

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

Session Law 2013-417, Part II, Section 4(a) mandates that the Department of Health and Human Services (DHHS) require a drug test to screen applicants or recipients of Work First Program assistance when the Department reasonably suspects he or she is engaged in the illegal use of controlled substances. Session Law 2014-115 established the quarterly reporting requirement on the implementation of the 2013 law to begin no later than April 1, 2014 and ending December 1, 2015. DHHS provides the following report in accordance with SL 2013-417 as amended by SL 2014-115.

**Background**

North Carolina's Temporary Assistance for Needy Families (TANF) program, known as Work First, promotes a strengths-based, family-centered practice. 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. For State Fiscal Year (SFY) 2013-2014, there was a monthly average of 20,532 Work First cases, an estimated 69% were Child Only cases.

For SFY 2013-2014, an estimated 6263 parents were included on the monthly Work First cash assistance payment. 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. For the first quarter of SFY 2014-2015, 598 individuals were referred by the Work First program for further substance use assessment. Out of the 598, 78 parents or 13% 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. The Department was unsure of the funding source to support initial implementation and ongoing drug testing. HB 392 did not provide funding. Additional questions existed about which substances to test, and the impact of costs of the tests based on the number of substances tested. Lack of identified drug testing funds also contributed to a delay in the schedule for full implementation.

In March of 2014, the Department completed an Expansion Request for funds to support implementation and the ongoing costs. In July 2014, Session Law 2014-100 (Senate Bill 144)

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 funded costs related to the administration of the drug test.

The Department presented proposed Temporary Administrative Rules to the Social Services Commission (SSC) in June 2014. The Department was able to refine the list of substances to test for based on estimated cost only when funding was appropriated by the General Assembly. The text for the proposed Temporary Rule was revised to reflect the new information, and the proposed 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. In response to the comments, 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.

#### Quarter II Implementation Activity

The Drug Testing Rules, 10A NCAC 73A .0101 to 10A NCAC 73A .0108, were posted on the Office of Administrative Hearings (OAH) website. A public hearing was held on April 15, 2015 and the 60-day public comment ended on April 17, 2015. Comments were received from the American Civil Liberties Union (ACLU) and Legal Services of the Southern Piedmont.

The Work First Program consulted with legal counsel from the Attorney General's Office to review the public comments and recommended changes prior to submission to the Social Services Commission for final adoption. Proposed Permanent Rules were adopted by the Social Services Commission on April 20, 2015. The Rules were filed with the OAH; subsequent revisions were made to the rules based on comments received from the OAH Rules Review Commission legal counsel, ACLU and Legal Services of the Southern Piedmont. Proposed Permanent Rules were presented to the Rules Review Commission on May 21, 2015. The RRC approved permanent Drug Testing rules 10A NCAC 73A .0101 to 10A NCAC 73A .0106 with an effective date of June 1, 2015.

OAH Rules Review Commission legal counsel recommended objection to Rules 10A NCAC 73A .0107 and 10A NCAC 73A .0108. The RRC objected and two individual public comments were received objecting to the rules, therefore the remaining Rules were revised, re-submitted and received final approval at the June 16, 2015 meeting of the Commission. Rules 10A NCAC 73A .0107 and 10A NCAC 73A .0108 have an effective date of July 1, 2015. Subsequent to the

two individual comments, the DSS chose to post the Permanent Rules in the Spanish language on the DHHS/DSS website under Social Services Commission, Public Notices.

Written program policies to support implementation were completed and made available to county agencies on June 16, 2015. NC DSS has maintained open communication with County DSS Directors, informing them of implementation progress via conference calls, regional meetings and written correspondence. Notices, in English and Spanish, were mailed to Work First Program recipients for the months of May and June 2015 to inform them of the upcoming changes to eligibility requirements. The scope of work for the Memorandum of Agreement (MOA) between NC DSS and DMH/DD/SAS which is necessary in order to update the roles and responsibilities of each agency regarding implementation if the required law is complete. County DSS agencies will receive notification of the MOA along with an MOA template to assist them with developing agreements at the local level.

The North Carolina Divisions of Social Services and Mental Health, Developmental Disabilities, Substance Abuse Services and NC FAST partnered to develop a training webinar for county DSS agencies. County DSS staff, Local Management Entities and Managed Care Organizations (LME-MCO), and other stakeholders were given the opportunity to participate in one or all of the three training sessions offered during the week of June 15, 2015. The webinar was recorded and will be made available for counties to utilize as a resource as they implement the new Work First Program eligibility requirement. In addition, a Question and Answer document will be posted on the NC FAST Learning Gateway for county DSS staff. A "Train the Trainer" webinar session was provided to departmental staff that provide direct consultation to county DSS agencies. Also NC DSS Work First program staff participated in the DMH/DD/SAS sponsored training regarding the new requirements, roles, and responsibilities for the Qualified Professional in Substance Abuse.

