

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-489
HOUSE BILL 1280**

AN ACT CLARIFYING VARIOUS PROVISIONS UNDER THE LAWS PERTAINING TO
THE FEDERAL WORK FIRST PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 108A-24 reads as rewritten:

"§ 108A-24. Definitions.

As used in Chapter 108A:

- (1) "Applicant" is any person who requests assistance or on whose behalf assistance is requested.
- (1a) Repealed by Session Laws 2001-424, s. 21.52.
- (1b) "Community service" means work exchanged for temporary public assistance.
- (1c) "County block grant" means federal and State money appropriated to implement and maintain a county's Work First Program.
- (1d) "County department of social services" means a county department of social services, consolidated human services agency, or other local agency designated to administer services pursuant to this Article.
- (1e) "County Plan" is the biennial Work First Program plan prepared by each ~~county~~ Electing County pursuant to this Article and submitted to the Department for incorporation into the State ~~Plan~~ Plan that also includes the Standard Work First Program.
- (2) "Department" is the Department of Health and Human Services, unless the context clearly indicates otherwise.
- (3) "Dependent child" is a person ~~under 18 years of age~~ 17 years of age or younger or, in the medical assistance program, a person under 19 years of age. A child 18 years of age, if in high school and expected to graduate by his or her 19th birthday, may receive Work First benefits through the month he or she turns 19 years of age or graduates from high school, whichever comes first.
- (3a) "Electing County" means a county that elects to develop and is approved to administer a local Work First Program.
- (3b) "Employment" means work that requires either a contribution to FICA or the filing of a State N.C. Form D-400, or the equivalent.
- (3c) "Family" means a unit consisting of a minor child or children and one or more of their biological parents, adoptive parents, stepparents, or grandparents living together. For purposes of the Work First Program, family also includes a blood or half-blood relative or adoptive relative limited to brother, sister, great-grandparent, great-great-grandparent, uncle, aunt, great-uncle, great-aunt, great-great-uncle, great-great-aunt, nephew, niece, first cousin, stepbrother, and stepsister.



- (3d) "Federal TANF funds" means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (3e) "FICA" means the taxes imposed by the Federal Insurance Contribution Act, 26 U.S.C. § 3101, et seq.
- (3f) ~~"First Stop Employment Assistance" in the program established to assist recipients of Work First Program assistance with employment through job registration, job search, job preparedness, and community service.~~
- (3g) "Full-time employment" means employment which requires the employee to work a regular schedule of hours per day and days per week established as the standard full-time workweek by the employer, but not less than an average of 30 hours per week.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (4a) "Mutual Responsibility Agreement" ("MRA") is an agreement between a county and a recipient of Work First Program assistance which describes the conditions for eligibility for the assistance and what the county will provide to assist the recipient in moving from assistance to self-sufficiency. A MRA may provide for recipient parental responsibilities and child development goals and what a county or the State will provide to assist the recipient in achieving those child development goals. Improvement in literacy shall be a part of any MRA, but a recipient shall not be penalized if unable to achieve improvement. A MRA is a prerequisite for any Work First Program assistance under this Article.
- (4b) "Parent" means biological parent or adoptive ~~parent~~ parent, and for Work First purposes, includes a stepparent.
- (5) "Recipient" is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) "Resident," unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) "Secretary" is the Secretary of Health and Human Services, unless the context clearly indicates otherwise.
- (8) "Standard Program County" means a county that participates in the Standard Work First Program.
- (9) "Standard Work First Program" means the Work First Program ~~development~~ developed by the Department.
- (10) "State Plan" is the biennial Work First Program plan, based upon the aggregate of the Electing County Plans and the Standard Work First Program, prepared by the Department for the State's Work First Program pursuant to this Article, and submitted sequentially to the Budget Director, to the General Assembly, to the Governor, and to the appropriate federal officials for approval.
- (11) "Temporary" is a time period, not to exceed 60 cumulative months, which meets the federal requirement of Title IV-A.
- (12) "Title IV-A" means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, as further amended by the Deficit Reduction Act of 2005, P.L. 109-171 and to other provisions of federal law as may apply to assistance provided in this Article.
- (13) "Work" is lawful activity exchanged for cash, goods, uses, or services.

