



STATE OF NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER  
GOVERNOR

MANDY COHEN, MD, MPH  
SECRETARY

November 4, 2019

**SENT VIA ELECTRONIC MAIL**

The Honorable Joyce Krawiec, Chair  
Joint Legislative Oversight Committee on  
Health and Human Services  
North Carolina General Assembly  
Room 308, Legislative Office Building  
Raleigh, NC 27603

The Honorable Josh Dobson, Chair  
Joint Legislative Oversight Committee on  
Health and Human Services  
North Carolina General Assembly  
Room 307B, Legislative Office Building  
Raleigh, NC 27603

The Honorable Donny Lambeth, Chair  
Joint Legislative Oversight Committee on  
Health and Human Services  
North Carolina General Assembly  
Room 303, Legislative Office Building  
Raleigh, NC 27603

Dear Chairmen:

Session Law 2017-41, Section 3.3 requires the Department of Health and Human Services to report annually to the Joint Legislative Oversight Committee on Health and Human Services on the oversight of the local administration of social services programs other than medical assistance relative to the Local DSS Written Agreements. Pursuant to the provisions of law, the Department is pleased to submit the attached report.

Should you have any questions, please contact Susan G. Osborne, Assistant Secretary for County Operations, at [Susan.Osborne@dhhs.nc.gov](mailto:Susan.Osborne@dhhs.nc.gov).

Sincerely,

Mandy Cohen, MD, MPH  
Secretary

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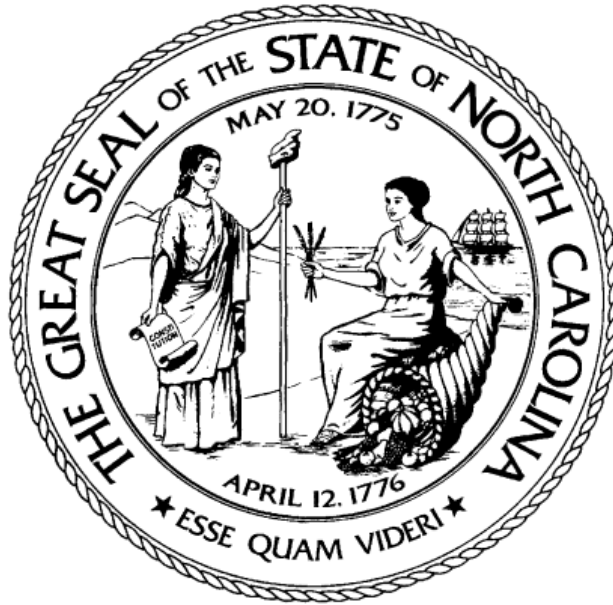
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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

# **Progress Report of Oversight of the Local Administration of Social Services Programs other than Medical Assistance**

**Session Law 2017-41 Section 3.3 (1)**



**Report to**

**The Joint Legislative Oversight Committee on  
Health and Human Services**

**by**

**NC Department of Health and Human Services**

**November 4, 2019**

## **BACKGROUND**

Session Law (S.L.) 2017-41, Section 3.3 (1) requires the Department of Health and Human Services (DHHS) to submit a report to the Joint Legislative Oversight Committee on Health and Human Services (Committee) by August 1 of every year regarding oversight of the local administration of social services programs other than medical assistance. The report shall include, at a minimum: (a) A copy of the template for the written agreement required by G.S. 108A-74(a1), (b) An evaluation of the implementation of the requirement for a written agreement, and (c) a summary of any oversight action taken by the Department pursuant to the agreement or G.S. 108A-74, including a list of any federal or State funds that were withheld as a result of the State's oversight.

Section 3.1(a) of S.L. 2017-41 rewrote G.S. 108A-74 to include the following:

- (a1) Beginning in fiscal year 2018-2019, the Secretary shall require all departments of social services to enter into a written agreement each year that specifies mandated performance requirements and administrative responsibilities with regard to all social services programs other than medical assistance.
  - (1) When possible, the mandated performance requirements shall be based upon standardized metrics utilizing reliable data.
  - (2) The administrative responsibilities shall address, at a minimum, staff training, data submission to the Department, and communication with the Department.
  - (3) The written agreement may be standardized or may be tailored to address issues in specific jurisdictions.
  - (4) The written agreement shall authorize the Department to withhold State and federal funds in the event the department fails to satisfy mandated performance requirements or comply with the terms of the agreement.

This report submitted by the Department of Health and Human Services (DHHS) reflects the progress on the implementation of the written agreement required by G.S. 108A-74(a1). A copy of the written agreement is attached to this report.

### **A. Evaluation of Implementation of Written Agreements**

The agreement, called a Memorandum of Understanding, was designed to address expectations of both counties and the Department in addressing performance across all social services programs excluding medical assistance.

DHHS worked in collaboration with the NC Association of County Commissioners, the NC Association of County Directors of Social Services, and directly with each county Director of Social Services to develop the original, template agreement that was utilized for the 2018-2019 Fiscal Year.

During the performance of the 2018-2019 agreement, DHHS issued a modification to the agreement to all 100 counties. These modifications were made in response to the feedback and information received from counties following the execution of the FY 18-19 MOU's and our ongoing analysis

of performance data.

Specifically, the modifications to the MOU moved nine (9) additional performance measures from static to growth measures, for a total of 17 growth measures, five (5) of the measures were updated to align with federal benchmarks, and one (1) of the measures was removed.

