

§ 108A-74. Counties and regional social services departments required to enter into annual written agreement for all social services programs other than medical assistance; local department failure to comply with the written agreement or applicable law; corrective action; State intervention in or control of service delivery.

(a) Notwithstanding any other provision of law to the contrary, the Secretary may take action in accordance with this section to ensure the delivery of social services programs other than medical assistance in accordance with State laws and applicable rules. As used in this section, the following definitions shall apply:

- (1) Board of social services. – The governing body responsible for oversight of the department of social services, includes a county social services board, a regional board of social services, a consolidated human services board, or a board of county commissioners that has assumed the powers and duties of a social services governing board pursuant to G.S. 153A-77(a), whichever applies.
- (2) Child welfare services or program. – Child protective services, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (3) Department of social services. – The department responsible for administration of the social services and programs of public assistance in a county. It includes a county department of social services, a consolidated human services agency, or a regional social services department, whichever applies.
- (4) Director of social services. – The person responsible for managing and administering the department of social services, including a county social services director, a regional social services director, or a human services director, whichever applies.
- (5) Social services programs other than medical assistance. – Social services and public assistance programs established in this Chapter other than the medical assistance program (Chapter 108A, Article 2, Part 6). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Chapter 110, Article 9.

(a1) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.

(a2) The Secretary shall require all counties and regional social services departments to enter into a written agreement each year that specifies mandated performance requirements and administrative responsibilities with regard to all social services programs other than medical assistance, [subject to the following:]

- (1) The mandated performance requirements shall be based upon standardized metrics utilizing data and outcome measures derived from the Social Services System Transparency and Wellness Dashboard and other reliable data sources.
- (2) The administrative responsibilities shall address, at a minimum, staff training, data submission to the Department, and communication with the Department.
- (3) The written agreement may be standardized or may be tailored to address issues in specific jurisdictions.
- (4) The written agreement shall authorize the Department to withhold State or federal funds in the event the department fails to satisfy mandated performance requirements or comply with the terms of the agreement or applicable law.

(a3) If a department of social services fails to comply with the terms of the written agreement, the mandated performance measures, or other applicable law for three consecutive months or for five months within any consecutive 12-month period for those terms or mandated performance measures that are measured less than annually, or fails to comply for two consecutive 12-month periods for those terms or mandated performance measures that are measured on an annual basis, the Secretary and the department of social services shall enter into a joint corrective action plan within 60 working days. The Secretary may also require a corrective action plan more quickly in urgent circumstances, regardless of whether the circumstances are directly related to a mandated performance requirement specified in the written agreement. The board of social services and the county manager shall be notified of any joint corrective action plan.

(a4) The corrective action plan shall include each of the following components:

- (1) The duration of the joint corrective action plan, not to exceed 12 months. If the Secretary determines that the department of social services has not shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may summarily conclude that the department of social services has failed to successfully complete the joint corrective plan and may proceed with steps necessary to temporarily assume administrative responsibilities of the department of social services. If the Secretary determines the department of social services has shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may extend the joint corrective action plan by six months, but in no case shall a joint corrective action plan exceed 18 months.
- (2) The performance requirements for the department of social services that constitute successful completion of the joint corrective action plan.
- (3) A schedule and plan for providing updates to the board of social services and county manager regarding the department's progress implementing the corrective action plan.
- (4) An acknowledgement that failure to successfully complete the joint corrective action plan shall result in temporary assumption of all or part of the department of social services administration.

(b) If the Secretary determines that a department of social services has failed to successfully complete the joint corrective action plan, then the Secretary shall give the board of county commissioners, the department of social services, the county manager, and the board of social services at least 30 days' notice that the Secretary, through the Division of Social Services, intends to temporarily assume all or part of the department's social services administration in accordance with subsection (c) of this section. In a regional department of social services, notice shall be provided to boards of county commissioners and county managers for all counties served by the region.