- (14) "Work First Diversion Assistance" is a short-term cash payment that is intended to substantially reduce the likelihood of a family requiring Work First Family Assistance. Work First Diversion Assistance must be used to address a specific family crisis or episode of need and may not be used for ongoing or recurrent needs. Work First Diversion Assistance is limited to once in a 12-month period.
- (15) "Work First Family Assistance" is a program of time-limited periodic payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.
- (16) "Work First Program" is the Temporary Assistance for Needy Families program established in this Article.
- (17) "Work First Program assistance" means the goods or services provided under the Work First Program.
- (18) "Work First Services" are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program."

SECTION 2. G.S. 108A-27 reads as rewritten:

"§ 108A-27. Authorization and description of Work First Program; Work First Program changes; designation of Electing and Standard Program Counties.

(a) The Department shall establish, supervise and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to self-sufficiency through gainful employment, not the mere reduction of the welfare rolls. The Department shall ensure that the Work First Program ~~focuses~~ focuses on this purpose of self-sufficiency. The ultimate goal of the Work First Program is the gradual elimination of generational poverty, and the Department shall ensure that all evaluations of the Work First Program, whether performed at the State or the county level, maintain this purpose and this goal of the Work First Program and effect an ongoing determination of whether the Work First Program is successful in facilitating families to move to self-sufficiency and in gradually eliminating generational poverty.

(b) The Work First Program in all counties shall include program ~~administration, First Stop Employment Registration,~~ administration and three categories of assistance to participants:

- (1) Work First Diversion Assistance;
- (2) Work First Family Assistance; and
- (3) Work First Services.

~~All counties shall utilize the registration process of the First Stop Employment Assistance Program. All other provisions of the First Stop Employment Assistance Program shall be optional to the counties.~~

(c) The Department may change the Work First Program when required to comply with federal law. Any changes in federal law that necessitate a change in the Work First Program shall be effected by temporary rule until the next State Plan is approved by the General Assembly. Any change effective by the Department to comply with federal law shall be reported to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services and included in the State Plan submitted during the next session of the General Assembly following the change.

(d) The Department shall allow counties maximum flexibility in the Work First Program while ensuring that the counties comply with federal and State laws and regulations. Subject to any limitations imposed by law, the Department shall allow counties to request to be

designated as either Electing Counties or Standard Program Counties in the Work First Program.

(e) All counties shall notify the Department in writing as to whether they desire to be designated as either Electing or Standard Program. A county shall submit in its notification to the Department documentation demonstrating that three-fifths of its county commissioners support its desired designation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning designation. A county that desires to be redesignated shall submit a request in writing to the Department at least six months prior to the effective date of the next State Plan. In its request for redesignation, the county shall submit documentation demonstrating that three-fifths of its county commissioners support the redesignation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning redesignation. A county's redesignation shall become effective on the effective date of the next State Plan following the redesignation. A county's designation or redesignation shall not be effected except as provided in this Article.

(f) The board of county commissioners in an Electing County shall be responsible for development, administration, and implementation of the Work First Program in that county.

(g) The county department of social services in a Standard Program County shall be responsible for administering and implementing the Standard Work First Program in that county.

(h) The Department and Electing Counties, in developing ~~an Electing County Work First Program or the Standard Work First Program,~~ their respective plans, may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to maximize federal revenues, so long as the rights, including the constitutional rights of equal protection and due process, of individuals are protected. The Department and Electing Counties ~~may shall~~ provide Work First Program assistance to ~~legal-qualified~~ immigrants on the same basis as citizens to the extent permitted by federal law."

SECTION 3. G.S. 108A-27.2 reads as rewritten:

"§ 108A-27.2. General duties of the Department.

The Department shall have the following general duties with respect to the Work First Program:

- (1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;
- (1a) Provide technical assistance to ~~counties developing and~~ Electing Counties developing and implementing and to Standard Counties implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (1b) Reserved for future codification purposes.
- (1c) Ensure that ~~two-parent~~ all families with work eligible parents and parents with children under the age of 12 months receive cash assistance for three months after qualifying for assistance without being subject to pay for performance requirements, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment. Cash assistance or diversion assistance received prior to being subject to pay for performance requirements is limited to one time within a 12-month period. Work First benefits in the month after compliance with their Mutual Responsibility Agreement. Failure to comply with their Mutual

Responsibility Agreement shall result in no Work First Benefits the following month, unless there is good cause.