Further, given the impact of Hurricane Florence on county and state operations, the Department modified the MOUs to clarify that no performance improvement or corrective action would be initiated on the basis of this MOU for Fiscal Year 2018-2019. Ongoing oversight and monitoring activities did continue as they had in prior years.

In accordance with G.S. 108A-74(a1), the FY 2019-2020 agreements include performance measures and administrative responsibilities. The administrative responsibilities of the county agreements are the same for all counties in FY 18-19. The administrative responsibilities include county and DHHS responsibilities related to staffing requirements and workforce development, compliance, data submission, communication and inter-agency cooperation.

For FY 2019-2020, the performance measures remained the same as the FY 2018-2019 agreement. DHHS has worked to create county level reports for these measures that will allow counties to produce reports for their performance on all measures and train counties in running these reports. At the time the agreements were issued to counties for signature, data for 13 of the performance measures could be locally generated and were validated with county DSS agencies. These 13 performance measures can be found in Attachment I of the FY 2019-2020 agreement and are titled 'Mandated Performance Requirements.' As was clarified in the agreement, these are the only performance measures that DHHS will evaluate as part of the agreement for FY 2019-2020 and subject to performance improvement or corrective action.

The remaining 13 performance measures, titled Performance Requirements, are found in Attachment III to the agreement and will not be included in any corrective action because the validation process with the county DSS agencies had not been completed at the time of issuance. Ongoing monitoring and support activities will continue as they have in prior years for these remaining 13 measures. DHHS continues to develop reports and validate data for these remaining performance measures.

The Memorandum of Understanding Between DHHS and Counties was issued to counties on April 15, 2019 for signature. As of September 11, 2019, ninety-seven (97) MOUs have been fully executed between DHHS and the counties. DHHS is in communication with the remaining three counties in hopes that we can work towards execution of the agreement.

Several counties returned the MOU and included a 'signing statement' or accompanying letter. As with the previous fiscal year, the general intent of these statements was to provide notice to DHHS of the impediments that counties forecasted at the outset of the MOU largely related to achieving the established performance measurements. The language contained within many of the signing statements signified an intent to attach or incorporate the document to the terms of the MOU. DHHS appreciates the candor in which the counties expressed their concerns and hopes to work collaboratively with all counties as we move forward with future agreements.

## **B. Oversight Actions Taken Pursuant to the Agreement**

At this time, there have been no corrective actions taken against any county pursuant to the agreement. However, the Department has continued to engage in existing program improvement and corrective action processes as it transitions into the new MOUs.

## **APPENDIX: MOU Template**

### **MEMORANDUM OF UNDERSTANDING (FISCAL YEAR 2019-20) BETWEEN THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES AND COUNTY**

#### **A Written Agreement Pursuant to N.C. Gen. Stat. § 108A-74, an Act of the North Carolina General Assembly**

This Memorandum of Understanding (“MOU”) is made by and between the North Carolina Department of Health and Human Services, (hereinafter referred to as the “Department”) and County a political subdivision of the State of North Carolina (hereinafter referred to as the “County”) to comply with the requirements of law, N.C. Gen. Stat. § 108A-74. The Department and the County may be referred to herein individually as a “Party” and collectively as the “Parties.”

### **TERMS OF UNDERSTANDING**

In consideration of the mutual promises and agreements contained herein, as well as other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree to this MOU, effective July 1, 2019, in compliance with the mandates of law enacted by the North Carolina General Assembly and in recognition of possible amendments by the General Assembly, the Parties further agree to conform to changes made to the law, notwithstanding a contractual term previously agreed upon.

#### **1.0 Parties to the MOU**

The only Parties to this MOU are the North Carolina Department of Health and Human Services and County, a political subdivision of the State of North Carolina.

#### **1.1 Relationships of the Parties**

Nothing contained herein shall in any way alter or change the relationship of the parties as defined under the laws of North Carolina. It is expressly understood and agreed that the enforcement of the terms and conditions of this MOU, and all rights of action relating to such enforcement, shall be strictly reserved to the Department and the County. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Department and County that any such person or entity, other than the Department or the County, receiving services or benefits under this MOU shall be deemed an incidental beneficiary only.

**Subcontracting:** The County shall be responsible for the performance of all of its subcontractors. The County shall disclose the names of its subcontractors to the Department within thirty (30) days of the execution thereof. The County shall also provide additional information concerning its subcontractors as may be requested by the Department within thirty (30) days of the request. The County additionally agrees not to enter into any confidentiality agreement or provision with a subcontractor or other agent to provide services related to this MOU that would prevent or frustrate

the disclosure of information to the Department. Subcontractors shall be defined under this MOU to mean any party the county enters into a contractual relationship with for the complete administration of one or more social services programs covered by this MOU. Temporary employees hired by the County shall not be considered subcontractors under this MOU.

**Assignment:** No assignment of the County's obligations or the County's right to receive any funding made in any way concerning the matters covered by this MOU hereunder shall be permitted.

## **2.0 Terms of the MOU**

The term of this MOU shall be for a period of one year beginning July 1, 2019 and ending June 30, 2020.

### **2.1 Default and Modification**

**Default:** In the event the County fails to satisfy the mandated performance requirements as set forth in **Attachment I** or fails to otherwise comply with the terms of this MOU, the Department may withhold State and/or federal funding. Any such withholding shall be in compliance with, and as allowed by, state and/or federal law.

