

Social Services Working Group Stage Two

Preliminary Recommendations Related to Inter-county Collaboration

Background

During Stage Two, the SSWG is identifying barriers to inter-county collaboration and making recommendations for changes that may remove or reduce these barriers. Some of the recommendations require changes to the law (statutes, regulations, or both). Some changes do not necessarily require legislative or regulatory change but would require the state and the counties to develop policies, guidance, and practices to effect the change. The three primary categories of recommendations address (1) conflicts of interest, (2) inter-county movement of clients, and (3) information sharing. These three categories are not distinct. The concerns and recommendations overlap to a certain extent.

In addition to the three primary categories, several additional recommendations are included. They are more general in nature but they highlight important challenges facing the social services system.

Also, note that many of the recommendations assume that the state will have a regional staff support structure in place consistent with the SSWG recommendations from Stage One. If a more robust system of regional support by the state is not in place, many recommendations may need to be reconsidered.

This version incorporates changes discussed during 10.4.2018 meeting.

1. Conflicts of Interest

Recommendation 1.a: State law should be amended to provide a general framework for COI management. At a minimum, the law should (1) define COI; (2) direct counties to resolve COIs as quickly as possible consistent with applicable law and policy; (3) grant DHHS the authority to make final decisions regarding COI assignments when disagreements arise; (4) outline county financial and practice responsibilities associated with COIs; and (5) grant the Social Services Commission rulemaking authority related to COI management.

Recommendation 1.b: DHHS should develop a protocol for quickly resolving county disagreements by regional staff and, if necessary, central office staff.

Recommendation 1.c: DHHS should work with the counties and legal staff to draft regulations and/or revise the COI policy to ensure that the definitions, authority, and expectations conform to the new statutory authority and are easy to interpret and implement.

Recommendation 1.d: DHHS should develop a system for continuous monitoring of COI management. This will allow the state and counties to address problems and revise policies over time.

Rationale: Current state policy governing COIs relies on the discretion, professionalism, and relationships among the county directors. For example, the directors

- determine whether a COI exists based on direction in state policy;
- decide whether to accept a COI case from another county; and
- allocate financial responsibility between counties involved in a COI case.

The current system works well for some counties but not for all. There are challenges related to policy interpretation and equitable case distribution.

Policy interpretation

Finally, state policies governing COIs are not comprehensive and are not interpreted and applied uniformly. State COI policy was revised in 2016 but additional clarifications are needed to help counties adequately apply the policy. For example:

- What constitutes a COI? For example, is it a conflict if a CPS report comes in regarding a family member of an employee in the economic services section of a large agency? Or the report relates to a staff person in a different county department? Additional detail and clarification of the definition of a COI would help promote cooperation and consistent interpretation and application of the policy.
- Who decides a COI exists? Should the receiving county be allowed to question the sending county's decision that a COI exists?

- Is it appropriate for the receiving county to screen the report if it knows that a COI exists?
- Who funds the work related to a COI case?
- What is the funding formula for each COI case (by time, function, or situation)?
- What are the expectations regarding reciprocity?

Because state statutes currently do not address COI management, counties rely heavily on DHHS policy for direction. It would be helpful to have a general statutory framework in place as well as implementing regulations and conforming policy.

Equitable case distribution

Many counties have strong working relationships or formal agreements that allow them to manage COIs relatively seamlessly and efficiently. Unfortunately, some counties do not. As a result, there can be confusion and frustration when one county is seeking assistance from another county. In addition, some counties are not seen as good partners. Other counties do not want to send a COI case to these counties for a range of reasons, including quality of work, response time, willingness to assume responsibility, and understaffing. This results in a heavier burden or a perception of a heavier burden on the “good” counties that readily accept COI cases and handle them well. It is important to have both systems in place for COI distribution that are fair and oversight to ensure that the cases are managed appropriately, consistent with law and policy.

Need for oversight and arbiter

The regional staff will be in an excellent position to facilitate relationship building across counties, disseminate reliable and consistent information about law, policy, and best professional practices, provide guidance and support when complex COI cases exist, monitor COI behavior in the region, and make decisions when necessary.

It is essential that any changes to COI law or policy do not disrupt the systems and relationships that are working well. The SSWG does, however, want to make COI management more uniform and reliable and it believes DHHS and the regional staff can help create a stronger system overall.

***Recommendation 1.e:* Each county should designate one or more staff members responsible for managing COI cases to ensure that requests are received, reviewed, and handled consistently and in a timely manner.**

Rationale: COI case management and information sharing can be complicated. For counties without a central point of contact for these cases, the SSWG is concerned about variation in interpretation and application of law and policy, follow-through with cases, and information sharing. Assigning this responsibility to specific staff should improve accountability and consistency in managing COIs.