- (2) Describe authorized federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for ~~counties~~ Electing Counties to submit their County Plans to ensure that ~~all Standard County Plans are adopted by the Standard Program Counties by January 15 of each odd-numbered year and~~ all Electing County Plans are adopted by Electing Counties by February 1 of each odd-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the Electing County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
- (8) Repealed by Session Laws 2003-284, s. 10.57, effective July 1, 2003.
- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on job retention and advancement, child abuse and neglect, caseloads for child protective services and foster care, school attendance, academic and behavioral performance, and other measures of the economic security and health of children and families. The system should be developed to allow monitoring and evaluation of impact based on both aggregated and disaggregated data. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;
- (10) Monitor the performance of ~~counties~~ Electing Counties relative to their ~~County~~ respective Plans and the overall goals of the Work First ~~Program; Program. Monitor Standard Counties relative to the State Plan and~~ the overall goals of the Standard Work First Program;
- (11) Repealed by Session Laws 2003-284, s. 10.57, effective July 1, 2003.
- (12) Report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services the counties which have requested Electing status; provide copies of the proposed Electing County Plans to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services, if requested; and make recommendations to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human

- Services on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at September 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.
 - (14) Review the county Work First Program of each ~~electing county~~ Electing County and recommend whether the county should continue to be designated an ~~electing county~~ Electing County or whether it should be redesignated as a standard county. In conducting its review and making its recommendation, the Department shall:
 - a. Examine and consider the results of the Department's monitoring and evaluation of the impact of the ~~electing county's~~ Electing County's Work First Program as required under subdivision (9) of this section;
 - b. Determine whether the ~~electing county's~~ Electing County's Work First Program's unique design requires implementation by an ~~electing county~~ Electing County or whether the Work First Program could be implemented by a county designated as a standard county;
 - c. Determine whether the ~~electing county's~~ Electing County's Work First Program and policies are unique and innovative in meeting the purpose of the Work First Program as stated under G.S. 108A-27, and State and federal laws, rules, and regulations, as compared to other standard and ~~electing county~~ Electing County Work First programs.

The Department shall make its recommendation and the reasons therefor to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services not later than three months prior to submitting the State Plan to the Commission for review as required under G.S. 108A-27.9(a)."

SECTION 4. G.S. 108A-27.3(a) reads as rewritten:

"(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

- (1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;
- (2) Establish eligibility criteria for recipients except for those criteria related to sanctioning procedures mandated across the State pursuant to G.S. 108A-27.9(c);
- (3) Prescribe the method of calculating benefits for recipients;
- (4) ~~Determine and list persons and families eligible for the Work First Program;~~
- (5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;
- (6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;
- (7) Consider providing community service work for any recipient who cannot find employment;

- (8) ~~Make~~ Authorize payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;
- (9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;
- (10) ~~Monitor and evaluate the impact of the Work First Program on economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly;~~
- (10a) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:
 - a. Ensure that time limitations on assistance have been computed correctly.
 - b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.
 - c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
 - d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.
- (11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;
- (12) Develop, adopt, and submit to the Department a biennial County Plan;
- (13) ~~Provide monthly progress reports to the Department in a format to be determined by the Department;~~
- (14) Develop and implement an appeals process for the county's Work First Program that substantially complies with G.S. 108A-79 and comply with the procedures related to sanctioning by the Department for all counties in the State pursuant to G.S. 108A-27.2 and prescribed as general provisions in the State Plan pursuant to G.S. 108A-27.9(c)(1)."

SECTION 5. G.S. 108A-27.4 reads as rewritten:

"§ 108A-27.4. Electing Counties – County Plan.

- (a) Each Electing County shall submit to the Department, according to the schedule established by the Department and in compliance with all federal and State laws, rules, and regulations, a biennial County Plan.
- (b) An Electing County's County Plan shall have at least the following five parts:
 - (1) Part I. Conditions Within the County;
 - (2) Part II. Outcomes and Goals for the County;
 - (3) Part III. Plans to Achieve and Measure the Outcomes and Goals;
 - (4) Part IV. Administration; and
 - (5) Part V. Funding Requirements.
- (c) Funding requirements shall, at least, identify the amount of a county block grant for Work First Diversion Assistance, a county block grant for Work First Family Assistance, a county block grant for Work First Services, and the county's maintenance of effort contribution. A county may establish a reserve.
- (d) ~~The County Plans in Electing Counties may provide that in cases where benefits are paid only for a child, the case is considered a family case.~~
- (e) Each county shall include in its County Plan the following:
 - (1) ~~The number of MRAs entered into by the county;~~

