

Status of Implementing Legislation Regarding the Eastern Band of Cherokee Indians

Session Law 2015-241, Section 12C.10.(h)



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

By

**North Carolina
Department of Health and Human Services**

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Reporting Requirements

North Carolina Session Law (SL) 2014-100 and SL 2015-241 require the transfer of certain services to the Eastern Band of Cherokee Indians (EBCI), and modifications and enhancements to the Medicaid, NC Health Choice and Supplemental Nutrition Assistance Program (SNAP) programs to accomplish the identified goals. SL 2015-241 establishes the quarterly reporting requirement on the status of implementation of Section 12C to begin October 1, 2015, and end when implementation is complete. The NC Department of Health and Human Services (DHHS or Department) in collaboration with the EBCI Public Health and Human Services (PHHS) provides the following report in accordance with SL 2014-100 as amended by SL 2015-241.

Background

An estimated 15,500 North Carolinians are members of the EBCI Tribal trust lands in Cherokee, Graham, Haywood, Jackson, and Swain counties (hereafter referred to as Counties). EBCI is a federally recognized Indian tribe under federal law and is asserting its inherent sovereign authority to assume responsibility for certain human services by April 1, 2017.

SL 2014-100, Section 12C.3, and SL 2015-241, Section 12C.10 initially authorized the EBCI Tribe to assume responsibility for certain social services including Medicaid, NC Health Choice and SNAP public assistance programs, and ancillary services, including Medicaid administrative and service related functions and related reimbursements no later than October 1, 2016. Pursuant to SL 2016-94, Section 12C.2(a), the General Assembly extended the date when EBCI shall assume the above stated functions to be no later than April 1, 2017.

Implementation Update for Child Protective Services, Foster Care, Adoption, Adult Protective Services, Guardianship, Low Income Energy Assistance and Crisis Intervention

The complexity of child and adult protective services, adoption, foster care and guardianship cases, along with the involvement of multiple systems has led to a slower than expected transfer of existing cases to EBCI from the Counties; however, identifying solutions to mitigate the challenges continues. During the last legislative session, SL 2016-72, Enact Uniform Law on Adult Guardianship, was ratified. This law provides additional guidance to the courts by defining the Tribe as a state as described in the amended North Carolina General Statute (GS) 35B-2(18) "*State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.*" By stating such, other general statutes will guide the courts regarding the steps to transfer cases.

Transition meetings continued throughout the quarter (July-October 2016) among the PHHS, the County Departments of Social Services (DSS), and the DHHS Office of the Secretary, Division of Medicaid Assistance (DMA), Division of Aging and Adult Services (DAAS), and Division of Social Services (DSS) targeting the transition of the child and adult protective services and guardianship cases remaining in the Counties and the management of new referrals.

Efforts in the upcoming state fiscal year (SFY) will focus on establishing policies, procedures and transition activities for determining Medicaid, NC Health Choice, SNAP and Non-Emergency Medical Transportation (NEMT) eligibility cases.

EBCI and DHHS completed an agreement outlining the transfer of funding as required by SL 2015-241. Funds were successfully transferred and procedures established for quarterly reporting and transferring funds in SFY 2016-2017. EBCI has utilized over seven (7) million dollars of Tribal funds to support the transition activities and the assumption of human services historically provided by the Counties. Additional Tribal resources and staffing are included in the proposed federal fiscal year (FFY) 2016-2017 Tribal Budget to complete the eligibility determination activities and further refine the child and adult service functions.

Implementation Update for NC Medicaid, NC Health Choice and SNAP

Due to funding constraints at DHHS for both personnel and Information Technology (IT) support, it will not be possible to implement EBCI administration of these programs by October 1, 2016. Therefore, DHHS and EBCI jointly submitted proposed modifying the implementation date to April 1, 2017. This modification was enacted under SL 2016-94, Section 12C.2(a).

EBCI developed a detailed work plan for Eligibility Administration and began the hiring process to on board qualified staff so that training can begin January 2017. In anticipation of the April 2017 turn over, EBCI will continue building the required infrastructure, workflows and policies for its case workers. EBCI is working closely with DHHS to finalize the DMA and DSS training work plan to ensure staff have the needed resources to responsibly assume administration of these programs.

Executive leadership from DHHS and the Tribe continue to collaborate on the project and to negotiate funding streams that will ensure a successful transfer of services from the county DSS offices to EBCI. The upcoming quarter will focus on Medicaid, SNAP and NEMT eligibility policy and procedure development and training. DMA and DSS will work with EBCI during the quarter to define these policies. EBCI will continue to host meetings with county DSS staff to work through transition challenges. DMA efforts continue with regard to the Social Security Administration (SSA) and Internal Revenue Service (IRS) regarding EBCI use of SSA/IRS data.

Last quarter the DHHS Project Management Office (PMO) completed the evaluation of system impacts to NC Families Accessing Services through Technology (NC FAST) and to all legacy systems. During the upcoming quarter, the project will concentrate on refining the existing project plan, completing the analysis of impacts on reporting for all systems, bringing the project tracking into alignment with the current efforts as per Department of Information Technologies (DIT) requirements, refining training plans and planning end-to-end testing.

