benefits. No more than eight hundred individuals may receive assistance under the demonstration project in each fiscal year. DHHS must make the demonstration project available to all counties on a voluntary basis but also must consider, to the extent possible, geographic balance in the distribution of payments under the project. In implementing the project, DHHS must

- require a functional assessment of participants;
- ensure that all participants are individuals who need, and, but for the demonstration project, would seek placement in an adult care facility; and
- collect data to compare the quality of life of noninstitutionalized project participants compared to institutionalized recipients of State–County Special Assistance benefits.

DHHS must submit a report on the demonstration project to specified legislative leaders by January 1, 2004, and January 1, 2005.

Transfer of Assets, Estate Recovery, and Eligibility Policies

Section 10.53 of S.L. 2003-284 codifies as G.S. 108A-46A the provisions of Section 10.41B of S.L. 2002-126 making the federal Supplemental Security Income (SSI) policies regarding transfer of assets and estate recovery applicable to the State–County Special Assistance program and repeals the former transfer of assets restriction set forth in G.S. 108A-46.

Section 10.53 of S.L. 2003-284 also directs DHHS to continue its review to determine whether state policies governing the State–County Special Assistance program should be changed to allow an adult care home to accept payments from family members of eligible residents to cover the difference between the maximum assistance payment and the facility’s monthly rate for room, board, and services. DHHS must submit a report regarding this issue to the General Assembly’s Fiscal Research Division, the Senate Appropriations Committee on Health and Human Services, and the House Appropriations Subcommittee on Health and Human Services by March 1, 2004.

Temporary Assistance for Needy Families (Work First)

The Temporary Assistance for Needy Families (TANF) program, which replaced the Aid to Families with Dependent Children (AFDC) program in 1996, provides financial assistance and employment-related services to low-income parents and relatives who are caring for dependent children. North Carolina’s TANF program is known as “Work First.”

“Electing” Counties

Section 10.49 of S.L. 2003-284 designates the following counties as “electing” counties under the state’s Work First program for the period October 1, 2003, through September 30, 2005: Beaufort, Caldwell, Iredell, Lenoir, Lincoln, Macon, McDowell, Sampson, Wilkes. G.S. 108A-27.3 and 108A-27.4 allow electing counties to adopt eligibility and benefit criteria for the county’s Work First program different from those established under the state’s standard Work First plan.

Section 10.50 of S.L. 2003-284 amends G.S. 108A-27.11(c) to delete language requiring DHHS to transmit one-fourth of the state funding for each electing county’s Work First block grant to the county at the beginning of each quarter of the fiscal year.

TANF State Plan and Work First Program Reports

Section 10.49 of S.L. 2003-284 approves the TANF state plan as submitted by DHHS on April 28, 2003 (and revised by the General Assembly with respect to funding changes for the enhanced employee assistance program, start-up activities for families, caseload reduction goals, and the Cabarrus County waiver), for the period October 1, 2003, through September 30, 2005.

Section 10.57 of S.L. 2003-284 amends G.S. 108A-27.2 to eliminate several provisions requiring DHHS to submit reports concerning the state’s Work First (TANF) program.

Child Support Enforcement

North Carolina’s child support enforcement program establishes and enforces child support orders on behalf of custodial parents and other caretakers. The program often is referred to as the “IV-D” program and is administered by the DHHS Division of Social Services and through county child support enforcement agencies.

Additional legislation related to child support and paternity is summarized in Chapter 3, “Children and Families.”

Collection of Child Support via Liens on Bank Accounts of Delinquent Obligor

Effective October 3, 2003, S.L. 2003-288 (S 423) allows DHHS or a child support enforcement (IV-D) agency in another state to impose a lien on any account of a parent or other person who owes child support (an obligor) maintained with a financial institution doing business in North Carolina if the obligor (a) is delinquent in paying child support and (b) owes past-due child support arrearages of at least \$1,000 or six times his or her current monthly child support obligation, whichever is less. [An obligor is delinquent in paying child support if he or she (a) owes past-due child support and (b) is not in compliance with a court order or agreement specifying the manner in which the obligation to pay the arrearage may be satisfied (usually, by making regular payments on the arrearage in addition to payments for current or ongoing child support). *See Davis v. Department of Human Resources*, 126 N.C. App. 383, 485 S.E.2d 342 (1997), *aff’d in part and rev’d in part*, 349 N.C. 208, 505 S.E.2d 77 (1998).]