- (2) A description of the county's plans for serving families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding;
- (3) ~~A list of the community service programs equivalent to full time employment that are being offered to Work First Program recipients who are unable to find full time employment;~~
- (4) A description of the county's eligibility criteria, benefit calculation, and any other policies adopted by the county relating to eligibility, terms, and conditions for receiving Work First Program assistance, including sanctions, asset and income requirements, time limits and extensions, rewards, exemptions, and exceptions to requirements. If an Electing County Plan proposes to change eligibility requirements, benefits levels, or reduce maintenance of effort, the county shall describe the reasons for these changes and how the county intends to utilize the maintenance of effort savings;
- (5) A description of how the county plans to utilize public and private resources to assist in moving persons and families to self-sufficiency; and
- (6) Any request to the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan.
- (7) The process by which the county will review all Work First caseloads no later than three months prior to expiration of time limitations for receiving cash assistance to:
 - a. Ensure that time limitations on assistance have been computed correctly.
 - b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.
 - c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
 - d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.

(f) Each county shall provide to the general public an opportunity to review and comment upon its County Plan prior to its submission to the Department.

(g) A county may modify its County Plan once each biennium but not at any other time unless the county notifies the Department of the proposed modification and the Department determines that the proposed modification is consistent with State and federal law and the goals for the Work First Program.

(h) ~~Electing counties~~ Counties shall have an emergency assistance program for Work First eligible families, as defined in the electing county plan. Counties may establish income eligibility for emergency assistance at or below two hundred percent (200%) of the federal poverty level."

SECTION 6. G.S. 108A-27.5 reads as rewritten:

"§ 108A-27.5. Electing Counties – Duties of the Department.

In addition to the general duties prescribed in G.S. 108A-27.3, the Department shall have the following duties with respect to establishing, supervising, and monitoring the Work First Program in Electing Counties while allowing Electing Counties maximum flexibility in designing and implementing County Plans:

- (1) ~~Coordinate activities of other State agencies providing technical support to counties developing their County Plans;~~
- (2) At the request of the counties, provide assistance to counties in their activities with private sector individuals and organizations relative to County Plans; and
- (3) Establish the baseline for the State maintenance of effort."

SECTION 7. G.S. 108A-27.6 reads as rewritten:

"§ 108A-27.6. Standard Program Counties – Duties of county departments of social services and county boards of commissioners.

(a) Except as otherwise provided in this Article, the Standard Work First Program shall be administered by the county departments of social services. The county departments of social services in Standard Program Counties shall:

- (1) In consultation with the Department and the county board of commissioners, establish outcome and performance goals-measures for each-all Standard Program County, ~~based on economic factors and conditions in that county, aimed at reducing child poverty by means of goals that measure the increased numbers of persons employed, the increased numbers of hours worked by and wages earned by recipients, and other measures of child well-being;~~Counties. There exist two goals for the Work First Program: to meet or exceed the federal Work Participation Rate of fifty percent (50%) for all Work Eligible families and ninety percent (90%) for all two-parent families;
- (2) Determine eligibility of persons and families for the Work First Program;
- (3) Enter into Mutual Responsibility Agreements with participants if required under the State Plan and ensure that the services and resources that are needed to assist participants to comply with their obligations under their Mutual Responsibility Agreements are available;
- (4) Comply with State and federal law relating to Work First and Title IV-A;
- ~~(5) Develop the County Plans for submission by the counties to the Department;~~
- (6) Ensure that participants engage in the minimum hours of work activities required by the State Plan and Title IV-A;
- (7) Ensure that the components of the Work First Program are funded solely from authorized sources and that federal TANF funds are used only for purposes and programs authorized by federal and State ~~law;~~law; and
- ~~(8) Monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly; and~~
- ~~(9) Provide monthly progress reports to the Department, in a format to be determined by the Department.~~
- (10) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:
 - a. Ensure that time limitations on assistance have been computed correctly.
 - b. Ensure that the family is informed about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.

- c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
- d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.