(c) Notwithstanding any provision of law to the contrary, if a department of social services fails to successfully complete its joint corrective action plan, the Secretary shall direct the Division of Social Services to temporarily assume all or part of the department's social services administration no later than 30 calendar days after providing notice as required by subsection (b) of this section. During the period the Secretary assumes administration of the social services program, the following shall occur:

- (1) The Secretary, through the Division of Social Services shall administer all or part of the social services program in a county or region. Administration by the Secretary may include direct operation by the Department, including

supervision of program staff or contracts for operation, to the extent permitted by federal law.

- (2) The department of social services shall be divested of administrative authority for any component of the program the Secretary assumes.
- (3) The director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as it pertains to the programs or services to be assumed. The Secretary may assign any of the powers and duties of the director of social services to an employee of the Department or a contractor, as the Secretary deems necessary and appropriate to continue the provision of services in the county. If the local director of social services has delegated any authority to staff pursuant to G.S. 108A-14(b), delegated authority shall remain in effect until the Secretary, or the Secretary's designee, specifically revokes the delegation.
- (4) The Secretary shall direct and oversee the expenditure of all funding for the administration of the components of the program assumed by the Secretary.
- (5) The county shall not withdraw funds previously obligated or appropriated for program administration and services. The county shall continue to pay the county's or region's nonfederal share for the program services and administration.
- (6) The Secretary shall work with the county and the department of social services to develop a plan for the department to resume program administration.
- (7) The Secretary shall inform the appropriate board or boards of county commissioners, the county manager or managers, the director of social services, and the board of social services of key activities and ongoing concerns during the temporary assumption of social services program administration.

(c1) Upon the Secretary's determination that the department of social services is able to meet performance requirements and that program administration responsibilities should be restored to the department of social services, the Secretary shall notify the board of county commissioners, the department of social services, the county manager, and the board of social services that the temporary assumption of program administration will be terminated and the effective date of the termination. Upon termination, the department of social services shall resume its full authority to administer the program or programs that were assumed.

(d) through (g) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.

(h) If the Secretary determines that a county department of social services is not providing child protective, foster care, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, and the failure to provide the services poses a substantial threat to the safety and welfare of children in the county who receive or are eligible to receive the services, then the Secretary, after providing written notification of intent to the chair of the county board of commissioners, to the chair of the county board of social services, and to the county director of social services, and after providing them with an opportunity to be heard, shall withhold funding for the particular service or services in question and shall ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of Health and Human Services.

(i) In the event that the Secretary assumes control of service delivery pursuant to subsection (h) of this section, the county director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as the powers pertain to the services in question. Upon assumption of control of service delivery, the Secretary may assign any of the powers and duties of the county director of social services to the G.S. 108A-74

Director of the Division of Social Services of the Department of Health and Human Services or to a contractor as the Secretary deems necessary and appropriate to continue the provision of the services in the county.

(j) In the event the Secretary takes action under this section, the Department of Health and Human Services shall, in conjunction with the county board of commissioners, the county board of social services, and the county director of social services, develop and implement a corrective plan of action. The Department of Health and Human Services shall also keep the chair of the county board of commissioners, the chair of the county board of social services, and the county director of social services informed of any ongoing concerns or problems with the delivery of the services in question.

(k) Upon the Secretary taking action pursuant to subsection (h) of this section, county funding of the services in question shall continue and at no time during the period of time that the Secretary is taking action shall a county withdraw funds previously obligated or appropriated for the services. Upon the Secretary's assumption of the control of service delivery, the county shall also pay the nonfederal share of any additional cost that may be incurred to operate the services in question at the level necessary to comply fully with State law and Social Services Commission rules.

(l) During the period of time that the Secretary is taking action pursuant to subsection (h) of this section, the Department of Health and Human Services shall work with the county board of commissioners, the county board of social services, and the county director of social services to enable service delivery to be returned to the county if and when the Secretary has determined that services can be provided by the county in accordance with State law and applicable rules. (1997-390, s. 10; 1997-443, s. 11A.118(a); 2017-41, ss. 3.1(a), 3.2(a); 2017-41, s. 40(a)-(c); 2019-240, s. 12(a)-(d).)