To impose the lien, DHHS must certify the amount of the obligor’s child support arrearage in accordance with G.S. 44-86(c) and serve a notice of the lien on the obligor and the financial institution in the manner prescribed by G.S. 1A-1, Rule 4. The notice must include

- the obligor’s name,
- the name of the financial institution,
- the number of the account on which the lien must be levied,
- the certified amount of the obligor’s child support arrearage,
- a copy of G.S. 110-139.2(b1), and
- information on how the obligor may contest or discharge the lien.

Upon receipt of the notice, the financial institution must immediately attach a lien with respect to the account and notify DHHS of the date on which the lien attached and the balance in the account [or notify DHHS that the identified account is not subject to levy under G.S. 110-139.2(b1)]. [The new law does not expressly address (a) the nature or extent of the lien; (b) the lien's priority vis-à-vis outstanding checks, subsequent deposits, subsequent withdrawals or checks, or other claims against the account; (c) the lien's application with respect to accounts maintained or owned jointly by a delinquent obligor and a spouse or other person who is not liable for the obligor's child support arrearage; or (d) the rights of owners or co-owners (other than the obligor) of accounts on which liens are levied. DHHS officials have indicated that they may adopt policies limiting the new law's application to checking accounts or bank accounts with balances less than a specified, but not yet determined, amount.]

If the obligor is not the person subject to the child support order identified in the notice of lien, owes less than \$1,000 in past-due child support, or owes child support arrearages in an amount less than six times his or her current monthly child support obligation, he or she may contest the lien within ten days after being served with the notice of lien by sending written notice to DHHS and requesting a hearing before the district court in which the child support order was entered. [The new law does not expressly describe the procedure that should be followed when an obligor wishes to contest a lien imposed by a child support enforcement agency of another state for arrearages owed under a child support order that was not entered by a North Carolina court.]

If the obligor fails to contest the lien in a timely manner, DHHS must notify the financial institution that it must enforce the lien by withdrawing the amount of the child support arrearage from the account, to the extent that sufficient funds are available, and by paying the withdrawn funds to DHHS to be applied against the obligor's child support arrearage. A financial institution is not liable to the obligor or any other person with respect to its good faith compliance with the requirements of G.S. 110-139.2(b1).

Collection of Child Support Arrearages from Deceased Parents' Estates

Effective July 4, 2003, S.L. 2003-288 requires DHHS to attempt to collect child support arrearages owed by a deceased obligor from the obligor's estate if DHHS determines that the obligor's estate contains sufficient assets to satisfy any child support arrearages. Although this requirement is incorporated in G.S. 110-135 (which deals only with public assistance debts owed to the state by the parents of dependent children), it apparently applies to all child support arrearages owed in cases handled by state or local child support enforcement (IV-D) agencies, including those owed with respect to children who have never received public assistance as well as arrearages that have been assigned to the state pursuant to G.S. 110-137 with respect to children who have received public assistance.

Disclosure of Parents' Financial Information

Effective July 1, 2003, S.L. 2003-288 amends G.S. 110-139(b) to provide that DHHS may release the child support payment history of a parent or other person who owes child support (a child support obligor) to the court, the obligor, the person to whom support is owed (the obligee), or the obligee's designee. It also allows DHHS to release information about a parent's income and expenses to the other parent for the purpose of establishing or modifying a child support order.

Occupational License Revocation Procedures

G.S. 110-142.1 establishes an administrative procedure for revoking the occupational licenses of individuals who have failed to pay child support (or have failed to comply with a subpoena) in IV-D child support cases. Effective July 4, 2003, S.L. 2003-288 amends G.S. 93B-13(a) to clarify that state occupational licensing boards that revoke an individual's occupational license pursuant to G.S. 110-142.1 (a) are required to report the revocation to DHHS within thirty days and (b) may

reinstate an individual's licensing privileges upon certification by DHHS that the individual is no longer delinquent or has complied with the subpoena.

