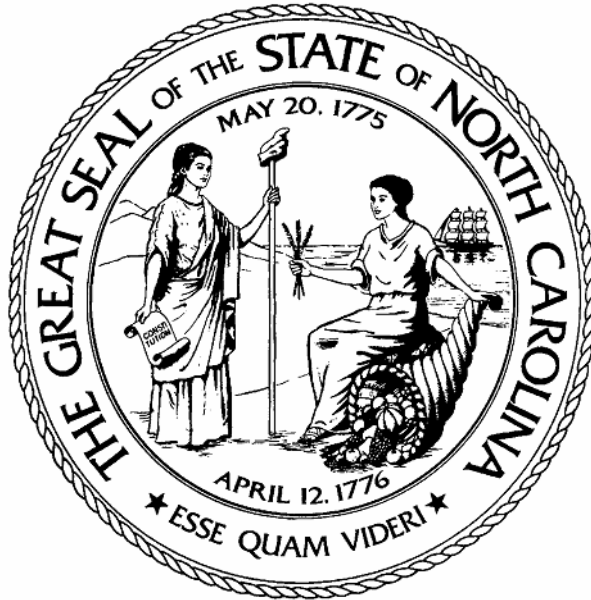


WORK FIRST PROGRAM

SESSION LAW 2013- 417 Part II

LEGISLATIVE REPORT



**DEPARTMENT OF HEALTH AND HUMAN SERVICES,
DIVISION OF SOCIAL SERVICES**

April 1, 2015

**Department of Health and Human Services
Division of Social Services
Work First Program
Quarterly Legislative Report, First Quarter 2015
Implementation of Session Law 2013-417 Part II**

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 cash assistance and other services to help them become employed and move toward self-sufficiency. Biological parents, 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, other relatives and legal guardians are caring for children 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 20,532 Work First cases, of those it is estimated that 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 by submitting to a substance use screening. If an adult applicant or recipient fails or refuses to be screened for substance use the household is 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 substance use referrals for Work First applicants and recipients. During SFY 2013-2014, 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 substance use assessment. Of those referred, 329 individuals received substance use treatment. More recent data for the period beginning July 1, 2014-January 31, 2015 shows that 661 parents were referred for further substance use assessment. Of that number, 191 parents or 29% received substance use treatment.

An early challenge to implementation of HB 392 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 regarding which substances to test for, as that decision impacts final cost; and therefore a delay in this step on the schedule toward full implementation.

In March of 2014, The Department completed an Expansion Request for funds to support implementation and the ongoing costs. In July 2014, Senate Bill 744/Session Law 2014-100 provided a total of \$344, 288 for implementation. Of the funds, \$125,750 was designated for system enhancements to support the eligibility determination process and reporting requirements. The remaining allocation of \$218,538 is for the costs related to the actual administration of the drug test.

The Department presented Temporary Administrative Rules to the Social Services Commission (SSC) in June 2014. Once funding was appropriated by the General Assembly, the Department was able to refine the list of substances based on estimated cost. The text for the Temporary Rule was revised to reflect the changed information. The Temporary 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 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 Rules.

On January 15, 2015, the proposed text for the Permanent Rules was approved by the Social Services Commission. The Fiscal Note and proposed Permanent Rules were reviewed by the Office of State Budget and Management (OSBM). OSBM approved and posted the Fiscal Note. The Drug Testing Rules, 10A NCAC 73A .0100 to 10A NCAC 73A .0108, are posted on the Office of Administrative Hearings (OAH) website. The 60 day public comment ends on April 17, 2015 with the public hearing scheduled for April 15, 2015. The program will review any public comments and make changes, if necessary, prior to submission to the Social Services Commission for final adoption. The Rules will be presented before the Rules Review Commission for approval. The expected effective date for the Permanent Rules is June 1, 2015. This effective date may be impacted by the content and volume of public comments and decisions made by the approving agencies.

