



North Carolina Department of Health and Human Services
Division of Social Services

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Wayne E. Black
Division Director

SENT VIA ELECTRONIC MAIL

December 18, 2014

The Honorable Philip Berger,
President Pro Tempore
North Carolina Senate
2008 Legislative Building
Raleigh, NC 27601

The Honorable Thom Tillis,
Speaker
North Carolina House of Representatives
2304 Legislative Building
Raleigh, NC 27601

Ms. Sarah Lang
Senate Principal Clerk
16 West Jones Street
Raleigh, NC 27601

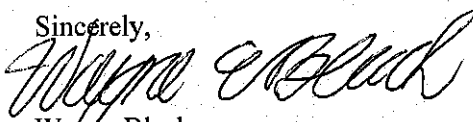
Ms. Denise Weeks
House Principal Clerk
16 West Jones Street
Raleigh, NC 27601

President Pro Tempore Berger, Speaker Tillis, Ms. Lang, and Ms. Weeks:

Pursuant to Section 66(b) of Session Law 2014-115, the Department of Health and Human Services is required to report no later than the first of each calendar quarter until December 2015, on the implementation of section 4 of SL 2013-417. This reads as Drug screening and testing for Work First Program applicants and recipients. This report provides a detailed timeline for implementation of part II Section 4 of G.S. 108A-29.1.

As stewards of public funds, the Department of Health and Human Services is committed to promoting and ensuring the program integrity of the FNS and Work First programs, which is consistent with Session Law 2013-417 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 (PRWORA).

Sincerely,



Wayne Black

cc:

Sherry Bradsher
Wayne Black
Susan Jacobs
Teresa Matula
Deborah Landry
Joyce Jones
Pam Kilpatrick
Brandon Greife

Pat Porter
Sarah Riser
Rod Davis
reports@ncleg.net
Legislative Library (2 hard copies)

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Mailing Address: 2401 Mail Service Center • Raleigh, NC 27699-2401

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The Honorable Justin Burr, Co-Chair
Joint Legislative Committee on
Health and Human Services
North Carolina General Assembly
Room 307A, Legislative Office Building
Raleigh, North Carolina 27603-5925

The Honorable Mark Hollo, Co-Chair
Joint Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 693, Legislative Office Building
Raleigh, North Carolina 27603-5925

The Honorable Ralph Hise, Co-Chair
Joint Legislative Committee on
Health and Human Services
North Carolina General Assembly
Room 1028, Legislative Building
Raleigh, North Carolina 27603

Pursuant to Section 66(b) of Session Law 2014-115, House bill 392, Part II, the Department of Health and Human Services is required to report no later than the first of each calendar quarter until December 2015, on the implementation of section 4 of SL 2013-417. This reads as Drug screening and testing for Work First Program applicants and recipients. This report provides a detailed timeline for implementation of part II Section 4 of G.S. 108A-29.1.

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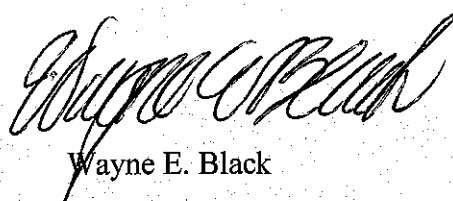
December 18, 2014

Mr. Mark Trogon, Director
Fiscal Research Division
North Carolinas General Assembly
Room 619, Legislative Office Building
Raleigh, NC 27063-5925

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**Quarterly Legislative Report
Fourth Quarter 2014
Implementation of House Bill 392**

Session Law 2014-115 made changes to Session Law 2013-417 to require the Department of Health and Human Services (DHHS) to report no later than quarterly beginning April 1, 2014 and ending December 1, 2015 on the implementation of House Bill 392. HB 392, Part II, Section 4 (a) shall require a drug test to screen each applicant for or recipient of Work First Program assistance whom the Department reasonably suspects is engaged in the illegal use of controlled substances. This report provides a summary of the implementation efforts to date by the Department.

North Carolina's Temporary Assistance for Needy Families (TANF) program, known as Work First, promotes a strengths-based, family-centered practice. In accordance with federal law, TANF funds must meet one of four purposes. The four purposes under TANF are:

1. Assist needy families so that children may be cared for in their own homes or in the homes of relatives
2. End dependence of needy parents by promoting job preparation, work, and/or marriage
3. Prevent or reduce the incidence of out-of-wedlock pregnancies
4. Encourage the formation and maintenance of two-parent families

The Work First program is based on the premise that parents have a responsibility to support themselves and their children. The program provides parents with short-term training, cash assistance and other services to help them become employed and move toward self-sufficiency. Biological, adoptive parents and stepparents may apply for assistance for a child and must be included in the payment for the family, unless they are disqualified from the program. Non parent caretakers can receive services and support which may prevent children from entering the foster care system unnecessarily. Families where grandparents and relatives are caring for their relative children and legal guardians may apply for assistance on the child's behalf, but are not included in the cash assistance payment. These cases are termed "Child Only" cases. Work First cash assistance is provided primarily for children. For State Fiscal Year (SFY) 2013-2014 there was a monthly average of 19,212 Work First cases, of those 69% were Child Only cases.

