

§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. The catchment area of an area authority or a county program shall contain either a minimum population of at least 200,000 or a minimum of six counties. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.

(a1) Effective July 1, 2007, the Department of Health and Human Services shall reduce by ten percent (10%) annually the administrative funding for LMEs that do not comply with the catchment area requirements of subsection (a) of this section. However, an LME that does not comply with the catchment area requirements because of a change in county membership shall have 12 months from the effective date of the change to comply with subsection (a) of this section.

(b) Counties shall and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) Except as authorized in G.S. 122C-115.1, within a catchment area designated in the business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area authority or county program. (1977, c. 568, s. 1; c. 679, s. 7; 1979, c. 358, ss. 5, 23; 1981, c. 51, s. 3; 1985, c. 589, s. 2; 1989, c. 625, s. 14; 1995 (Reg. Sess., 1996), c. 749, s. 1; 1999-202, s. 1; 2001-437, s. 1.8; 2004-124, s. 10.26(a); 2006-66, s. 10.32(c), (d); 2007-504, s. 1.3.)

§ 122C-115.1. County governance and operation of mental health, developmental disabilities, and substance abuse services program.

(a) A county may operate a county program for mental health, developmental disabilities, and substance abuse services as a single county or, pursuant to Article 20 of Chapter 160A of the General Statutes, may enter into an interlocal agreement with one or more other counties for the operation of a multicounty program. An interlocal agreement shall provide for the following:

- (1) Adoption and administration of the program budget in accordance with Chapter 159 of the General Statutes.
- (2) Appointment of a program director to carry out the provisions of G.S. 122C-111 and duties and responsibilities delegated by the county. Except when specifically waived by the Secretary, the program director shall meet all the following minimum qualifications:
 - a. Masters degree.
 - b. Related experience.
 - c. Management experience.
 - d. Any other qualifications required under G.S. 122C-120.1.
- (3) Repealed by Session Laws 2006-66, s. 10.32(e), effective July 1, 2007.
- (4) Compliance with the provisions of this Chapter and the rules of the Commission and the Secretary.
- (5) Written notification to the Secretary prior to the termination of the interlocal agreement.
- (6) Appointment of an advisory committee. The interlocal agreement shall designate a county manager to whom the advisory committee shall report. The interlocal agreement shall also designate the appointing authorities. The appointing authorities shall make appointments that take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. The membership shall conform to the requirements provided in G.S. 122C-118.1.

(b) Before establishing a county program pursuant to this section, a county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(c) A county shall ensure that the county program and the services provided through the county program comply with the provisions of this Chapter and the rules adopted by the Commission and the Secretary.

(d) A county program shall submit on a quarterly basis to the Secretary and the board of county commissioners service delivery reports that assess the quality and availability of public services within the county program's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include an assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.

(e) Within 30 days of the end of each quarter of the fiscal year, the program director and finance officer of the county program shall present to each member of the board of county commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. This information shall be read into the minutes of the meeting at which it is presented. The program director or finance officer of the county program

shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(f) In a single-county program, the program director shall be appointed by the county manager. In a multicounty program, the program director shall be appointed in accordance with the terms of the interlocal agreement.

Except when specifically waived by the Secretary, the program director in a single county program shall meet all the following minimum qualifications:

- (1) Masters degree.
- (2) Related experience.
- (3) Management experience.
- (4) Any other qualifications required under G.S. 122C-120.1.

(g) In a single-county program, an advisory committee shall be appointed by the board of county commissioners and shall report to the county manager. The appointments shall take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. The membership shall conform to the requirements in G.S. 122C-118.1. In a multicounty program, the advisory committee shall be appointed in accordance with the terms of the interlocal agreement.

(h) The county program may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program. As used in the applicable sections of this Article, the terms "area authority", "area program", and "area facility" shall be construed to include "county program". The following sections of this Article do not apply to county programs:

- (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.
- (2) G.S. 122C-119 and G.S. 122C-119.1.
- (3) G.S. 122C-120 and G.S. 122C-121.
- (4) G.S. 122C-127.
- (5) G.S. 122C-147.
- (6) G.S. 122C-152 and G.S. 122C-153.
- (7) G.S. 122C-156.
- (8) G.S. 122C-158. (2001-437, s. 1.9; 2006-66, s. 10.32(e); 2006-142, s. 4(f), (g), (i), (j).)

§ 122C-115.2. LME business plan required; content, process, certification.

(a) Every county, through an area authority or county program, shall provide for the development, review, and approval of an LME business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. An LME business plan shall provide detailed information regarding how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness. The business plan shall be in effect for at least three State fiscal years. The Secretary shall develop a model business plan that illustrates compliance with this section, including specific State standards and rules adopted by the Secretary. The Secretary shall provide each LME with the model business plan to assist the LME in developing its business plan.

(b) Business plans shall include the following:

(1) Description of how the following core administrative functions will be carried out:

- a. Planning. – Local services plans that identify service gaps and methods for filling the gaps, ensure the availability of an array of services based on consumer needs, provision of core services, equitable service delivery among member counties, and prescribing the efficient and effective use of all funds for targeted services. Local planning shall be an open process involving key stakeholders.
- b. Provider network development. – Ensuring available, qualified providers to deliver services based on the business plan. Development of new providers and monitoring provider performance and service outcomes. Provider network development shall address consumer choice and fair competition. For the purposes of this section, a "qualified provider" means a provider who meets the provider qualifications as defined by rules adopted by the Secretary.
- c. Service management. – Implementation of uniform portal process. Service management shall include appropriate level and intensity of services, management of State hospitals/facilities bed days, utilization management, case management, and quality management. If services are provided directly by the area authority or county program, then the plan shall indicate how consumer choice and fair competition in the marketplace is ensured.
- d. Financial management and accountability. – Carrying out business functions in an efficient and effective manner, cost-sharing, and managing resources dedicated to the public system.
- e. Service monitoring and oversight. – Ensuring that services provided to consumers and families meet State outcome standards and ensure quality performance by providers in the network.
- f. Evaluation. – Self-evaluation based on statewide outcome standards and participation in independent evaluation studies.
- g. Collaboration. – Collaborating with other local service systems in ensuring access and coordination of services at the local level. Collaborating with other area authorities and county programs and the State in planning and ensuring the delivery of services.
- h. Access. – Ensuring access to core and targeted services.