(b) In consultation with the Department, a county department of social services may delegate any of its duties under this Article to another public agency or private contractor. Prior to delegating any duty, a county department of social services shall submit its proposed delegation to the Department as the Department may provide. Notwithstanding any delegation of duty, a county department of social services shall remain accountable for its duties under the Work First Program.

~~(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners, and community based organizations representative of the population to be served.~~

~~(d) The county board of commissioners shall review and approve the County Plan for submission to the Department."~~

SECTION 8. G.S. 108A-27.7 reads as rewritten:

"§ 108A-27.7. Standard Program County Plan.

~~(a) Each Standard Program County shall submit to the Department for approval a biennial County Plan that describes the Work First Diversion Assistance and Work First Services the county proposes to offer.~~

~~(b) Prior to submitting its County Plan to the Department, a county shall provide the public with an opportunity to review and comment upon it.~~

~~(c) The County Plan of a Standard Program County shall include a description of how the county will:~~

- ~~(1) Utilize both public and private resources to assist in moving persons and families to self sufficiency;~~
- ~~(2) Serve families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding; and~~
- ~~(3) Address the needs of persons and families in any other areas specified by the Department.~~

~~(d) Standard counties shall have an emergency assistance program for Work First eligible families, as defined in the standard county plan. Counties may establish income eligibility for emergency assistance at or below two hundred percent (200%) of the federal poverty level."~~

SECTION 9. G.S. 108A-27.8(a) reads as rewritten:

"(a) The Department shall establish, develop, supervise, and monitor the Standard Work First Program. In addition to its general duties prescribed in G.S. 108A-27.2, the Department shall have the following duties with respect to the Standard Work First Program and the Standard Program Counties:

- ~~(1) Establish the requirements for the content of County Plans and review and approve the County Plans submitted by the Standard Program Counties;~~
- ~~(2) Advise and assist the Social Services Commission in adopting rules necessary to implement the provisions of this Article;~~
- ~~(3) Supervise disbursement of county block grants to the Standard Program Counties for Work First Services;~~

- (4) Make payments of Work First Family Assistance and Work First Diversion Assistance; and
- ~~(5) Coordinate activities of other State and county agencies in meeting the goals of the Work First Program;~~
- ~~(6) Work with State and county agencies and with private sector organizations and individuals to develop programs and methods to meet the goals of the Work First Program; and~~
- (7) Develop a Mutual Responsibility Agreement for use by Standard Program Counties."

SECTION 10. G.S. 108A-27.9 reads as rewritten:

"§ 108A-27.9. State Plan.

(a) The Department shall prepare and submit to the Director of the Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall:

- (1) Consult with local government and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from those organizations; and
- (2) Upon complying with subdivision (1) of this subsection, submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for review.

(b) The State Plan shall consist of generally applicable provisions and two separate sections, one proposing the terms of the Work First Program in Electing Counties, and the other proposing the terms for the Standard Work First Program.

(c) The State Plan shall include the following generally applicable provisions:

- (1) Provisions to ensure that recipients who are sanctioned are provided a clear explanation of the sanction and that all recipients, including those under sanction or termination for rules infractions, are fully informed of their right to legal counsel and any other representatives they choose at their own cost;
- (1a) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:
 - a. Any regular employee is on layoff from the same or substantially equivalent job;
 - b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or
 - c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;
- (1b) Reserved for future codification purposes.
- (1c) Provisions to ensure that ~~two parent families receive cash assistance for three months after qualifying for assistance without being~~ all work eligible parents and all parents with a child under 12 months of age are subject to pay for performance requirements, in order to encourage families to stay together and to overcome barriers to self sufficiency and gainful employment. Cash assistance or diversion assistance received prior to being subject to pay for performance requirements is limited to one time within a 12 month period. requirements. Pay for performance requirements means that the family will receive Work First benefits in the month following a

month that they comply with their Mutual Responsibility Agreement. Failure to comply with the Mutual Responsibility Agreement without good cause will result in no Work First benefits in the following month.

- (2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision (1a) of this subsection, and grievance procedures to resolve complaints by Work First Participants made pursuant to subdivision (3) of this subsection;
- (3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the Work First Program employees in similarly situated work activities, including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;
- (4) A description of eligible federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (5) Requirements for assignment of child support income and compliance with child support activities;
- (6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and
- (7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan.