**Performance Improvement/Corrective Action:** Prior to the Department exercising its authority to withhold State and/or federal funding for a failure to satisfy the mandated performance requirements set forth in **Attachment I** or failure to comply with the terms of this MOU, the steps set forth in **Attachment II** will govern. For this MOU covering Fiscal Year 2019-2020, the Department will not initiate any actions set forth in **Attachment II** for a county's performance related to the performance requirements set forth in **Attachment III**. Nothing contained in this MOU shall supersede or limit the Secretary's authority to take any action otherwise set forth in N.C. Gen. Stat. § 108A-74.

**Waiver of Default:** Waiver by the Department of any default or breach in compliance with the terms of this MOU by the County shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this MOU unless stated to be such in writing, signed by an authorized representative of the Department and the County and attached to the MOU.

**Force Majeure:** Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Modification:** The terms and conditions of this MOU may only be modified by written agreement of the Parties, signed by an authorized representative of the Parties.

### **3.0 MOU Documents**

The Recitals and the following attachments are incorporated herein by reference and are part of this MOU:

- (1) The portions hereof preceding the Terms of Understanding, including but not limited to the introductory paragraph and the Recitals, which are contractual as well as explanatory.
- (2) The Terms of Understanding
- (3) Attachment I – Mandated Performance Requirements:
  - a. I-A: Child Support
  - b. I-B: Energy
  - c. I-C: Work First
  - d. I-D: Food and Nutrition Services
- (4) Attachment II – Corrective Action
- (5) Attachment III – Performance Requirements:
  - a. III-A: Child Welfare – Child Protective Services
  - b. III-B: Foster Care
  - c. III-C: Work First
  - d. III-D: Adult Protective Services
  - e. III-E: Special Assistance
  - f. III-F: Child Care Subsidy

### **4.0 Entire MOU**

This MOU and any documents incorporated specifically by reference represent the entire agreement between the Parties and supersede all prior oral or written statements or agreements between the Parties.

### **5.0 Definitions**

While “County” is used as an abbreviation above, the following definitions, some of which are contained in N.C. Gen. Stat. § 108A-74(a), also apply to this MOU:

- (1) “County department of social services” also means the consolidated human services agency, whichever applies;
- (2) “County director of social services” also means the human services director, whichever applies; and
- (3) “County board of social services” also means the consolidated human services board, whichever applies.
- (4) “Child welfare services or program” means protective, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (5) “Social services programs” or “Social services programs other than medical assistance” means social services and public assistance programs established in Chapter



108A other than the medical assistance program (Part 6 of Article 2 of Chapter 108A). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Article 9 of Chapter 110 of the General Statutes, and the North Carolina Subsidized Child Care Program.

To the extent that any term used herein is defined by a statute or rule applicable to the subject matter of this MOU, the statutory or rule definition shall control. For all remaining terms, which are not defined by statute or rule, those terms shall have their ordinary meaning. Should any further definition be needed, the Parties agree that the meanings shall be those contained in the current version (as of the time the dispute or question arises) of Black's Law Dictionary, and if not defined therein, then of a published unabridged modern American English Language Dictionary published since the year 2000.

## **6.0 Audit Requirements**

The County shall furnish to the State Auditor, upon his/her request, all books, records, and other information that the State Auditor needs to fully account for the use and expenditure of state funds in accordance with N.C.G.S. § 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

## **7.0 Record Retention**

The County shall retain records at its own expense in accordance with applicable State and Federal laws, rules, and regulations. The County shall facilitate and monitor the compliance of its subcontractors with all applicable requirements of record retention and disposition.

In order to protect documents and public records that may be the subject of Department litigation, the Department shall notify the County of the need to place a litigation hold on those documents. The Department will also notify the County of the release of the litigation hold. If there is no litigation hold in place, the documents may be destroyed, disposed of, or otherwise purged through the biannual Records Retention and Disposition Memorandum from the Department's Controller's Office.

## **8.0 Liabilities and Legal Obligations**

Each party hereto agrees to be responsible for its own liabilities and that of its officers, employees, agents or representatives arising out of this MOU. Nothing contained herein is intended to alter or change the relationship of the parties as defined under the laws of the State of North Carolina.

## **9.0 Confidentiality**

Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Department or to the County under this MOU shall be kept confidential and not divulged or made available to any individual or

organization except as otherwise provided by law. The Parties shall comply with all applicable confidentiality laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative simplification rules codified at 45 Parts 160, 162, and 164, alcohol and drug abuse patient records laws codified at 42 U.S.C. §290dd-2 and 42 CFR Part 2, and the Health Information Technology for Economics and Clinical Health Act (HITECH Act) adopted as part of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

#### **10.0 Secretary's Authority Undiminished**

Certain functions delegated to the County pursuant to this MOU are the duty and responsibility of the Department as the grantee of federal grant funds. The Parties understand and agree that nothing in this MOU shall be construed to diminish, lessen, limit, share, or divide the authority of the Secretary of the Department to perform any of the duties assigned to the Department or its Secretary by the North Carolina General Statutes, the terms and conditions of the federal funds and their applicable laws and regulations or other federal laws and regulations regarding any federal funding which is used by the Department to reimburse the County for any of its duties under this MOU.