2. Inter-County Movement of Clients

Recommendation 2.a: State law governing residency for social services (G.S. 153A-257) should be amended to reflect current practice and needs.

Rationale: State law governing county of residence (G.S. 153A-257) generates confusion. For example:

- What is the county of residence for a homeless person or family?
- What is the county of residence for a person who is in a rehabilitation facility or institution for an extended period of time?
- Should the county that initially determined Medicaid eligibility always remain the county of residence?

The legislature should revise the law to modernize the residency provisions for all social services programs and address challenges with implementation. In revising the law, the legislature should:

- Strive for consistency across social services programs whenever possible.
- Avoid reliance on the county of initial Medicaid eligibility determination because individuals are more mobile now.
- Avoid reliance on the county of placement (acute care, rehabilitation, long-term care, corrections) because this approach can overburden counties where facilities are located.
- Address complicated issues related to transient individuals and families.

Recommendation 2.b: State law should be amended to address transfers of adult services cases (APS/Guardianship) between counties.

Recommendation 2.c: DHHS should provide adequate training to counties regarding the procedures that govern transfer of cases (child and adult) to ensure consistency across counties.

Recommendation 2.d: DHHS should establish policies that set forth standard information sharing practice for transferred cases.

Rationale: Because individuals and families are mobile, child welfare and adult services cases are often transferred between counties and judicial districts. Unfortunately, these transfers are not always happening as smoothly and efficiently as they could be. Receiving counties may not be involved early enough to receive advance notice and information about the cases may not be shared in a timely manner.

There is a detailed state law governing transfers of child protective services cases (G.S. 7B-900.1). The law outlines procedures that the court and counties should follow. Some counties are not following these procedures. For example, an attorney may request a transfer from a judge without any discussion with or notice to the receiving county. Sometimes, the case is transferred without any additional information being shared with the new county. The lack of notice or shared information negatively affects case management by the receiving county. Counties need to receive clear direction from the state, including training, about the process governing these transfers.

There is no comparable law governing transfers in the adult protective services and guardianship arenas. Guardianship transfers are in the discretion of the clerk of superior court and are often done without notice and adequate information sharing. Legislation should be enacted to create a comparable transfer process for both APS and guardianship cases.

Recommendation 2.e: The legislature should amend state law to require clerks of court to provide at least 30 days advance notice to a director of social services prior to any hearing in which the director may be appointed guardian.

Rationale: Clerks of superior court have the discretion to appoint a social services director or assistant director to serve as the guardian of an incompetent adult (G.S. 35A-1213). The clerk may believe that the appropriate guardian may be in a different county or judicial district.

Example: An adult may be located in the clerk's jurisdiction for a short-term hospitalization but plans to move into a nursing facility close to family in another county in the near future.

Current law does not require the Clerk to provide advance notice to the director being considered for appointment. Some clerks have adopted a practice of doing so, but many have not. As a result, directors are often surprised by appointments. Advance notice to all potential social services directors will allow those directors to review the case, discuss it among

themselves, plan for the responsibility, and travel to the other county to participate in the hearing if necessary.

Recommendation 2.f: The legislature should direct DHHS to make recommendations for ensuring that Medicaid eligibility determinations and service authorizations are portable across county lines, especially with respect to individuals involved with the CPS and APS systems. DHHS recommendations should identify any and all necessary changes in state law and/or the state plan. If federal law prohibits such a change, DHHS should provide a detailed report to the legislature detailing the barriers.

Rationale: Behavioral health services are sometimes disrupted when an individual (1) is involved with APS or CPS, (2) is receiving behavioral health services, and (3) moves from one county to another (perhaps for a placement). This primarily happens when the individual's move involves a switch from one Local Management Entity/Managed Care Organization (LME/MCO) to another. The new LME/MCO will need to assess whether the individual needs the service ("medical necessity") and, if so, determine whether the individual can continue with the current provider (Is the provider in the new network? If not, can the LME/MCO enter an exclusive contract for this individual/provider to ensure continuity of care?). This type of disruption can be harmful to the individual. As a result, the counties work hard to maintain the therapeutic relationship, sometimes drawing on non-Medicaid funding sources to do so.

Comments: Sent a note to Dave Richard for review

Recommendation 2.g: The legislature should direct DHHS to make recommendations for necessary changes in law or policy to (1) expand and clarify the expectations for providing assistance to other counties and (2) clarify the financial obligations of each county involved.