(d) The section of the State Plan proposing the terms of the Work First Program in Electing Counties shall be based upon the aggregate of the Electing County Plans and shall include ~~the following:~~

- ~~(1) Allocations of federal and State funds for Electing Counties in the Work First Program including block grants to counties and the allocation of funding for administration not to exceed the federally established limitations on the use of federal TANF funds and the limits imposed under this Article;~~
- ~~(2) Maintenance of effort and levels of State and county funding for Electing Counties in the Work First Program;~~
- ~~(3) Federal-federal eligibility requirements and a description of the eligibility requirements and benefit calculation in each Electing County; and County.~~
- ~~(4) A description of the federal, State, and each Electing County's financial participation in the Work First Program.~~

The Department may modify the section in the State Plan regarding Electing Counties once a biennium or except as necessary to reflect any modifications made by an Electing County. Any changes to the section of the State Plan regarding Electing Counties shall be reported to the Senate Appropriations Committee on Health and Human Services, the House of

Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division within one month following the changes.

(e) The section of the State Plan describing the Standard Work First Program shall include:

- (1) Benefit levels, limitations, and payments and the method for calculating benefit levels and payments;
- (2) Eligibility criteria, including asset and income standards;
- (3) Any exceptions or exemptions proposed to work requirements;
- (4) Provisions for when extensions may be granted to a person or family who reaches the time limit for receipt of benefits;
- (5) Provisions for exceptions and exemptions to criteria, time limits, and standards;
- (6) Provisions for sanctions for recipient failure to comply with program ~~requirements; requirements; and~~
- (7) ~~Terms and conditions for repayment of Work First Diversion Assistance by recipients who subsequently receive Work First Family Assistance;~~
- (8) ~~Allocations of federal, State, and county funds for the Standard Work First Program, including county block grants to the counties for Work First Services;~~
- (9) ~~Levels of State and county funding for the Standard Work First Program;~~
- (10) ~~Allocation for funding for administration at the State and local level not to exceed the federally established limitations on use of federal TANF funds for program administration; and~~
- (11) A description of the Department's consultation with local governments and private sector organizations and a summary of any comments received during the 45-day public comment period.

(f) In addition to those items required to be included pursuant to subsection (e) of this section, the State Plan may include proposals to establish the following as part of the Standard Work First Program:

- (1) Demonstration projects in one or more counties to assess the value of any proposed changes in State policy or to test ways to improve programs; and
- (2) Requirement that recipients shall be required to enter into and comply with Mutual Responsibility Agreements as a condition of receiving benefits. If provided for in the State Plan, the terms and conditions of Mutual Responsibility Agreements shall be consistent with program purposes, federal law, and availability of funds.

(g) The State Plan may provide for automatic Medicaid eligibility for all Work First Program recipients.

(h) The State Plan may provide that in cases where benefits are paid only for a child, the case is considered a family case."

SECTION 11. G.S. 108A-27.13 reads as rewritten:

"§ 108A-27.13. Performance standards.

(a) The Department, in consultation with the county department of social services and county board of commissioners, shall establish ~~acceptable levels of performance for Standard Program Counties in meeting Work First expectations, measured by outcome and performance goals contained in the State Plan~~ outcome and performance measures for all counties, both Electing and Standard. There exist two goals for the Work First Program: to meet or exceed the federal Work Participation rate of fifty percent (50%) for all Work Eligible families and ninety percent (90%) for all two-parent families. The two goals apply to both Standard and Electing Counties. The Department shall establish monitoring mechanisms and reporting requirements to assess progress toward the goals. The well-being of children and economic factors and

conditions within the counties, including the increased numbers of persons employed and increased numbers of hours worked by and wages earned by recipients, shall be considered by the Department.

(b) ~~Electing County performance shall be judged upon the county's ability to attain the outcomes and goals established in that county's County Plan.~~

(c) All adult recipients of Work First Program assistance are expected to achieve full-time employment, subject to applicable exceptions. Adult recipients of Work First Program assistance shall comply with the provisions and requirements in their MRAs."

SECTION 12. G.S. 108A-29 reads as rewritten:

"§ 108A-29. First Stop Employment Assistance; ~~priority~~Priority for employment services.