#### **11.0 MOU does not Diminish Other Legal Obligations**

Notwithstanding anything to the contrary contained herein and to facilitate the mandated performance requirements of N.C. Gen. Stat. § 108A-74, the Parties acknowledge and agree that this MOU is not intended to supersede or limit, and shall not supersede or limit, the County's obligations to comply with all applicable: 1) federal and state laws; 2) federal and state rules; and 3) policies, standards, and directions of the Department, as all such currently exist and may be amended, enacted, or established hereafter.

#### **12.0 Notice**

The persons named below shall be the persons to whom notices provided for in this MOU shall be given. Either Party may change the person to whom notice shall be given upon written notice to the other Party. Any notice required under this MOU will only be effective if actually delivered to the parties named below. Delivery by hand, by first class mail, or by email are authorized methods to send notices.

#### **For the Department of Health and Human Services, Division of Social Services**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Susan Osborne, Assistant Secretary NC DHHS 2401 Mail Service Center Raleigh, NC 27699-2401	Susan Osborne NC DHHS Doretha Dix Campus, McBryde Building Phone: 919-527-6338 E-mail: <a href="mailto:Susan.Osborne@dhhs.nc.gov">Susan.Osborne@dhhs.nc.gov</a>

## For County

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS

### 13.0 Responsibilities of the Department

The Department hereby agrees that its responsibilities under this MOU are as follows:

- (1) The Department shall develop performance requirements for each social services program based upon standardized metrics utilizing reliable data. The performance requirements are identified in Attachments I and II.
- (2) The Department shall provide supervision, program monitoring and technical assistance to the counties in the administration of social services programs.
- (3) The Department shall provide leadership and coordination for developing strategies that address system-level barriers to the effective delivery of social services programs, including but not limited to: the Administrative Office of Courts, the LME/MCO, Department of Public Instruction, and the Department of Public Safety.
- (4) The Department shall have the following administrative responsibilities:
  - a. Staff Training and Workforce Development:
    - i. Develop training requirements for county personnel and provide guidance for adequate staffing patterns related to the provision of social services programs. The Department will publish annually, a list of required and recommended trainings for county personnel directly involved in the administration of social services programs covered under this MOU.
    - ii. Develop training curricula and provide, timely, adequate access to statewide training opportunities for county personnel related to the provision of social services programs. Training opportunities may include in-person, self-guided, web-based and remotely facilitated programs.
    - iii. The Department will publish a training calendar, at least quarterly, notifying the counties of training opportunities.
    - iv. Provide timely written guidance related to new federal or state statutes or regulations. The Department will provide information in advance of the effective date of new policy to the extent possible, including interpretations and clarifications of existing policy.
    - v. Provide technical assistance and training in areas where quality control, monitoring or data indicates a lack of correct application of law, rule or policy.
  - b. Compliance Monitoring:
    - i. Monitor and evaluate county compliance with applicable federal and state laws, rules and policies.
    - ii. Provide feedback to counties with recommended changes when necessary.

- iii. Monitor that all financial resources related to the provision of social services programs covered by this MOU are utilized by the county in compliance with applicable federal and state laws.
- c. Data Submission:
  - i. Maintain and review data submitted by counties pursuant to the mandatory performance requirements.
  - ii. Provide counties with reliable data related to their performance requirements as well as accuracy and timeliness of programs in accordance with state and federal program guidelines. This includes but is not limited to processing applications and recertification, quality control standards, program statistics and fiscal information.
  - iii. The Department shall be responsible for the maintenance and functionality of its information systems utilized in the statewide administration of social services programs covered by this MOU.
- d. Communication:
  - i. Provide counties with clarification or explanation of law, rule or policy governing social services programs when necessary or as requested.
  - ii. Disseminate policy on social services programs and provide counties with timely information on any updates to policy.
  - iii. Provide timely information to counties on any changes to federal law or policy made known to the Department.
  - iv. Provide counties with a timely response to requests for technical assistance or guidance.
  - v. Maintain all policies covering social services programs in a central, accessible location. Policies will be updated, to the extent possible, in advance of the effective date of any new policies or policy changes.
  - vi. Provide counties with an opportunity to submit questions, concerns and feedback related to the administration of social services programs to the Department and provide County a timely response to such communication.
  - vii. Communicate proactively with the County Director of Social Services on matters that effect social services programs covered under this MOU.
  - viii. Communicate directly with the County Manager, Governing Boards, and the County Director of Social Services on matters including but not limited to, corrective action, and significant changes to law, rule and policy that impact the administration of social services programs covered by this MOU.
- e. Inter-agency Coordination:
  - i. Provide guidance to counties in the event they are unable to reach a resolution on a conflict of interest that arises related to the provision of social services programs covered by this MOU.
  - ii. Provide guidance for county DSS personnel on federal and state Emergency Management, mass shelter, Business Continuity Plan (BCP) and Continuity of Operations Plan (COOP) requirements.
  - iii. Coordinate with and communicate to county DSS agencies regarding available and required training opportunities associated with DSS Mass Shelter, BCP and COOP responsibilities.

- iv. Assist and support counties as needed in implementation of operational functions of mass shelter operations and as needed during other emergencies as they arise.
- (5) The Department shall timely meet all of its responsibilities contained in this MOU. “Timely” shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, and policy. Where timeliness is not otherwise defined, “timely” shall mean within a reasonable time under the circumstances.