Performance Standards for State and Local Child Support Enforcement (IV-D) Agencies

Section 10.44 of S.L. 2003-284 requires DHHS to develop and implement performance standards for state and local child support enforcement (IV-D) agencies. The standards must address: cost effectiveness, consumer satisfaction, location of absent parents, establishment of paternity, establishment of child support orders, collection of child support arrearages, and other performance measures. DHHS must monitor the performance of each IV-D agency, publish an annual performance report, and submit a progress report to the General Assembly's Fiscal Research Division, to the Senate Appropriations Committee on Health and Human Services, and to the House Appropriations Subcommittee on Health and Human Services by May 1, 2005.

Other Legislation Affecting Social Services Programs and Agencies

Health Choice

Health Choice is North Carolina's health insurance program for uninsured children in low-income families. S.L. 2003-284 provides an additional \$30.3 million in state funding for 2003–2005 to expand the enrollment of eligible children in Health Choice. Section 10.29 of the act amends G.S. 108A-70.21 to:

- expand the dental services covered by Health Choice;
- allow Health Choice to provide services to children from birth to age five through the Medicaid managed care program;
- require families with incomes that do not exceed 150 percent of the federal poverty level to pay a \$1 copayment for each outpatient generic prescription drug and each outpatient brand-name prescription drug for which there is no generic substitution available and a \$3 copayment on each outpatient brand-name prescription drug for which a generic substitution is available; and
- require families with incomes that exceed 150 percent of the federal poverty level to pay a \$1 copayment for each outpatient generic prescription drug and each outpatient brand-name prescription drug for which there is no generic substitution available and a \$10 copayment on each outpatient brand-name prescription drug for which a generic substitution is available.

(Previously a \$6 copayment was required for all outpatient prescription drugs.) Section 10.29 also amends G.S. 108A-70.23(c) to allow DHHS to limit services for special needs children after consulting the Commission on Children with Special Health Care Needs.

Energy Assistance and Weatherization

Section 10.3 of S.L. 2003-284 enacts new G.S. 108A-70.30 authorizing DHHS to administer the weatherization assistance program for low-income families and the heating/air conditioning repair and replacement program. The new law does not create any entitlement to assistance nor obligate the General Assembly to appropriate funds for the program. S.L. 2003-284, does, however, allocate funds to DHHS for these programs from the federal Low-Income Energy Assistance Block Grant in addition to \$1 million from the state's Special Reserve for Oil Overcharge Funds.

Child Day Care

Legislation regarding the More at Four, Smart Start, and subsidized child day care programs and the licensure and regulation of child care facilities is summarized in Chapter 3, “Children and Families.”

Guardianship

Legislation amending North Carolina’s incompetency and guardianship law is summarized in Chapter 20, “Senior Citizens.”

Sterilization of Incompetent Adults

S.L. 2003-13 (H 36) repeals Article 7 of G.S. Chapter 35 and establishes a new procedure, set forth in G.S. 35A-1245, under which the guardian of a mentally ill or mentally retarded ward may obtain permission from the clerk of superior court to consent to the ward’s sterilization in cases of medical necessity. The new law is summarized in Chapter 16, “Mental Health.”

Cabarrus County “Work Over Welfare” Program

S.L. 1998-106, as amended by S.L. 2001-354, allows Cabarrus County to operate a demonstration welfare reform program for certain Work First and Food Stamp recipients. S.L. 2003-188 (S 319) makes the following changes in the Cabarrus County program:

- It repeals the program’s September 30, 2003, sunset provision.
- It eliminates the program’s emphasis on creating job opportunities for child day care workers, nursing home aides, and other human services workers.
- It eliminates the wage incentive or job bonus for Food Stamp households who do not receive Work First benefits.
- It allows social workers to extend the time during which they will monitor the well-being of children in families whose Work First benefits have been terminated due to noncompliance with program requirements.
- It allows the transfer of federal Work First cash assistance funding to the county’s federal Social Services Block Grant allocation to pay for the cost of home studies, attorney fees, adoption assistance payments, and other adoption expenses with respect to the adoption of children who reside with relatives other than their parents, receive Work First assistance in “child only” cases, and lack permanent stable homes.

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