(a) ~~There is established in the Employment Security Commission a program to be called First Stop Employment Assistance. The Chair of the Employment Security Commission shall administer the program with the participation and cooperation of the Department of Commerce, county boards of commissioners, the Department of Health and Human Services, the Department of Labor, the Department of Crime Control and Public Safety, and the community college system. The responsibilities of each agency shall be specified in a Memorandum of Understanding between the Employment Security Commission and the Department of Health and Human Services, in consultation with the Department of Commerce, the Department of Labor, and the community college system. The Employment Security Commission shall be the presumptive primary deliverer of job placement services for the Work First Program.~~

(b) Individuals seeking to apply or reapply for Work First Program assistance and who are not exempt from work requirements shall register with the ~~First Stop Employment Assistance Program.~~Employment Security Commission for employment services. The point of registration shall be at an office of the Employment Security Commission in the county in which the individual resides or at another location designated in a Memorandum of Understanding between the Employment Security Commission and the local department of social services.

(c) Individuals who are not otherwise exempt shall present verification of registration at ~~the time of applying~~ for Work First Program assistance. Unless exempt, the individual shall not be approved for Work First Program assistance until verification is received. Child-only cases are exempt from this requirement.

(d) Once an individual has registered as required in subsection (c) of this section and upon verification of the registration by the agency or contractor providing the Work First Program assistance, the individual's eligibility for Work First Program assistance may be evaluated and the application completed. Continued receipt of Work First Program benefits is contingent upon successful participation in ~~the First Stop Employment Program,~~employment services in the Mutual Responsibility Agreement, and lack of cooperation and participation in ~~the First Stop Employment Program~~employment services may result in the termination of benefits to the individual.

(e) ~~The county board of commissioners shall determine which agencies or nonprofit or private contractors will participate with the Employment Security Commission and the local department of social services in developing the rules to implement the First Stop Employment Program.~~

(f) ~~At the county's option, the Employment Security Commission, in consultation with and with the assistance of the agencies specified in the Memorandum of Understanding described in subsection (b) of this section, shall provide to Work First Program registrants the continuum of services available through its Employment Security Commission. Each County Plan may provide that the county department of social services shall enter into a cooperative agreement with the local Employment Security Commission to operate the Job Search component on behalf of Work First Program registrants. The cooperative agreement shall~~

include a provision for payment to the Employment Security Commission by the county department of social services for the cost of providing those services, not otherwise available to all clients of the Employment Security Commission, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant. The county department of social services may also enter into a cooperative agreement with the community college system or any other entity to operate the Job Preparedness component. This cooperative agreement shall include a provision for payment to that entity by the county department of social services for the cost of providing those services, not otherwise available to all clients of the Employment Security Commission, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant.

(g) ~~The Employment Security Commission shall be the primary job placement entity of the Work First Program.~~ The Employment Security Commission shall further assist registrants through job search, job placement, or referral to community service, if contracted to do so.

(h) An individual placed in the Job Search component of the ~~First Stop Employment Program~~ Employment Security Commission or other agency providing Job Search services shall look for work and shall accept any suitable employment. If contracted, the Employment Security Commission shall refer individuals to current job openings and shall make job development contacts for individuals. Individuals so referred shall be required to keep a record of their job search activities on a job search record form provided by the Commission, and the Employment Security Commission will monitor these activities. A "job search record" means a written list of dates, times, places, addresses, telephone numbers, names, and circumstances of job interviews. The Job Search component shall include at least one weekly contact with the Employment Security Commission. The Employment Security Commission shall adopt rules to accomplish this subsection.

(i) The Employment Security Commission shall notify all employers in the State of the "Exclusive No-Fault" Referral Service available through the Employment Security Commission to employers who hire personnel through Job Service referrals.

(j) All individuals referred to jobs through the Employment Security Commission shall be instructed in the procedures for applying for the Federal Earned Income Credit (FEIC). All individuals referred to jobs through the Employment Security Commission who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their employers.

(k) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, food and nutrition services, public housing, or Supplemental Security Income.

(l) The Employment Security Commission shall work with the Department of Labor to develop a relationship with these private employment agencies to utilize their services and make referrals of individuals registered with the Employment Security Commission.

(m) An individual who has not found a job within 12 weeks of being placed in the Job Search component of the Program may also be placed in the Community Service component at the county's option.