The Request for Proposal (RFP) to identify the Vendor who will provide drug testing services to the 100 county departments of social services was submitted to Division of Information and Resource Management (DIRM), DHHS Office of Procurement and Contract Services and NC Department of Justice Attorney General staff for review. Due to the internal processes of the

various agencies and the complexities of the RFP there were numerous information exchanges resulting in multiple revisions. This impacted the RFP publication date which was noted in previous Legislative Reports. The RFP was published on the Interactive Purchasing System on February 27, 2015. The RFP will close on March 31, 2015. The Evaluation Committee will meet to evaluate the submitted proposals and recommend a Vendor to the DHHS Office of Procurement and Contract Services. The projected date for the execution of the contract with the selected Vendor is June 2015.

The Department is engaged in a multi-layer strategic plan to meet the identified benchmarks. The work plan continues to support the simultaneous development of written policy, training modules and other administrative/procedural tasks during the course of the Rule Making and RFP process.

Attachment A provides a detailed chronological listing of the completed tasks and activities along with projections for the outstanding tasks needed for full implementation. Attachment B provides a visual overview of the project timeline. The timeline is subject to change based on the statutorily defined process for Administrative Rules and the Request for Proposal/ Contract Award processes.

Timeline for Implementation of Session Law 2013-417

Total Work First Program Policy Staff – 2.0 staff positions

January 2013 – November 2013

- Staff co-located and assigned to NC FAST (project development/ process review and state wide training)
- Presentations before 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 Program Policy Staff – 1.5 staff positions (staff re-assigned)

January 2014

- Submitted Proposed Temporary Rules to Department for review

February 2014

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

Total Work First Program Policy Staff – 1.0 staff position (1.0 vacant position)

March 2014

- Met with Division of Mental Health/Developmental Disabilities/Substance Abuse Services (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 of Statewide Law Enforcement Agencies for HB 392 PT. 1

May 2014

- Completed mass mailing to Law Enforcement Agencies and the Governing Body for the Eastern Band of Cherokee regarding HB 392 Pt.1
- Work First and DMH/DD/SAS Substance Abuse Initiative Meeting
- Submitted revised draft of Proposed Temporary Rule Text for review

June 2014

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

July 2014

- Revision of Proposed Temporary Rule text 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 text to SSC
- Proposed Temporary Rule Text approved by SSC
- SL 2014-1215 extended adoption date for Administrative Rules
- Proposed Temporary Rule submitted to Office of Administrative Hearings (OAH)
- Preparation for Public Hearing

September 2014

- Public Hearing Held for Proposed Temporary Rule
- 60-day Public Comment Period for Proposed Temporary Rule

October 2014

- Proposed Temporary Rule adopted by SSC
- Completed technical changes to adopted Temporary Rule
- Presented adopted Temporary Rule to Rules Review Commission (RRC)
- Adoption of Temporary Rule by RRC
- Submitted Quarterly Legislative Report to Department for HB 392 Pt. 2
- Meeting with staff from the offices of Senator Berger and Representative Tillis regarding implementation

Total Work First Program Policy Staff – 2.0 staff persons (vacancy filled)**November 2014**

- Temporary Rule Published in the NC Register
- DSS/DHHS Internal Meeting
- Completed draft of NCFast system requirements
- 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
- Began draft of RFP
- Began draft of proposed text for Permanent Rules

(DHHS assigned Business Project Coordinator)**December 2014**

- Internal Management Meeting
- Director's Association Meeting
- Completed draft process instructions for county agencies
- Completed draft of Recipient Notice for mass mailing
- Confirmed System Requirements and timeline with NCFast
- Submitted Quarterly Legislative Report to Department for HB 392 Pt. 2
- Drafts of Substance Abuse and Drug Screening Notice(s)
- Met with RRC staff