Rationale: Staff in one county may be required to travel to a second county to conduct home studies for placement or visit with incarcerated individuals or those in facilities. The travel can consume significant resources from the first county. Sometimes the second county is willing and able to assist with this work but not always. Sometimes when assistance is provided, there is confusion about each county's financial obligations.

Recommendation 2.h: In order to maximize efficiency, expedite the path to permanency, and protect the rights of all parties, counties should maximize opportunities to use technology to engage with parents or other respondent parties in the course of a child welfare case. This may include connecting by telephone or video when respondents are in other areas of the state, facilities, or out-of-state. If necessary, state statutes and regulations should be amended to authorize alternative means of communication with distant respondents (such as telephone and video) whenever possible and appropriate.

Recommendation 2.i: Correctional facilities and the AOC should explore options for allowing incarcerated parents or other respondent parties to participate remotely in court proceedings when appropriate and feasible. This may involve investment in equipment, training, and personnel.

Rationale: County staff spend a significant amount of time traveling to and from other counties to visit face-to-face with respondents, particularly parents, in the course of a child welfare case. Some of these in-person visits are required by state or federal law. Some are essential social work practice. Some of these visits may not be necessary, however. If the social worker's objectives can be accomplished by phone or video conference, counties should utilize technology and minimize travel. If state law needs to be amended to accommodate expanded use of this practice, DHHS should recommend legislation or amend regulations. For example, regulations address face-to-face contact during the assessment and placement stages of a case. See 10A NCAC [70A .0106](#)(d) and (f); [70G .0503](#)(m).

In some circumstances, a respondent is incarcerated. Sometimes a social worker will need to talk to the respondent. The worker should be provided with access to the inmate by phone or video whenever possible to expedite the casework and to ensure incarcerated respondents are involved as much as possible and appropriate. State law may need to be amended to allow for this access.

Finally, it may be appropriate to allow an incarcerated respondent to participate in a court proceeding by phone or video. Such a practice may require significant financial investments as well as changes to the law. For example, [Rule 43](#) of the Rules of Civil Procedure may need to be

amended to allow for witnesses to testify by telephone or video. Options should be explored and recommendations developed that both protect the respondent's rights and maximize efficiency for the disposition of these cases.

SSWG requested a presentation from AOC to discuss. Questions to explore: Would it be possible for some of the court proceedings involving incarcerated or distant parties to be managed remotely? What technological solutions are available to social services agencies and the courts that will ensure (1) the parents' rights are protected and (2) resources are used as efficiently as possible.

3. Information Sharing

***Recommendation 3.a:* The state should explore whether county social services agencies and attorneys can have access to information systems maintained by the judicial system (such as JWisE).**

Rationale: The JWisE information system, which is maintained by the AOC, contains important information about the status of juvenile cases. Other court actors, such as the guardians ad litem, have access to JWisE, but county social services staff do not.

Example: With access to JWisE, county staff may be able to determine whether another court took action on a case, to confirm whether a case was transferred, to check whether a court has terminated jurisdiction in a case, etc.

Social services agencies only need access to review information; they do not need to alter or add information to the system.

If a similar information system is also available for APS, it would be helpful for social services staff to have access to it as well.

SSWG requested presentation from AOC to discuss this issue.

Recommendation 3.b:* DHHS should create a system that allows child welfare and child support local staff involved with a particular child or family to share information to the extent allowed by federal law. **If necessary, state law should be amended to accommodate this information sharing.*

Rationale: There are important and necessary connections between the child welfare and child support systems. Staff working in each system need to share information about children and families involved in both systems but cannot because of confidentiality laws in both fields. This can create challenges both within a single county and between counties.

Example: Child welfare staff and attorneys are sometimes reluctant or unable to use "failure to pay support" as a basis for terminating parental rights because the child welfare staff does not have the necessary information from the child support program.

DHHS should create cross-divisional – rather than division-specific – policies and procedures in order to improve information sharing, coordination, and collaboration.

***Recommendation 3.d:* State law should direct DHHS to study social services confidentiality laws and make recommendations for revising them to improve inter-county collaboration and service delivery.**

***Recommendation 3.e.:* Once the laws are amended, DHHS should prepare comprehensive guidance and training regarding information sharing and confidentiality for all of the social services programs. The agency should ensure that state representatives (including any regional staff) understand, interpret, and apply the guidance consistently.**

Rationale: There are many different confidentiality laws governing social services programs. Not everyone interprets and applies them in the same way. As a result, some counties may not share information within and across programs the same way that other counties do. This can result in frustrated and fragmented support for individuals and families needing assistance from social services. Counties report confusion at both the local level and the state level. If the state is able to clarify policy and provide sound guidance, counties may be able to adopt consistent information sharing practices. Better and more consistent information sharing will lead to improved inter-county collaboration.

