

Social Services

The General Assembly enacted only a few laws affecting state and county social services agencies and public assistance and social services programs for North Carolinians during its 2008 legislative session.

County Social Services Departments

In 2007 the General Assembly enacted legislation that would have required a county to advance the cost of filing civil actions brought by the county, including civil actions filed by the county social services department. S.L. 2008-193 (S 2056), which repeals the 2007 legislative change, is summarized in Chapter 5, "Courts and Civil Procedures."

Medicaid

Administrative Appeal Process for Medicaid Recipients

G.S. 108A-79 establishes an administrative hearing and judicial review procedure that a Medicaid applicant or recipient may use to appeal a county social services department's decision to deny his or her application for medical assistance or to terminate his or her eligibility for medical assistance under the state's Medicaid program. When the Department of Health and Human Services (DHHS) makes a decision to deny, terminate, suspend, or reduce the covered Medicaid services provided to an eligible Medicaid recipient, the Medicaid recipient may seek review of DHHS's decision through an informal administrative appeals process that is separate from the administrative appeal and judicial review procedure established by G.S. 108A-79.

Effective October 1, 2008, S.L. 2008-118 (H 2438) requires DHHS to discontinue this informal appeals process for Medicaid recipients who are appealing a decision by DHHS to deny, terminate, suspend, or reduce

Medicaid covered services. All recipient cases pending in the informal appeals process on October 1, 2008, will be transferred to the Office of Administrative Hearings (OAH). Effective July 1, 2008, all Medicaid recipient appeals will be referred to the Mediation Network of North Carolina, which will offer the recipient an opportunity to resolve the issues through mediation. If the recipient declines the offer of mediation, or if mediation does not resolve the dispute, an OAH administrative law judge will hear the case pursuant to the administrative appeals process established by S.L. 2008-118

The administrative appeals process established by S.L. 2008-118

1. includes requirements regarding the notice that DHHS must give a Medicaid recipient when DHHS makes a decision to deny, terminate, suspend, or reduce Medicaid covered services;
2. requires DHHS to provide Medicaid recipients with an appeals request form when it mails the notice of an adverse determination;
3. allows a Medicaid recipient to initiate a contested case by mailing an appeal request form to OAH within thirty days of the mailing of the adverse determination notice by DHHS;
4. provides that these contested cases will be governed by the provisions of Article 3 of the Administrative Procedure Act (G.S. Chapter 150B) except as otherwise provided by S.L. 2008-118;
5. allows OAH to limit and simplify the procedures that apply to these contested cases in order to complete the cases as quickly as possible;
6. requires OAH to schedule and hear these contested cases within forty-five days of submission of the request for appeal;

7. provides that a Medicaid recipient has the burden of proving entitlement to service when DHHS has denied the service but that DHHS has the burden of proof in appeals regarding the reduction, suspension, or termination of a service that was previously granted;
8. requires the administrative law judge to prepare and mail a written recommended decision within twenty days of the hearing; and
9. requires DHHS to issue a final agency decision within twenty days of its receipt of the recommended decision.

DHHS and OAH must submit reports regarding the cost, effectiveness, and efficiency of the appeals process to the General Assembly's Fiscal Research Division, the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

The appeals process established by S.L. 2008-118 expires on July 1, 2010. S.L. 2008-118 does not affect the process established by G.S. 108A-79 that applies to administrative appeals by Medicaid applicants and recipients from decisions by county social services departments regarding eligibility for assistance under the state Medicaid program.

Medicaid Policies

S.L. 2008-107 (H 2436) requires DHHS to submit to the Office of State Budget and Management any proposed policy change or policy interpretation change in the state's Medicaid program and a fiscal analysis of the proposed change prior to implementing the change if the change involves more than \$3 million in total requirements and is required to comply with federal law.

Medicaid Ticket to Work Program

In 2005 the General Assembly enacted legislation (codified as G.S. 108A-54.1) establishing a Medicaid "Ticket to Work" demonstration program that would allow disabled people who work and are not otherwise eligible for Medicaid to enroll in the state's Medicaid program. In 2007 the legislature delayed implementation of the program. S.L. 2008-107 requires DHHS to implement the program by July 1, 2008, regardless of whether the new Medicaid Management Information System is operational.

Personal Care Services

S.L. 2008-107 repeals the provisions of S.L. 2007-323 that required prior authorization for Medicaid payment for personal care services and allows these services to be reimbursed in accordance with the state Medicaid plan.

Temporary Assistance to Needy Families (Work First)

S.L. 2008-69 (H 2738) provides that, notwithstanding the provisions of G.S. 108A-27.11(c), the Work First Family Assistance block grant allocation for 2008-09 for a county that has been designated as an "electing county" under the state's Work First program (Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson counties) will not be less than the actual block grant allocations that the county received in 2007-08.

State-County Special Assistance

Legislation regarding the State-County Special Assistance program is summarized in Chapter 22, "Senior Citizens."

Child Welfare and Related Services

The General Assembly increased the monthly rates for foster care and adoption assistance payments and authorized a study of the impact of prohibiting smoking in foster homes. These provisions and other legislation relating to child safety and protection are summarized in Chapter 3, "Children and Juvenile Law."

Other Public Assistance and Social Services Programs

Child Support Enforcement (IV-D) Program

S.L. 2008-12 (H 724), which repeals the provisions of G.S. 50-13.4(g) and (h) requiring the inclusion of social security numbers on child support orders, is summarized in Chapter 5, "Courts and Civil Procedures."

State Children's Health Insurance Program (Health Choice)

Legislation regarding the state Children's Health Insurance Program (Health Choice) and the NC Kids' Care program is summarized in Chapter 3, "Children and Juvenile Law."

Subsidized Child Day Care

Legislation regarding the state's subsidized child day care program is summarized in Chapter 3, "Children and Juvenile Law."

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