NC FAST completed its first and second software releases for the EBCI project in July and August respectively. The first release addressed local printable forms, changes to communications between applications and changes to workflows. The second release contained changes to all central printable forms in the system. They are on schedule to complete the remaining three releases throughout the last quarter of 2016. The third release of NC FAST will contain more changes to the printable forms, changes to user interfaces and system workflows. Release three will be delivered October 2016. Release four is expected to be delivered November 2016 and contain system work queues as well as interface changes. The fifth release is expected to rigorously test all previous changes and make any last minute adjustments. Release five is expected to be delivered December 2016.

NCTracks completed its first software release for the EBCI project on August 1, 2016. This first update prepares NCTracks for its other releases by implementing the capture and storage of the American Indian/Alaska Native (AI/AN) indicator and Tribal code. The second release, to be implemented October 2016, will consist of the functionality to accept, validate, store and display the residential county code. It will also expand the Administrative County file to allow three digits for the EBCI county 200 code. The third and final release of NCTracks will address processing of the county 200 code and update the claims and finance processing systems for required changes.

During this quarter the legacy systems completed the analysis of seven applications impacted by the EBCI change. Technical design plans have been completed for five of the applications. Most of these applications are expected to complete system changes by the end of the next quarter. The application that processes overpayments and claims (EPICS) and the application that facilitates child support services (ACTS) may require more effort than the other legacy applications during the coming quarter. As each application completes its technical plan and design, it will make its required changes.

The Department remains fully committed to assisting EBCI to ensure a smooth transition of Medicaid and SNAP services from the applicable county DSS offices to the Tribe.

Additional Initiatives

Substantial collaboration between DHHS and EBCI continues regarding the 1115 Medicaid Waiver submitted on June 1, 2016, to the Centers for Medicare & Medicaid Services (CMS). The Tribe is monitoring the public comments submitted to CMS and plans to assist DHHS in answering questions about the 1115 Waiver impacting Native Americans. EBCI participates in the DHHS Dual Eligibles Advisory Committee and continues to prepare for the Tribal Managed Care Organization (MCO) as described in the 1115 Waiver application. In the upcoming quarter, DHHS, the PHHS and Cherokee Indian Hospital plan to conduct work sessions to include discussions about mechanisms for addressing identified health disparities for the Cherokee, and approaches for the Tribe to assist the region in access to quality healthcare.

DHHS and EBCI have taken steps to implement the policy changes that went into effect based upon the February 26, 2016, CMS State Health Official letter (SHO) #16-002 rule change in payment policy affecting federal funding for services received by AI/AN Medicaid-eligible individuals through facilities of Indian Health Service (IHS) or referred to non-Tribal providers at a rate of 100 percent Federal Medical Assistance Percentage (FMAP). The programmatic and administrative changes required by EBCI are underway.

Cherokee Indian Hospital Behavioral Health and Recovery Services continue to move forward with the planning and construction of the Substance Use Treatment facility and the renovation of two Recovery facilities, which are scheduled to open fall 2016 and winter 2017. Ground breaking ceremonies for the Snowbird Facility occurred on June 13, 2016. As conveyed in the previous report, the EBCI Tribal Council passed a resolution to develop a pro forma to convert the old Cherokee Indian Hospital facility to a psychiatric inpatient and detox facility. The preliminary report was presented to Tribal Council in July, and initial approval was granted to continue the planning for a Tribal work session to be held in early fall. The facility would serve as a regional resource for western North Carolina. Preliminary contractual discussions are underway with Smoky Mountain LME/MCO for joint utilization.

The Single State Agency State Plan Amendment (SPA) will be submitted in its official form to CMS as we work toward meeting the April 1, 2017 timeframe. Both DHHS and EBCI benefit from the well-timed and expeditious pursuit of approval for Medicaid and NC Health Choice eligibility determination, SPAs, and other waivers. Collaboration continues between DHHS and EBCI to expand the participation of Tribal providers in the Medicaid program.