An estimated 6263 parents were included on the monthly Work First cash assistance payment for SFY 2013-2014. These parents are required to comply with the current Work First Substance Abuse Initiative. If an applicant or recipient fails or refuses to be screened they are ineligible for cash assistance. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) provides an annual report on the number of Work First referrals (applicants and recipients) via the Work First Substance Abuse Initiative. During the reporting period, 1693 or 27% of the total parents included in the Work First cash assistance payment were referred to Local Management Entities/Managed Care Organizations for further assessment. Of the 27% referred, 329 of those individuals received substance abuse treatment.

An early challenge to implementation was the lack of definitive guidance from the Administration for Children and Families (ACF), the federal governing agency for TANF, regarding the use of TANF funds for drug testing. As a result, the Department was unsure of the funding source to support initial implementation and ongoing drug testing since HB 392 did not provide funding.

This created questions and delays concerning which substances to test for and other administrative/procedural decisions that affect final cost.

In March of 2014, The Department completed an Expansion Request for funds to support implementation and the ongoing cost of HB 392. In July 2014, Senate Bill 144/Session Law 2014-100 provided a total of \$344, 288 for implementation of Part II of Session Law 2013-417. Of these funds, \$125,750 will be used for system enhancements to support the eligibility determination process and reporting requirements. The remaining allocation of \$218,538 will be used for the costs related to the actual testing for the presence of the identified substances.

The Department presented Administrative Rules to the Social Services Commission in June 2014. Once funding was approved and a specific amount identified, the Department was able to refine the substances for testing based upon cost estimates. The Rules were revised to reflect the changed information and the Rule text was approved on August 13, 2014 by the Social Services Commission.

Proposed Temporary Rule, 10A NCAC 71W.0905 was published to the Office of Administrative Hearings (OAH) website on August 29, 2014. The public hearing was held on September 5, 2014 at the Division of Social Services. The public comment period ended on September 22, 2014. The Social Services Commission adopted the Rule at its October 10, 2014 meeting. The Rules Review Commission (RRC) adopted the Temporary Rule on October 16, 2014. The Temporary Rule was published to the North Carolina Register with an effective date of November 1, 2014.

Comments were received from Legal Services of the Southern Piedmont and the American Civil Liberties Union during the public comment period for the Temporary Rule. In addition, members of the Rules Review Commission cited areas of concern. As a result, the Department met with DHHS legal staff, Department of Justice staff and Counsel to the Rules Review Commission for further clarification and guidance in the development of the text for the proposed Permanent Rule. The proposed Rule is in development and is on the agenda for the December 17, 2014 Social Services Commission meeting.

A Request for Proposal (RFP) to identify the Vendor who will provide drug testing services to the 100 county departments of social services will be issued in December 2014. The Department's work plan supports the simultaneous development of written policy, training modules and other administrative/procedural tasks during the course of the Rule Making and RFP process.

Attached is an updated project schedule for implementation of HB 392, Part II, Section 4 (a). The schedule is subject to change based on the statutorily defined timelines for the Rule Making and Request for Proposal/ Contract Award processes.

DHHS Division of Social Services
SL 2013-417 (HB392) Implementation Timeline

Total Work First Policy Staff – 2.0 positions

January 2013 – November 2013

- Staff co-located and assigned to NC FAST (project development/ process review and state wide training and travel)
- Presentations for the NCGA on HB 392 and SB 594
- Attending NCGA Subcommittee Meetings

August 2013

- HB 392 vetoed by Governor; Executive Order Issued

September 2013

- HB 392 enacted (Session Law 2013-417)

December 2013

- HB 392 Meetings with Executive Management
- Policy Staff meeting to outline Rule requirements and next steps
- Drafted text for Proposed Temporary Rule

Total Work First Policy Staff – 1.5 positions

January 2014

- Submitted Proposed Temporary Rule to Department for review

February 2014

- Completed cost projection for implementation
- Ongoing consultation with Administration for Children and Families regarding the use of TANF funds for drug testing