System enhancements to the NC FAST automated case management system are on target for implementation. The Department is tightly monitoring progress and in constant contact with NC FAST business leads and NC DSS Work First program consultants to ensure implementation success.

A Request for Proposals (RFP) to provide drug testing services to the 100 county DSS agencies was published on the Interactive Purchasing System on February 27, 2015 with submission deadline of March 31, 2015. The RFP Evaluation Committee's vendor justification and recommendation was submitted to the DHHS Office of Procurement and Contract Services on May 28, 2015. On June 12, 2015, the notice of award was signed by the NC DSS Director. During implementation discussions, the Vendor identified several elements in their strategic plan that required vetting through their internal processes prior to implementation. The Vendor will require additional time to establish referral and reporting policies and to provide training to State and County Department of Social Services staff. In order to accommodate their requirements the target date for drug testing to begin has been changed to August 1, 2015. The Department expects to meet the August 1<sup>st</sup> target date and will notify Legislators if additional time is needed.

Attachment A provides a detailed chronological listing of the completed tasks and activities. Attachment B provides a visual overview of the project timeline, as of January 30, 2015.

## **HB 392 Implementation Timeline**

### **Total Work First Program Policy Staff – 2.0 staff persons**

#### **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**

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

### **Total Work First Program Policy Staff – 1.5 staff persons (staff re-assigned)**

#### **January 2014**

- Submitted text for Proposed Temporary Rules 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 Work First Program Policy Staff – 1.0 staff person (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
- Update to Office of Senator Burr

## **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 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 OAH 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 Project Coordinator)**

#### **December 2014**

- Internal Management Meeting
- Director's Association Meeting
- Regional Directors Conference Calls
- Completed draft process instructions for county agencies
- Completed draft of Recipient Notice for mass mailing
- Confirmed System Requirements and timeline with NCFASST
- Submitted Quarterly Legislative Report to Department for HB 392 Pt. 2
- Drafts of Substance Abuse and Drug Screening Notice(s)
- Met with RRC and DOJ Counsel
- 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 Meetings with Secretary Wos and Staff

#### **January 2015**

- Proposed text for Permanent Rules approved by SSC
- Notice of Text published to OAH website
- Public Comment Period for Proposed Permanent Rules (2/16/15-4/17/15)
- Submitted Fiscal Note to OSBM for review
- Met to finalize responses to OAH pre-review
- Internal review of draft RFP with DOJ/DSS Executive Management/DMH/DD/SS and Department of Administration
- Policy Development Outline
- Meeting with DMH/DD/SAS regarding MOA, Policy Development and Training Module
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls

#### **February 2015**

- Submitted revised Fiscal Note to OSBM
- Fiscal Note and Proposed Permanent Rules approved by OSBM
- RFP submitted to DHHS Procurement and Contracts (DHHS P&C)
- Program review of comments received from DHHS P&C and responses/revisions submitted

- RFP posted to Interactive Purchasing System
- Enhancement Requests submitted to NC FAST
- Review of Recipient Notice
- Finalized draft of program forms and notices
- Completed policy outline
- Began Policy Draft
- Public Comment Period for Proposed Permanent Rules (2/16/15-4/17/15)
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls

## **March 2015**

- Finalize MOA with DMH/DD/SAS
- Quarterly Legislative Report to Department for HB 392 Pt. 2
- Internal meeting to review timeline
- Complete Training Outline
- NC FAST allocates resources to begin system enhancements
- Recipient Notice Submitted to DHHS Public Affairs Office for review and approval
- Public Comment Period for Proposed Permanent Rules (2/16/15-4/17/15)
- RFP closed on 3/31/2015
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls

## **April 2015**

- Public Comment Period ends for Proposed Permanent Rules
- Finalize Permanent Rule text – revisions incorporated, based on public comments
- Public Hearing on Proposed Permanent Rule
- Special meeting of SSC to adopt Permanent Rules
- Adopted Rules presented before the RRC for approval
- Develop webinar training outline with DMH/DD/SAS and NC FAST
- RFP Evaluation and Vendor Recommendation
- Internal Review of Policy Draft and revision
- Recipient Notice submitted for translation
- Weekly Touch Point Calls with NC FAST
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls
- Submission of Quarterly Legislative Report

## **May 2015**

- Rules 10A NCAC 73A .0101- .0106 approved by RRC
- Consultation with legal counsel for OAH and NC DOJ regarding technical/substantive changes to proposed Permanent Rules 10A NCAC 73A .0107 and 10A NCAC 73A .0108
- Policy Draft to Policy Governance Board for review and discussion
- Review of Policy Draft by Economic Services Sub-Committee
- Revisions to Policy Draft