#### **14.0 Responsibilities of the County**

The County hereby agrees that its responsibilities under this MOU are as follows:

- (1) The County shall adhere to the mandated performance requirements for each social services program as identified in Attachment I. For a County Performance Measure identified in Attachment III, the County will work towards achieving performance higher than the County’s performance in the previous fiscal year. The County will ultimately work towards achievement of the Standard Measure for all performance requirements set forth in Attachments I and III.
- (2) The County shall comply with the following administrative responsibilities
  - a. Staff Requirements and Workforce Development:
    - i. The personnel, including new hires and existing staff, involved in the County’s provision of social services programs covered by this MOU shall complete all required and necessary training, which is documented as required by federal and state law and policy.
  - b. Compliance:
    - i. Perform activities related to its social services programs in compliance with all applicable federal and State laws, rules, regulations and policies. Nothing contained herein is intended to, nor has the effect of superseding or replacing state law, rules or policy related to social services programs.
    - ii. Develop and implement internal controls over financial resources related to the County’s social services programs to ensure that all financial resources are used in compliance with applicable federal and state laws.
    - iii. Provide and adhere to corrective action plans as required based on monitoring findings and the Single Audit.
  - c. Data Submission:
    - i. Maintain accurate, thorough records of all social services programs covered by this MOU, in particular, records related to the mandated performance requirements that can be accessed for the purpose of data collection, service provision, monitoring or consultation
    - ii. Ensure reliable data entry into state systems utilized for the administration of social services programs covered under this MOU.
    - iii. Provide, upon request, data to the state for the purpose of, but not limited to, conducting monitoring, case file reviews, error analysis and quality control.
    - iv. Utilize data to understand the performance of their county and to conduct analysis and implement changes where needed if performance measures are not being met.

- d. Communication:
    - i. Respond and provide related action in a timely manner to all communications received from the Department.
    - ii. Provide timely information on all matters that have a potential negative impact on the social services programs they administer, including but not limited to, litigation risks (not including child welfare cases governed by Chapter 7B or adult services cases governed by Chapter 35A or 108A), network and computer issues, or data breaches.
    - iii. Provide timely information regarding temporary or permanent changes to the Social Services Governing Board. or the County Social Services Director, including retirements, separations, or any leave of absences greater than two calendar weeks.
  - e. Inter-agency Cooperation:
    - i. Ensure that county social services personnel complete required training and are prepared to engage in Disaster Management, mass shelter, BCP and COOP operations.
    - ii. Ensure that all plans and systems are in place to meet potential disaster (natural, technical, otherwise) response requirements.
    - iii. Engage with DHHS, state Emergency Management and local leadership in associated efforts.
    - iv. Assist or operate mass shelter operations or other required disaster management responsibilities.
- (3) The County shall timely meet all its responsibilities contained in this MOU. “Timely” shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, policy or as otherwise required by the Department. If timeliness is not otherwise defined, “timely” shall mean within a reasonable time under the circumstances.

## **15.0 Data Security and Reporting**

**Data Security:** The County shall adopt and apply data privacy and security requirements to comply with all applicable federal, state, department and local laws, regulations, and rules. To the extent that the Department and the county have already entered into one or more data privacy agreements covering all or any portion of the work to be performed under this MOU, the Parties hereby adopt and incorporate such agreements by reference into this MOU as if fully set forth herein.

**Duty to Report:** The County shall report all privacy and security incidents related to the provision of social services programs covered by the MOU to the Department and the Privacy and Security Office within twenty-four (24) hours after the privacy and security incident is first discovered, provided that the County shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the incident is first discovered. During the performance of this MOU, the County is to notify the Department of any contact by the federal Office for Civil Rights (OCR) received by the County related to the provision of social services programs covered by the MOU. In case of a privacy and security incident, the County, including any subcontractors or agents it retains, shall fully cooperate with the Department.

## 16.0 Miscellaneous

**Choice of Law:** The validity of this MOU and any of its terms or provisions, as well as the rights and duties of the parties to this MOU, are governed by the laws of North Carolina. The Parties, by signing this MOU, agree and submit, solely for matters concerning this MOU, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this MOU and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This MOU may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Department and the County. The Parties agree to obtain any necessary approvals, if any, for any amendment prior to such amendment becoming effective. Also, the Parties agree that legislative changes to state law shall amend this MOU by operation of law to the extent affected thereby.

**Effective Date:** This MOU shall become effective July 1, 2019 and shall continue in effect until June 30, 2020.

**Signature Warranty:** Each individual signing below warrants that he or she is duly authorized by the party to sign this MOU and to bind the party to the terms and conditions of this MOU.

### County

BY: \_\_\_\_\_  
Name

BY: \_\_\_\_\_  
Name

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

### North Carolina Department of Health and Human Services

BY: \_\_\_\_\_  
Secretary, Department of Health and Human Services

DATE: \_\_\_\_\_

## ATTACHMENT I

### MANDATED PERFORMANCE REQUIREMENTS

I-A: CHILD SUPPORT

I-B: ENERGY

I-C: WORK FIRST

I-D: FOOD AND NUTRITION SERVICES

The **Standard Measure** is the measure set forth in federal or state law, rule or policy that governs the particular program. This is the Measure that all counties are ultimately aiming to achieve.

The **County Performance Measure** is the measure that the County is required to achieve to be in compliance with this MOU. For some programs, the County's Performance Measure will be the same as the Standard Measure. For other programs, the County's Performance Measure may be greater or less than the Standard Measure, dependent upon previous year's performance.

