

Legislative Update
DSS Attorneys' Summer Conference
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Public Guardianship

Status Reports – Increased Oversight by the Clerk and DAAS

- Included in both versions of the budget bill; House version includes additional provisions.
- Disinterested public agent guardians and corporations are already required to submit status reports to the clerk (initially and then annually thereafter). Legislation would clarify the content required in the status report and add the following items:
 - A report on the ward's residence, education, employment, and rehabilitation or habilitation;
 - A report of the guardian's efforts to restore competency;
 - A report of the guardian's efforts to seek alternatives to guardianship;
 - A report of the efforts to identify alternative guardians; and
 - The guardian's recommendations for implementing a more limited guardianship.
- Adds language explaining that the clerk or any interested party may file a motion in the cause to request modification of the order based on information in the status report. Consistent with current authority in GS 35A-1207.
- House version adds two additional provisions:
 - When a status report is filed, it must be done so "under the guardian's oath or affirmation that the report is complete and accurate...." House version would allow a "disinterested competent witness to the statement by the guardian that the report is complete and accurate...."
 - Clerk must make status reports available to DAAS to use in oversight.

Study re: Conflicts of Interest

- Provision not in controversy (included in both versions of the budget bill).
- Directs DHHS to study conflicts of interest when a county DSS is involved in a child welfare case and is also appointed to serve as a parent's guardian. Options to consider include:
 - Firewalls within the department;
 - Buddy system for guardianship;
 - Corporate guardian assumes responsibility for guardianship;
 - State assumes responsibility for one of the cases;
 - Legislation identifying another public official or agency who could be appointed guardian.
- Final report due by February 1, 2015.

Improvements/Study re: Public Guardianship System

- Provision not in controversy (included in both versions of the budget bill).
- Directs DHHS to work with AOC to develop plan regarding evaluation of complaints related to public guardians.
- Directs DHHS to develop a model plan for transitioning a ward to an alternative guardianship arrangement when a guardian is no longer willing or able to serve. Shall focus on ways to prevent the appointment of a public guardian.
- Directs DHHS to study whether utilization of care coordination services would provide oversight needed to safeguard against conflicts of interest that may arise when the guardian serves as a paid provider.
- Final report due by October 1, 2014.

Public Assistance

Medicaid

- Key issue in budget deliberations. Discussion has focused on issues such as:
 - Budget forecasts/shortfalls.
 - Administration of program – seems to be some consensus that reform is needed but no agreement on next steps.
 - Changes to eligibility standards for certain “optional” categories of beneficiaries.

Child Care Subsidy Program

- Both versions of the budget propose changes to eligibility and program requirements for the child care subsidy program. Both would lower the income threshold, increase co-payments for some families, and makes other administrative changes. The savings from these changes would be used to reduce the waiting list.

State-County Special Assistance

- Senate version would change eligibility for the program for persons applying after 11/1/2014 to impose an income limit (at or below 100% FPL). Expected to realize some cost savings.
- Senate version would also eliminate language that makes a person potentially eligible if he or she moves to the state to be with a close relative who is a resident (resided for 180 consecutive days).
- Statutory authority for the program currently includes a maintenance of effort requirement for both the state and the county. That language is deleted in both versions.

Funding for Drug Testing Requirement

House version would provide funding to implement the Work First drug testing requirement included in SL 2013-417. The requirement goes into effect August 1, 2014. The legislation directs the NC DHHS to require a drug test for all applicants for and recipients of Work First benefits if NC DHHS “reasonably suspects” that the person is “engaged in the illegal use of

controlled substances.” If a person tests positive for a controlled substance, he or she is ineligible to receive Work First assistance for one year (unless the person seeks treatment, passes a drug test, and reapplies after 30 days). If the person reapplies after one year and tests positive again, he or she is ineligible for three more years. The legislation does not require the person being tested to pay for the cost of the initial test.

Eastern Band of Cherokees

- Provision not in controversy (included in both versions of the budget bill).
- Authorizes the Eastern Band of Cherokee Indians to assume responsibility for SNAP beginning 10/1/14, or upon federal approval. Beginning 10/1/15, the Eastern Band would be authorized to assume responsibility for other public assistance programs, except for special assistance, childcare, and adult care homes.
- Authorizes DHHS to ask the federal government for approval to delegate authority to the Eastern Band for Medicaid and Health Choice if, and only if, the changes will be federally funded.
- Once responsibility for a program is assumed, “the county shall be relieved of the legal responsibility related to the tribe’s assumption of those services.”
- Once responsibility for a program is assumed, state funds that would have gone to Jackson and Swain will go to the Eastern Band. The Eastern Band becomes responsible for any matching funds and administrative costs that would have been paid by the county.