4. Other Recommendations

Recommendation 4.a: DHHS, in conjunction with the DSS Directors' Association, should assist in the development of programs and policies to improve workforce development and training in order to cultivate strong social services leaders.

Rationale: Counties are facing significant challenges with recruiting, training and retaining leaders in their social services agencies. In order to have a strong system, the counties need strong leaders committed to developing relationships across county lines, building and supporting excellent staff, and following law and policy closely. The state should invest in workforce development to ensure a pipeline of leaders who are equipped to manage this complex system effectively.

Recommendation 4.b: Once the DHHS regional offices are in place, regional staff should be responsible for monitoring staffing, capacity, and caseloads in the counties within their region.

Recommendation 4.c: Regional offices should have capacity to offer assistance to understaffed counties in urgent or challenging situations.

Recommendation 4.d: After the regional staff has had an opportunity to assess capacity across the state, the legislature should direct a study committee to evaluate county staffing and provide recommendations to DHHS, the counties, and, if appropriate, the legislature regarding changes necessary to ensure adequate staffing to support high quality and efficient services.

Rationale: Inadequate staffing has a direct impact on inter-county collaboration. An understaffed department is not able to assist other counties as well as an adequately staffed one with COI cases, home visits, etc. Regional staff will be well-positioned to understand the staffing needs in the counties, provide assistance in urgent situations as needed, and offer recommendations for system-wide and county-specific changes that are needed to ensure staffing is appropriate to meet the needs.

Recommendation 4.e: DHHS, through both the central and regional staff, should ensure that counties (DSS, managers, and commissioners) receive consistent interpretations of law and policy governing social services programs.

Recommendation 4.f: DHHS should increase the quantity, quality and accessibility of training provided to county staff.

Rationale: There are tremendous variations in practice and policy implementation across the state. Counties can receive conflicting advice from different people at the state level. This variation in practice can generate a lack of trust or confidence in the work of other counties.

Examples: One county may have a significantly different approach to a parenting program (e.g., content, delivery, credentialing, or availability). County A may require parents to participate in certain training or rehabilitative functions, but County B may not.

Consistent interpretation and application of policies and expectations will foster greater trust among counties and willingness to collaborate.

Recommendation 4.g: DHHS should collect examples of positive inter-county collaborations and develop an online clearinghouse to share information about those collaborations with other counties.

Recommendation 4.h: Regional staff should disseminate resources, identify potential collaborations, and help counties initiate new collaborations.

Recommendation 4.i: Associations, such as the Social Services Directors' Association and the North Carolina Association of County Commissioners, should highlight and recognize successful and innovative collaborations at their annual conferences and in publications.

Rationale: There is anecdotal evidence of successful and unsuccessful inter-county collaborations. The directors' association and some state programs have collected and disseminated some best practices, but it would be helpful to have the state lead an effort to collect and disseminate more comprehensive information and tools to support successful collaborations.

In the current system, collaborations develop based on (1) relationships between directors, (2) geographic proximity, and (3) historical partnerships. Lower-resourced counties are often not able to invest the time and resources necessary to initiate a new collaboration. The state should take the lead on collecting information about collaborations and should work with the appropriate associations to disseminate best practices related to collaboration. Regional staff will be in a unique position to gather information about, promote, and support collaborations. It is important to note that this role of regional staff should be supportive and not directive. In a county-administered social services system, inter-county collaboration should always be voluntary.

Recommendation 4.f: State law should be amended to revise the charge and duration of the Social Services Working Group. The SSWG should have an ongoing role in system oversight and evaluation, as well as the flexibility to

assume responsibility for short-term or unanticipated studies related to social services administration or services.

North Carolina's social services system is in a state of significant transition. The SSWG is concerned about the possibility that if some of the reforms are not successful, the state could experience avoidable system failures or challenges. The SSWG would like the state to have a mechanism in place to monitor system change and implementation throughout the process in order to identify challenges as early as possible and help the state correct its course. To this end, the SSWG recommends that DHHS and the legislature consider assigning to the SSWG the responsibility for ongoing oversight of the system to ensure that the reforms are on path to achieving stated objectives. In this role, the SSWG should have the authority to make recommendations to the state agency, the counties, and the legislature. In addition, the SSWG would be available to assume responsibility for specific, short-term reviews or projects requested by the legislature and/or DHHS.

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