The **Report of Performance** is the period of time in which a County's performance on a particular performance requirement is measured and reported.



**ATTACHMENT I-A**  
**MANDATED PERFORMANCE REQUIREMENTS:**  
**Child Support**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	80% of paternities established or acknowledged for children born out of wedlock.	The County will achieve its given annual percentage of paternities established for children born out of wedlock.	Paternity establishment is an essential component in obtaining and enforcing support orders for children.  42 USC § 652(g)(1)(A) 42 USC § 658a(b)(6)(A) NCGS 110- 129.1	Annual
2	80% of child support cases have a court order establishing support obligations.	The County will achieve its given annual percentage of child support cases that are under an order.	A court order creates a legal obligation for a noncustodial parent to provide financial support to their children.  42 USC § 652(g)(1)(A) 42 USC § 658a(b)(6)(B) NCGS 110- 129.1	Annual
3	80% of current child support paid.	The County will achieve its given annual percentage of current child support paid.	The current collections rate is an indicator for the regular and timely payment of child support obligations.  42 USC § 652(g)(1)(A) 42 USC § 658a(b)(6)(C) NCGS 110- 129.1	Annual
4	80% of cases received a payment towards arrears.	The County will achieve its given annual percentage of cases that received a payment towards arrears.	Collection of child support has been shown to reduce child poverty rates and improve child well-being.  42 USC § 652(g)(1)(A) 42 USC § 658a(b)(6)(D) NCGS 110- 129.1	Annual
5	The county will meet its annual goal of total child support collections.	The County will meet its annual goal of total child support collections.	Measuring total child support collections is an important measure of the program because it encompasses the strength of the laws, practices, and fiscal effort to determine its effectiveness.  42 USC § 652(g)(1)(A) 42 USC § 658a(b)(6)(E) NCGS 110-129.1	Annual

**ATTACHMENT I-B**  
**MANDATED PERFORMANCE REQUIREMENTS:**  
**Energy Programs**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will process 95% of Crisis Intervention Program (CIP) applications within one (1) business day for applicants with no heat or cooling source.	The County will process 95% of Crisis Intervention Program (CIP) applications within one (1) business day for applicants with no heat or cooling source.	Ensure that eligible individuals in a household without a heating or cooling source receive relief as soon as possible.  42 USC §§ 8621-8630 10A NCAC 71V	Monthly
2	The County will process 95% of Crisis Intervention Program (CIP) applications within two (2) business days of the application date for applicants who have a heat or cooling source.	The County will process 95% of Crisis Intervention Program (CIP) applications within two (2) business days of the application date for applicants who have a heat or cooling source.	Ensure that eligible households who are in danger of losing a heating or cooling source receive financial assistance to avert the crisis.  42 USC §§ 8621-8630 10A NCAC 71V	Monthly

**ATTACHMENT I-C**  
**MANDATED PERFORMANCE REQUIREMENTS:**  
**Work First**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will process 95% Work First applications within 45 days of receipt.	The County will process 95% Work First applications within 45 days of receipt.	Ensure that eligible families receive Work First benefits in a timely manner.  TANF State Plan FFY 2016 - 2019 NCGS 108A-31	Monthly
2	The County will process 95% Work First recertifications no later than the last day of the current recertification period.	The County will process 95% Work First recertifications no later than the last day of the current recertification period.	Ensure that Work First families continue to receive assistance and benefits without unnecessary interruption.  TANF State Plan FFY 2016 - 2019 NCGS 108A-31	Monthly

**ATTACHMENT I-D**  
**MANDATED PERFORMANCE REQUIREMENTS:**  
**Food and Nutrition Services**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will process 95% of expedited FNS applications within 4 calendar days from the date of application.	The County will process 95% of expedited FNS applications within 4 calendar days from the date of application.	Ensure all expedited FNS applications are processed within required timeframes.  7 CFR § 273.2 FNS Manual: Section 315 FNS Administrative Letter 1-2015	Monthly
2	The County will process 95% of regular FNS applications within 25 days from the date of application.	The County will process 95% of regular FNS applications within 25 days from the date of application.	Ensure all regular FNS applications are processed within required timeframes.  7 CFR § 273.2 FNS Manual: Section 315 FNS Administrative Letter 1-2015	Monthly
3	The County will ensure that 95% of FNS recertifications are processed on time, each month.	The County will ensure that 95% of FNS recertifications are processed on time, each month.	Ensure that eligible families have their recertification benefits processed in a timely manner without interruption.  7 CFR § 273.14	Monthly
4	The County will ensure that 90% of Program Integrity claims are established within 180 days of the date of discovery.	The County will ensure that 90% of Program Integrity claims are established within 180 days of the date of discovery.	Ensure allegations of fraud are addressed promptly.  7 CFR § 273.18	Monthly

## **ATTACHMENT II**

### **CORRECTIVE ACTION**

For this MOU covering Fiscal Year 2019-2020, the Department **will not** initiate any actions set forth in this Attachment related to a County's compliance with the performance requirements set forth in **Attachment III**.

