

Part 4. Area Facilities.

§ 122C-141. Provision of services.

(a) An area authority shall contract with other qualified public or private providers, agencies, institutions, or resources for the provision of services, and, subject to the approval of the Secretary, is authorized to provide services directly. Unless an area authority requests a shorter time, any approval granted by the Secretary shall be for not less than one year. The Secretary shall develop criteria for the approval of direct service provision by area authorities in accordance with this section. For the purposes of this section, a qualified public or private provider is a provider that meets the provider qualifications as defined by rules adopted by the Secretary.

(b) All area authority services provided directly or under contract shall meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. The Secretary may delay payments and, with written notification of cause, may reduce or deny payment of funds if an area authority fails to meet these requirements.

(c) The area authority may contract with a health maintenance organization, certified and operating in accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for the area authority to provide mental health, developmental disabilities, or substance use disorder services to enrollees in a health care plan provided by the health maintenance organization. The terms of the contract must meet the requirements of all applicable State statutes and rules of the Commission and Secretary governing both the provision of services by an area authority and the general and fiscal operation of an area authority and the reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a State statute or rule of the Commission or the Secretary shall be void; however, the presence of any void provision in that contract does not render void any other provision in that contract which is not in conflict with a State statute or rule of the Commission or the Secretary. Subject to approval by the Secretary and pending the timely reimbursement of the contractual charges, the area authority may expend funds for costs which may be incurred by the area authority as a result of providing the additional services under a contractual agreement with a health maintenance organization.

(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 Commission. 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.

(e) When enforcing rules adopted by the Commission, the Secretary shall ensure that there is fair competition among providers. (1977, c. 568, s. 1; c. 679, s. 7; 1979, c. 358, ss. 7, 18; 1981, c. 51, s. 3; c. 539, ss. 3, 4; c. 614, s. 7; 1985, c. 589, s. 2; 1987, c. 839; 1989, c. 625, s. 16; 2001-437, s. 1.15; 2006-142, s. 4(1); 2007-504, s. 2.4(a); 2023-134, s. 9G.7A(a12).)