(n) If after evaluation of an individual the Employment Security Commission believes it necessary, the Employment Security Commission or the county department of social services also may refer an individual to ~~the a Job Preparedness component of the First Stop Employment Program provider.~~ The local community college should include General Education Development, Adult Basic Education, or Human Resources Development programs that are already in existence as a part of the Job Preparedness component. Additionally, the Commission or the county department of social services may refer an individual to a literacy council. Through a Memorandum of Understanding between the Employment Security Commission, the local department of social services, and other contracted entities, a system shall be established to monitor an individual's progress through close communications with the

agencies assisting the individual. The Employment Security Commission or Job Preparedness provider shall adopt rules to accomplish this subsection.

(o) The Job Preparedness component of the Program shall last a maximum of 12 weeks unless the recipient is registered and is satisfactorily progressing in a program that requires additional time to complete. Every reasonable effort shall be made to place the recipient in part-time employment or part-time community service if the time required exceeds the 12-week maximum. The county department of social services may contract with service providers to provide the services described in this section and shall monitor the provision of the services by the service providers. Registrants may participate in more than one component at a time.

(p) The Employment Security Commission shall expand its Labor Market Information System. The expansion shall at least include: statistical information on unemployment rates and other labor trends by county; and publications dealing with licensing requirements, economic development, and career projections, and information technology systems which can be used to track participants through the employment and training process.

~~(q) Each county Employment Security Commission local or branch office shall organize a Job Service Employer Committee. The Chairman of the Employment Security Commission shall appoint the Job Service Employer Committee members, each of whom shall serve two year terms, from persons nominated by the local Job Service Employer Committee. The Employment Security Commission shall organize a State Job Service Employer Committee consisting of eight members who shall serve two year terms. The Chairman of the Employment Security Commission shall appoint the State Job Service Employer Committee members after consultation with the Governor. The Employment Security Commission shall adopt rules and regulations concerning the meeting schedule and the conduct of meetings of each Job Service Employer Committee. Each Job Service Employer Committee in counties participating in the First Stop Employment Program shall oversee the operation of the First Stop Employment Program in that county and shall report to the local Employment Security Commission quarterly on its recommendations to improve the First Stop Employment Program. The Employment Security Commission shall develop the reporting method and time frame and shall coordinate a full report to be presented to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services by the end of each calendar year.~~

~~(r) Each county's Job Service Employer Committee or Workforce Development Board shall continue the study of the working poor, titled "NC WORKS", in their respective counties and shall include the following in the study:~~

- ~~(1) Determination of the extent to which current labor market participation enables individuals and families to earn the amount of disposable income necessary to meet their basic needs;~~
- ~~(2) Determination of how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;~~
- ~~(3) Examination of job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;~~
- ~~(4) Consideration and determination of the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;~~
- ~~(5) Evaluation of the effectiveness of the unemployment insurance system in meeting the needs of low wage workers when they become unemployed;~~

- (6) ~~Examination of the efficacy of a State earned income tax credit that would enable working families to meet the requirements of the basic needs budget;~~
- (7) ~~Examination of the wages, benefits, and protections available to part time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;~~
- (8) ~~Solicitation, receipt, and acceptance of grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and~~
- (9) ~~A request of any necessary data from either public or private entities that relate to the needs of the committee or board.~~

~~Each committee or board shall prepare and submit a report on the finding for the county which it represents by May 1 of each year to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources.~~

(s) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for Work First Family Assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining employment services including training and community service provided by or through State agencies or counties or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons."

SECTION 13. G.S. 108A-29.1(a) reads as rewritten:

"(a) Each applicant or current recipient of Work First Program benefits, determined by a Qualified Professional in Substance Abuse ~~Professional (QSAP)~~ (QPSA) or by a physician certified by the American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of professional substance abuse treatment services shall be required, as part of the person's MRA and as a condition to receiving Work First Program benefits, to participate satisfactorily in an individualized plan of treatment in an appropriate treatment program. As a mandatory program component of participation in an addiction treatment program, each applicant or current recipient shall be required to submit to an approved, reliable, and professionally administered regimen of testing for presence of alcohol or drugs, without advance notice, during and after participation, in accordance with the addiction treatment program's individualized plan of treatment, follow-up, and continuing care services for the applicant or current recipient."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue

Governor

Approved 1:55 p.m. this 26th day of August, 2009