#### **1. Non-Compliance with mandated performance requirements or terms of the MOU**

- a. In the event a County Department of Social Services (County DSS)\*\* fails to satisfy a mandated performance requirement set forth in **Attachment I** for three consecutive months or five months in a 12-month period, or for two consecutive 12-month periods for those requirements that are measured annually, or fails to otherwise comply with a term of this MOU, the Department will provide the County DSS with written notification identifying the relevant mandated performance requirement or term and how the County DSS failed to satisfy it.
- b. Upon receipt of notification, the County DSS shall promptly provide the Department with written acknowledgment of receipt.
- c. If the County DSS does not agree that it failed to satisfy the mandated performance requirement or comply with the terms of the MOU, it shall set forth, in writing, the basis for its disagreement. If the County DSS believes its failure to adhere to a mandated performance requirement or term of this MOU is due in whole or in part upon the failure of the Department to meet any of its responsibilities under this MOU or other external factors (i.e., limited court dates, continuances, etc.), the County DSS shall set forth in writing how the failure of the Department or external factors to meet its responsibility to the County DSS contributed to the inability of the County DSS to meet the mandated performance standard or other term of this MOU. This notice shall be received by the Department, along with all supporting documentation, within 10 business days of the County DSS' receipt of the Department's written notification of non-compliance.
- d. If written notice is received in accordance with subsection (c) of this section, the Department will provide the appropriate division director with the all documentation received. Following a review of all documentation, the division director will provide the county with a decision to proceed in developing a joint corrective action plan or to rescind the notice of non-compliance.

#### **2. Joint Corrective Action Plan**

- a. The County DSS and Department shall work together to develop a joint corrective action plan to address the non-compliance. The Parties will consider and address the County DSS's written disagreement with the identified non-compliance, if any, in the development of the joint plan.
- b. The joint corrective action plan shall include, at a minimum:
  - i. The role and responsibility of DHHS in providing support to the County DSS to address the non-compliance.

- ii. A detailed strategy with specific actions the County DSS will take to address the non-compliance and ensure ongoing compliance.
  - iii. A strategy to ensure regular supervisory oversight of the social services program at issue;
  - iv. A strategy to ensure program and case documentation is both sufficient and completed within time frames prescribed by law, rule or policy;
  - v. The performance requirements for the County that constitute successful completion of the corrective action plan;
  - vi. A plan for the continuous review of the corrective activities by both the County Director of Social Services, the County DSS Governing Board, and the Department.; and
  - vii. An acknowledgement that failure to successfully complete the corrective action plan shall result in temporary assumption of all or part of the County's administration of its social services programs.
- c. The duration of the joint corrective action plan shall not exceed 12-months. If the County demonstrates it is making progress under the joint corrective action plan, the Department may extend the duration of the plan for one additional period of 6 months.
  - d. The joint corrective action plan shall be signed by the Department and the County DSS Director. A copy of the joint corrective action plan will be sent to the Chair of the DSS Governing Board, the County Manager, and the Chair of the Board of County Commissioners.

### **3. Failure to Complete Corrective Action Plan/Urgent Circumstances**

- a. In the event a County DSS fails to complete the joint corrective action plan or otherwise fails to comply with the terms of the joint corrective action plan, the Department may exercise its authority under the law to assume all or part of the County's social services programs.
- b. In the event a County DSS fails to complete the corrective action plan or otherwise fails to comply with the terms of the corrective action plan, the Department may exercise its authority under the law, and this MOU, to withhold federal and/or state funding.
- c. In certain urgent circumstances, the Secretary may also exercise her statutory authority to assume control of service delivery in the County pursuant to N.C.G.S. 108A-74.

**\*\*** In the event the performance requirement or term of the MOU falls outside of the authority of the County DSS, the notification of non-compliance will be sent to the County, and all subsequent steps contained herein shall be followed by the County.

## ATTACHMENT III

### PERFORMANCE REQUIREMENTS:

III-A: CHILD WELFARE – CHILD PROTECTIVE SERVICES

III-B: CHILD WELFARE – FOSTER CARE

III-C: WORK FIRST

III-D: ADULT PROTECTIVE SERVICES

III-E: SPECIAL ASSISTANCE

III-F: CHILD CARE SUBSIDY

The **Standard Measure** is the measure set forth in federal or state law, rule or policy that governs the particular program. This is the Measure that all counties are ultimately aiming to achieve.

The **County Performance Measure** is the measure that the County is required to achieve to be in compliance with this MOU. For some programs, the County's Performance Measure will be the same as the Standard Measure. For other programs, the County's Performance Measure may be greater or less than the Standard Measure, dependent upon previous year's performance.

The **Report of Performance** is the period of time in which a County's performance on a particular performance requirement is measured and reported.

**The Performance Requirements contained in this Attachment are not subject to the corrective action process set forth in Attachment II.**

**ATTACHMENT III-A**  
**PERFORMANCE REQUIREMENTS:**  
**Child Welfare – Child Protective Services**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will initiate 95% of all screened-in reports within required time frames	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	<p>Ensure that allegations of abuse, neglect and dependency are initiated timely. The timeframes for initiating an investigation of child maltreatment are defined in state law as, immediately, within 24 hours, or within 72 hours depending on the nature and severity of the alleged maltreatment.</p> <p>NC General Statutes § 7B-302; 10A NCAC 70A .0105; NCDHHS Family Services Manual: Vol. 1, Chapter VIII: Child Protective Services, Section 1408 - Investigative &amp; Family Assessments</p>	Monthly
2	For all children who were victims of maltreatment during a twelve-month period, no more than 9.1% received a subsequent finding of maltreatment	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	<p>Ensure that children who have been substantiated as abused, neglected or dependent are protected from further harm.</p> <p>National Standards for State Performance on Statewide Data Indicators established by the Children's Bureau to determine conformity with Title IV-B and IV-E of the Social Security Act and the Child and Family Services Review.</p>	Monthly