- Revised draft of proposed text for Permanent Rules
- Proposed Permanent Rules overview at SSC
- Development of Memorandum of Agreement (MOA) between DSS and DMH/DD/SAS
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Regional DSS Directors Conference Call

January 2015

- Proposed text for Permanent Rules approved by SSC
- Submitted Fiscal Note to OSBM for review
- Met to finalize responses to OAH pre-review
- Notice of Text submitted to OAH
- Fiscal Note refinement with OSBM input
- Internal review of draft RFP with DOJ, DSS Executive Management, DMH/DD/SS
- Policy Development Outline
- Meeting with DMH/DD/SAS regarding MOA, Policy Development and Training Module
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call

February 2015

- Submitted revised Fiscal Note to OSBM
- Fiscal Note and Proposed Permanent Rules approved by OSBM
- Public Comment Period for Proposed Permanent Rules (2/16/15-4/17/15)
- RFP submitted to DHHS Procurement and Contracts (DHHS P&C)
- Program review of comments received from DHHS P&C – response submitted
- RFP posted to Dept. of Administration Interactive Purchasing System (IPS)
- Enhancement Requests submitted to NC FAST
- Requested translation of Work First Program Recipient Notice
- Finalized draft of program forms and notices
- Completed policy outline
- Began Policy Draft*
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Regional DSS Directors Conference Call
- Statewide DSS Directors Conference Webinar/Call

March 2015

- Finalize MOA with DMH/DD/SAS
- Quarterly Legislative Report to Department for SL 2013-417 (HB 392) Pt. 2
- Internal meeting to review timeline
- Complete Training Outline
- NC FAST allocates resources to begins system enhancements
- Public Comment Period for Proposed Permanent Rules (2/16/15-4/17/15)
- RFP Vendor Questions received and responses provided
- RFP closes 3/31/2015
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call

April 2015

- Public Hearing on Proposed Permanent Rules 4/15/2015
- Public Comment Period ends for Proposed Permanent Rules 4/17/2015
- Finalize Permanent Rule text – revisions incorporated, based on public comments*
- Special meeting of SSC for adoption of Permanent Rules 4/20/2015*

- Submit adopted Permanent Rules to RRC 4/20/2015 for May meeting
- RFP Evaluation and Vendor Recommendation
- Develop Train the Trainer module and Webinar with DMH/DD/SAS and NC FAST for HB 392 (rules and policy)*
- Internal Review of Policy Draft and revision
- Dear County Director Letter to local Work First programs regarding implementation
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call

May 2015

- Address RRC Staff technical change requests to adopted Permanent Rules
- Adopted Permanent Rules presented before the RRC for approval*
(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.)
- Submit Policy Draft to Policy Governance Board for review and discussion
- Review of Policy Draft by DSS Economic Services Sub-Committee
- Revisions to Policy Draft
- Mass Mailing of Work First Recipient Notice
- Train the Trainer Sessions for State Staff (DSS, DMH/DD/SAS and NC FAST Operational Support Team)*
- NC FAST testing of system enhancements
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call
- NCACDSS Executive Board Meeting
- Regional DSS Directors Meeting – Eastern and Western (NCACDSS)
- Statewide DSS Directors Meeting (NCACDSS)

June 2015

- Publication of Dear County Director Letter regarding updated MOA with DMH/DD/SAS
- Finalize Training Materials
- Mass Mailing of Recipient Notice
- Approval of Policy by Governance Board
- Publication of Policy to DSS Manual
- Training of county Work First staff*
- Permanent Rules for Drug Testing are effective*
- Execution of Work First Program Drug Testing Contract*
- NC FAST system enhancements complete and updates implemented
- Bi-Weekly Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call
- Statewide DSS Directors Meeting (NCACDSS)

July 2015

- July 1st Implementation of HB 392*
- Update Meeting with Secretary Wos and Staff
- Statewide DSS Directors Conference Webinar/Call

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

Visual Overview of Implementation Timeline