Total WF Policy Staff – 1.0 position

March 2014

- Met with DMH/DD/SAS
- Completed Expansion Request for funding of HB 392
- Completed Fiscal Summary and Expansion Request Narrative for HB 392 and SB 594

April 2014

- Submitted Legislative Report to Department for HB 392 PT. 1
- Submitted Legislative Report to Department for HB 392 PT. 2
- Developed Mailing List for HB 392 PT. 1
- Completed mass mailing to Statewide Law Enforcement Agencies regarding HB 392 PT.1

June 2014

- Submitted Proposed Temporary Rule text to Social Services Commission
- Published Dear County Director Letter to local dss regarding HB 392 Pt. 1

July 2014

- Revision of Proposed Temporary Rule after discussion with Department
- SL 2014-100 (SB 144) appropriated funds for implementation of HB 392 Pt. 2

August 2014

- Resubmission of Proposed Temporary Rule to Social Services Commission
- Social Services Commission approved Proposed Temporary Rule
- SL 2014-1215 extended adoption date for permanent rules
- Proposed Temporary Rule submitted to Office of Administrative Hearings
- Preparation for Public Hearing

September 2014

- Public Hearing for Proposed Temporary Rule
- 60-day Comment period for Proposed Temporary Rule

October 2014

- Proposed Temporary Rule adopted by Social Services Commission
- Completed technical changes to Adopted Rule
- Presented Temporary Rule to Rules Review Commission
- Adoption of Temporary Rule by Rules Review Commission
- Submitted Quarterly Legislative Report to Department for HB 392 Pt. 2
- Met with staff from the offices of Senator Berger and Representative Tillis regarding implementation and its challenges

Total Work First Policy Staff – 2.0 positions (vacant position filled)**November 2014**

- Temporary Rule Published in NC Register
- DSS/DHHS Internal Meeting
- Completed draft of system requirements for NCFAS
- Partner Meeting (DSS and DMH/DD/SAS)
- Executive Management meeting (DHHS staff, Legal Office, DSS, DMH/DD/SAS and DOJ)
- Meeting with Secretary Wos and Staff
- Drafting of RFP
- Began draft of proposed text for Permanent Rule

December 2014

- Internal Management Meeting
- Meeting with the Director's Association
- Regional Directors Conference Calls
- Completed process instructions for implementation for local dss
- Completed draft Recipient Notice
- Confirmed System Requirements and timeline with NCFAS
- Bi-Weekly Update Meetings on Drug Testing Implementation
- Submit Quarterly Legislative Report to Department for HB 392 Pt. 2
- Drafting of Substance Abuse and Drug Screening Notice
- Met with Rules Review Commission staff
- Revise and finalize draft of proposed text for Permanent Rules
- Permanent Rule overview at Social Services Commission Meeting
- Internal review of draft RFP
- Issue RFP

- Submit proposed text for Permanent Rule to Social Services Commission
- Begin development of MOU between DSS and DMH/DD/SAS

January 2015

- Submit Fiscal Note for review and approval
- Submit Notice of Text to Office of Administrative Hearings for publication
- Detailed Policy Development for local dss
- Consultation with DMH/DD/SAS on MOU, Policy, Training Module

February 2015

- Complete FAQ for Substance Abuse Screening and Drug Testing
- Finalize MOU
- Notify local dss of MOU and forthcoming policy
- Review RFP proposals and Select Vendor

March 2015

- Public Hearing on Proposed Permanent Rule*
- Submit Policy to Policy Governance Board*
- Finalize Permanent Rule text – revisions incorporated, based on public comments*
- Special meeting of Social Services Commission for adoption of Permanent Rules*
- Adopted Rules submitted to Rules Review Commission*
- Presentation of Rules to Rules Review Commission*
- Adoption of Rules by Rules Review Commission*
- Develop Train the Trainer module and Webinar with DMH/DD/SAS and NC FAST for HB 392 (rules and policy)*
- Quarterly Legislative Report to Department for HB 392 Pt. 2

April 2015

- Public Comment Period Ends (60 days from publication by OAH)*
- Contract Award*
- Train the Trainer Sessions for State Staff (DSS, DMH/DD/SAS and NC FAST Operational Support Team) *
- Publish Substance Abuse and Drug Testing Policy to local dss*
- Verify sanctions and payee date for case certification
- Proposed Permanent Rule to Rules Review Commission

May 2015

- Training of local dss staff (live sessions and webinars)*

June 2015

- Full Implementation of HB 392* (If the RRC receives 10 letters requesting legislative review of the RRC approved rules the effective date of the permanent rules is delayed to no earlier than May 2016)

***Subject to change based on comments and/or objections received during the public comment period and RRC review and the RFP/ Contract execution procedures.**