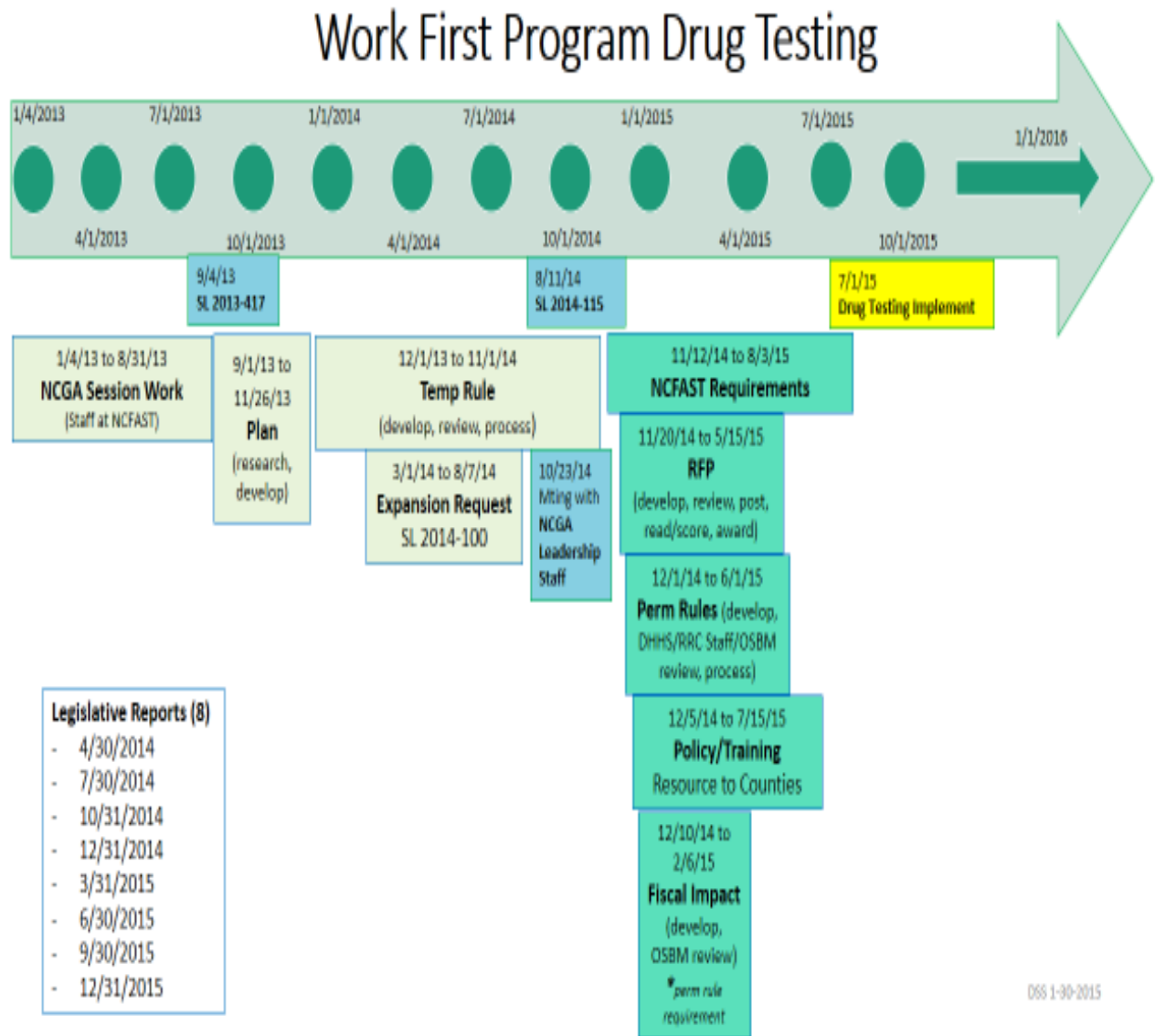
- Training module in final review and training dates identified
- Mass Mailing of Recipient Notice
- Justification Memorandum for contract submitted to DHHS Office of Procurement and Contracts
- Meetings to discuss technical/substantive changes to proposed Permanent Rules
- NC FAST testing of system enhancements
- Eligibility notices submitted to Public Affairs for approval
- Revised Eligibility Notices submitted for translation
- Revised Recipient Notice submitted for translation
- Weekly Touch Point Calls with NC FAST
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls

## **June 2015**

- Revised proposed Permanent Rules submitted to RRC
- Permanent Rules: 10A NCAC 73A .0107 and 10A NCAC 73A .0108 adopted by RRC
- Consultation with US HHS Office of Civil Rights
- Four training sessions via webinar provided to State and County DSS, and NC DMH/DD/SAS
- Participation in DMH/DD/SAS sponsored training for Qualified Professional in Substance Abuse (QPSA) and LME-MCO providers
- Weekly Touch Point Calls with NC FAST
- Bi-Weekly Update Meetings with Secretary Wos and Staff
- Regional Directors Conference Calls
- Work First Manual Section 104B, Substance Use and Mental Health Initiative published
- Mass mailing of revised Recipient Notice
- DSS Notice of Award for drug testing Vendor signed by DSS Director
- Conference calls with drug testing Vendor regarding implementation readiness



# HB 392 Visual Implementation Timeline



Prepared 1/30/2015