**ATTACHMENT III-B**  
**PERFORMANCE REQUIREMENTS:**  
**Child Welfare - Foster Care**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will ensure that 95% of all foster youth have face-to-face visits by the social worker each month.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure the ongoing safety of children and the engagement and well-being of families.  Child and Family Services Improvement Act of 2006 (Public Law 109-288, section 7) amending Section 422(b) of the Social Security Act (42 USC 622(b))	Monthly
2	The County will provide leadership for ensuring that 40.5% of children who enter foster care in a 12-month period are discharged to permanency within 12 months of entering foster care.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure that children in out-of-home placements are able to obtain safe and permanent homes as soon as possible after removal from their home.  National Standards for State Performance on Statewide Data Indicators established by the Children's Bureau to determine conformity with Title IV-B and IV-E of the Social Security Act and the Child and Family Services Review.	Monthly
3	The County will provide leadership for ensuring that of children who enter foster care in a 12-month period who were discharged within 12 months to reunification, kinship care, or guardianship, no more than 8.3% re-enter foster care within 12 months of their discharge.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure that children existing foster care are in stable homes so that they do not re-enter foster care.  CFSR: Safety Outcome 1: Children are, first and foremost protected from abuse and neglect.  National Standards for State Performance on Statewide Data Indicators established by the Children's Bureau to determine conformity with Title IV-B and IV-E of the Social Security Act and the Child and Family Services Review.	Monthly
4	The County will provide leadership for ensuring that of all children who enter foster care in a 12-month period in the county, the	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure that children who are removed from their homes experience stability while they are in foster care.  CFSR: Permanency Outcome 1: Children have permanency and stability in their living situations.	

	rate of placement moves per 1000 days of foster care will not exceed 4.1%.		National Standards for State Performance on Statewide Data Indicators established by the Children's Bureau to determine conformity with Title IV-B and IV-E of the Social Security Act and the Child and Family Services Review.	Monthly
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**ATTACHMENT III-C**  
**PERFORMANCE REQUIREMENTS:**  
**Work First**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will collect documentation from 50% of all Work-Eligible individuals that demonstrates completion of the required number of hours of federally countable work activities.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure that all work-eligible individuals are engaged in federally countable work activities.  TANF State Plan FFY 2016 - 2019 NCGS 108A-27.2(10) NCGS 108A-27.6(1) NCGS 108A-27.13(a) NCGS 108A-27.14(a)-(b)	Monthly
2	The County will collect documentation from 90% of two-parent families with Work Eligible individuals that verifies that the they have completed the required number of hours of federally countable work activities.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Ensure all work-eligible two-parent families are engaged in federally countable work activities for the required number of participation hours.  TANF State Plan FFY 2016 - 2019 NCGS 108A-27.2(10) NCGS 108A-27.6(1) NCGS 108A-27.13(a) NCGS 108A-27.14(a)-(b)	Monthly

**ATTACHMENT III-D**  
**PERFORMANCE REQUIREMENTS:**  
**Adult Protective Services (APS)**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will complete 95% of APS evaluations involving allegations of abuse or neglect within 30 days of the report.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Responding quickly to allegations of adult maltreatment is essential to case decision-making to protect the adult. State law requires that a prompt and thorough evaluation is made of all reports of adult maltreatment.  NCGS 108A-103	Monthly
2	The County will complete 85% of APS evaluations involving allegations of exploitation within 45 days of the report.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	Protecting a disabled adult from exploitation is critical to ensuring their safety and well-being. State law requires a prompt and thorough evaluation is made of all reports of adult exploitation.  NCGS 108A-103	Monthly

**ATTACHMENT III-E  
PERFORMANCE REQUIREMENTS:  
Special Assistance (SA)**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will process 85% of Special Assistance for the Aged (SAA) applications within 45 calendar days of the application date.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	<p>Ensure eligible individuals receive supplemental payments to support stable living arrangements.</p> <p>Timely application processing of SAA benefits is essential to an individual's proper care and treatment.</p> <p>10A NCAC 71P .0604</p>	Monthly
2	The County will process 85% of Special Assistance for the Disabled (SAD) applications within 60 calendar days of the application date.	DHHS will work with the county to identify the County's performance measure for FY 20-21 based on the County's performance for the preceding state fiscal year	<p>Ensure eligible individuals receive supplemental payments to support stable living arrangements.</p> <p>Timely application processing of SAD benefits is essential to an individual's proper care and treatment.</p> <p>10A NCAC 71P .0604</p>	Monthly

**ATTACHMENT III-F**  
**PERFORMANCE REQUIREMENTS:**  
**Child Care Subsidy**

	<b>Standard Measure</b>	<b>County Performance Measure</b>	<b>Rationale and Authority</b>	<b>Report of Performance</b>
1	The County will process 95% of Child Care Subsidy applications within 30 calendar days of the application date.	The County will process 95% of Child Care Subsidy applications within 30 calendar days of the application date.	Ensure that families can place their children in quality child care without undue delay.  North Carolina Child Care Development Fund State Plan	Monthly