

Report to the
Joint Legislative Oversight Committee on Mental Health, Developmental
Disabilities and Substance Abuse Services

Report on
Interlocal Agreements between Counties

Session Law 2006-142,
Section 4.(l)

December 1, 2009

North Carolina Department of Health and Human Services
Division of Mental Health, Developmental Disabilities and
Substance Abuse Services

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Session Law 2006-142, Section 4.(l), amends General Statute 122C-141 by adding the following two subsections:

"(d) If two or more counties enter into an interlocal agreement under Article 20 of Chapter 160A of the General Statutes to be a public provider of mental health, developmental disabilities, or substance abuse services ("public provider"), before an LME may enter into a contract with the public provider, all of the following must apply:
(1) The public provider must meet all the provider qualifications as defined by rules adopted by the Secretary. A county that satisfies its duties under G.S. 122C-115(a) through a consolidated human services agency may not be considered a qualified provider for purposes of this subdivision.
(2) The LME must adopt a conflict of interest policy that applies to all provider contracts.
(3) The interlocal agreement must provide that any liabilities of the public provider shall be paid from its unobligated surplus funds and that if those funds are not sufficient to satisfy the indebtedness, the remaining indebtedness shall be apportioned to the participating counties.
(d1) The Secretary shall ensure that there is fair competition among providers. The Department shall study the effect of subsection (d) of this section and shall report its findings and recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2009."

The NC Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Service, conducted a survey by contacting Local Management Entities (LMEs), and determined that interlocal agreements exist between the counties of Watauga, Ashe, Avery, Alleghany and Wilkes, and a 160 A Service Authority known as New River Behavioral Health Care. Smoky Mountain Center is the endorsing LME for the public provider New River Behavioral Health Care.

New River Service Authority, the public provider, receives funding from the five counties as well as state funds through Smoky Mountain Center totaling \$4.1 million dollars. The Service Authority provides a continuum of community intervention services, crisis services and outpatient treatment.

A survey of (5) private providers who compete with the New River Service Authority in the five county region found that mental health and substance abuse consumers have limited choices as the LME contracts only with New River for state funds. In addition, the providers voiced concerns that the New River provider has an unfair advantage in staff recruitment and retention as the staff is eligible for local government benefits.

The New River Service Authority is also endorsed to provide services in the Crossroads catchment area. The expansion of the New River into counties managed by Crossroads is due to an identified need in a sparsely populated area which are contiguous to the counties within the Smoky catchment area. The reliance on a single primary provider in these counties may appear to represent a conflict of interest to some but is more likely the result of the need to rely on a provider with sufficient resources to be successful within a geographic area that has a limited but needy population.

At this time, the Division recommends that Department of Health and Human Services continues to support the relationship between Smoky Mountain Center, New River Behavioral Health and the interlocal agreement joined with the five counties of Avery, Watauga, Ashe, Wilkes and Alleghany. The relationship between the parties does not appear to represent a conflict of interest due to the demographic and geographic characteristics of the region. However, Division representatives will continue to monitor the relationship between New River and the LME as well as encourage an expansion of choice for consumers through the endorsement of additional providers when possible.