(2) Description of how the following will be addressed:

- a. Reasonable administrative costs based on uniform State criteria for calculating administrative costs and costs or savings anticipated from consolidation.
 - b. Proposed reinvestment of savings toward direct services.
 - c. Compliance with the catchment area consolidation plan adopted by the Secretary.
 - d. Based on rules adopted by the Secretary, method for calculating county resources to reflect cash and in-kind contributions of the county.
 - e. Financial and services accountability and oversight in accordance with State and federal law.
 - f. The composition, appointments, selection process, and the process for notifying each board of county commissioners of all appointments made to the area authority board.
 - g. The population base of the catchment area to be served.
 - h. Use of local funds for the alteration, improvement, and rehabilitation of real property as authorized by and in accordance with G.S. 122C-147.
 - i. The resources available and needed within the catchment area to prevent out-of-community placements and shall include input from the community public agencies.
- (3) Other matters determined by the Secretary to be necessary to effectively and efficiently ensure the provision of mental health, developmental disabilities, and substance abuse services through an area authority or county program.

(c) The county program or area authority proposing the business plan shall submit the proposed plan as approved by the board of county commissioners to the Secretary for review and certification. The Secretary shall review the business plan within 30 days of receipt of the plan. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the area authority or county program as a single-county area authority, a single-county program, a multicounty area authority, or a multicounty program. A business plan that demonstrates substantial compliance with the model business plan developed by the Secretary shall be deemed as meeting the requirements of State law and standards adopted by the Secretary. Implementation of the certified plan shall begin within 30 days of certification. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county program or area authority and the applicable participating boards of county commissioners and shall indicate in the notification the changes that need to be made in order for the proposed program to be certified. If the Secretary determines that a business plan needs substantial changes in order to be certifiable, the Secretary shall provide the LME submitting the plan with detailed information on each area of the plan that is in need of change, the particular State law or standard adopted by the Secretary that has not been met, and instructions or assistance on what changes need to be made in order for the plan to be certifiable. The submitting county program or area authority shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues. Amendments to the business plan shall be subject to the approval of the participating boards of county commissioners.

(d) Annually, in accordance with procedures established by the Secretary, each area authority and county program submitting a business plan shall enter into a memorandum of agreement with the Secretary for the purpose of ensuring that State funds are used in

accordance with priorities expressed in the business plan. (2001-437, s. 1.9; 2002-164, s. 4.3; 2006-142, s. 4(c); 2007-504, s. 2.1.)

§ 122C-115.3. Dissolution of area authority.

(a) Whenever the board of commissioners of each county constituting an area authority determines that the area authority is not operating in the best interests of consumers, it may direct that the area authority be dissolved. In addition, whenever a board of commissioners of a county that is a member of an area authority determines that the area authority is not operating in the best interests of consumers of that county, it may withdraw from the area authority. Dissolution of an area authority or withdrawal from the area authority by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a) of this section, no county shall withdraw from an area authority nor shall an area authority be dissolved without first demonstrating that continuity of services will be assured and without prior approval of the Secretary.

(c) Prior to withdrawal of a county from an area authority, the county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(d) Prior to dissolution of an area authority, the area authority shall hold a public hearing with notice published in every participating county at least 10 days before the hearing.

(e) Any budgetary surplus available to an area authority at the time of its dissolution shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the area authority. The area authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described in this subsection shall apply when one or more counties of an area authority withdraw from the area authority.

(f) Funds distributed to counties pursuant to subsection (e) of this section shall be placed in the fund balance of the county program or area authority subsequently established or joined pursuant to G.S. 122C-115.

(g) Any liabilities at the time of its dissolution shall be paid from unobligated surplus funds available to the area authority. If unobligated surplus funds are not sufficient to satisfy the total indebtedness of the area authority, then the remaining unsatisfied indebtedness shall be apportioned on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year. (2001-437, s. 1.9.)

§ 122C-118.1. Structure of area board.

(a) An area board shall have no fewer than 11 and no more than 25 members. However, the area board for a multicounty area authority consisting of eight or more counties may have up to 30 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C-115.2(b). These appointments shall take into account sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include two individuals with financial expertise, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

(b) Except as otherwise provided in this subsection, not more than fifty percent (50%) of the members of the area board shall represent the following:

- (1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry.
- (2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse.
- (3) At least one family member or individual from a citizens' organization composed primarily of consumers or their family members, representing the interests of individuals:
 - a. With mental illness;
 - b. In recovery from addiction; or
 - c. With developmental disabilities.
- (4) At least one openly declared consumer:
 - a. With mental illness;
 - b. With developmental disabilities; or
 - c. In recovery from addiction.

An individual that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve on the board of the LME for the period during which the contract for services is in effect.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently no more than two categories of membership if the member has the qualifications or attributes of the two categories of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the duration of the member's employment as a county manager. The terms of the other members on the area board shall be for three years, except that upon the initial formation of an

area board one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. Members, other than county commissioners and county managers, shall not be appointed for more than two consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section.

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes. (2001-437, s. 1.11(b); 2002-159, s. 40(a); 2006-142, s. 4(e); 2007-504, s. 1.4; 2010-31, s. 10.7.)