Attachment A: Timeline of Implementation Phases

Attachment B: EBCI Project Timeline



DHHS EBCI Medicaid-SNAP Project

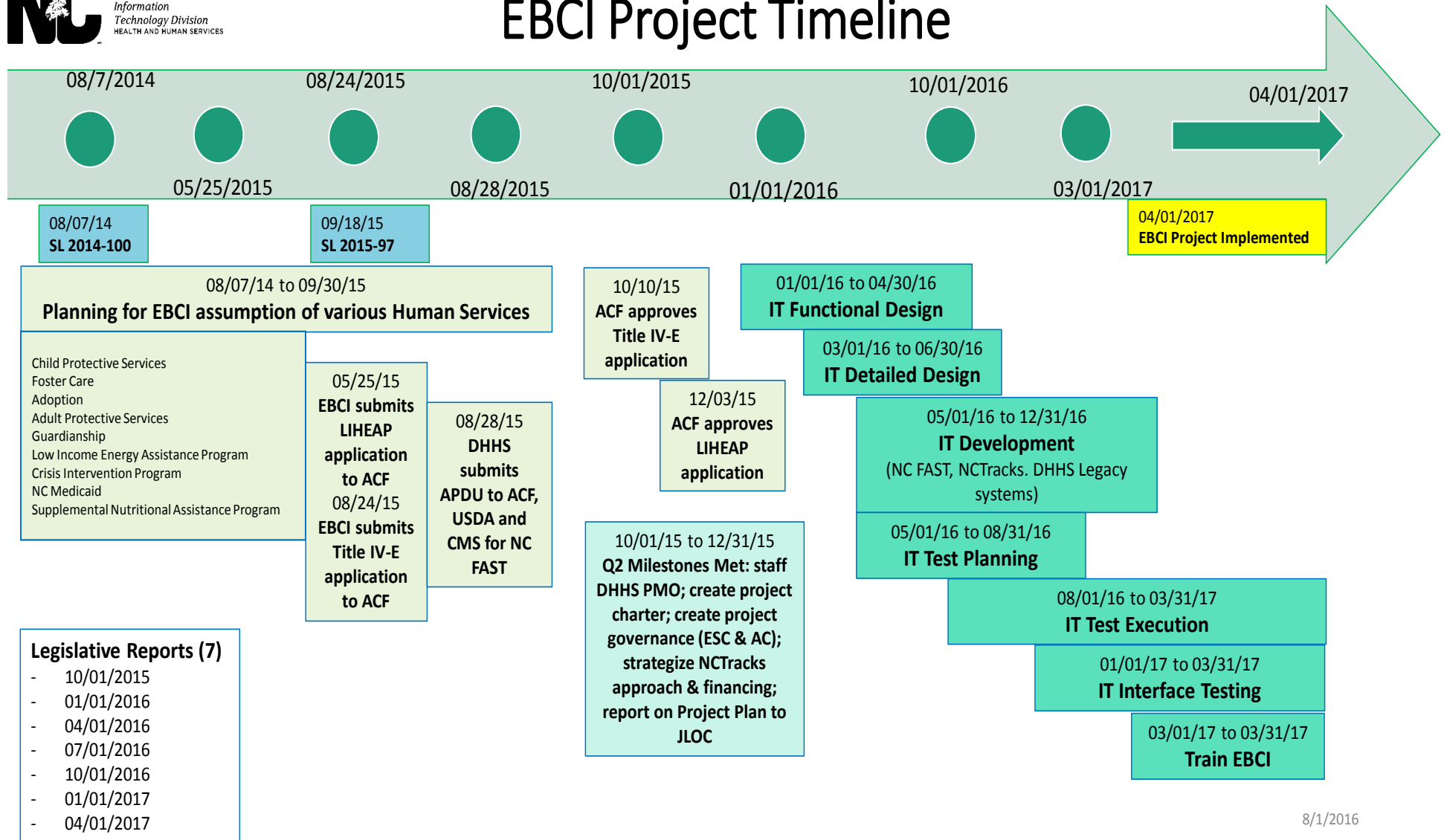
Timeline of Project Implementation

Jan '16 Month 1	Feb '16 Month 2	Mar '16 Month 3	Apr '16 Month 4	May '16 Month 5	Jun '16 Month 6	Jul '16 Month 7	Aug '16 Month 8	Sep '16 Month 9	Oct '16 Month 10	Nov '16 Month 11	Dec '16 Month 12	Jan '17 Month 13	Feb '17 Month 14	Mar '17 Month 15
IT Functional Design														
		IT Detailed Design												
				IT Development										
				IT Test Planning										
							IT Test Execution							
												IT Interface Testing		
														Training

Assumptions:

- All approvals (SSA, CMS, USDA, IRS and NC Agency agreements) and funding are in place prior to start;
- NC FAST is the driving force for design and implementation and requires 15 months from the start date;
- Timeline based on requirements identified and documented by business analysts assigned to this effort;
- Interface testing with all systems can be conducted in the remaining 3 months based on each downstream application timeline (schedule contingency +3 months);
- Estimates provided based on DHHS IT staff only; additional effort required by business staff to support efforts not shown;
- EBCI will use NC FAST to administer SNAP and the NC Food and Nutrition Services programs, and for Medicaid and NC Health Choice program eligibility determination;
- SNAP and Medicaid (includes Health Choice) are the only programs in scope at this time for EBCI;
- Maximus application listed is a county vendor supported system (interface for electronic reimbursement process) and is out of scope in this schedule analysis; EBCI needs to determine solution for reporting to the state;
- Both CMS and USDA will approve the EBCI data sharing request;
- Project close-out phase unknown and not indicated (schedule contingency +3 months);
- NCTracks requires system modifications to allow for the proper administration of the Medicaid/NC Health Choice programs; other DHHS system changes are also required to accommodate the exchange of new EBCI data.

EBCI Project Timeline



8/1/2016