

Fiscal and Regulatory Impact Analysis

Proposed Rules 10A NCAC 26C .0701 – .0703

County Disengagement from a Local Management Entity-Managed Care Organization

Agency Contact: Denise Baker, Division Affairs Team Leader
NC Department of Health and Human Services, Division of MH/DD/SAS
Phone: 919-733-7011, Email: denise.baker@dhhs.nc.gov

Impact Summary: State government: Yes (savings)
Local government: Yes
Substantial economic impact: No

Authority: N.C.G.S. 122C-115

I. Overview

North Carolina General Statute 122C-115 describes the duties of counties to participate in the mental health, developmental disabilities and substance abuse services in conjunction with the Local Management Entity-Managed Care Organizations (LME-MCOs). N.C.G.S. 122C-115 (a3) states:

“[...] The Secretary shall adopt rules to establish a process for county disengagement that shall ensure, at a minimum, the following:

- 1) Provision of services is not disrupted by the disengagement.
- 2) The disengaging county either is in compliance or plans to merge with an area authority that is in compliance with population requirements provided in G.S. 122C-115(a).
- 3) The timing of the disengagement is accounted for and does not conflict with setting capitation rates.
- 4) Adequate notice is provided to the affected counties, the Department of Health and Human Services, and the General Assembly.
- 5) Provision for distribution of any real property no longer within the catchment area of the area authority.”

The Secretary has the authority granted in NCGA 122C-115(a3), and the responsibility, to promulgate Rules to facilitate county disengagement from an LME-MCO while also assuring the protections for continued service delivery to consumers and the solvency of the larger, local MH/DD/SA service system. The proposed rules serve as instructions to counties and Boards of County Commissioners that may seek disengagement to help them to research key community, infrastructure, and fiscal information regarding the potential success of their disengagement prior to their request for action.

In accordance with N.C.G.S. 122C-115(a3), the proposed Rules to be adopted by the Secretary describe the process a county would follow to request to disengage from one LME-MCO and join a different LME-MCO. The Rules provide specific guidance for steps a county and its Board of County Commissioners shall take to collect, review, and report documentation to support the request to disengage from the LME-MCO. The Rules require input from all county and LME-MCO stakeholders including

providers and consumers. The Rules include a requirement for written plans to ensure continuity of services for consumers, distribution of real property, evidence of written notice to other counties affected and results of a recent independent audit.

In addition to defining what a county shall do to request to disengage from an LME-MCO, the Rules also describe the elements the Secretary shall take into consideration in reviewing the request to disengage and the timelines for the Secretary's decision and response.

II. Rationale for Proposed Rule

North Carolina continues to transition to a capitated managed care system for the delivery of mental health, developmental disabilities and substance abuse services. Evidence from other managed care systems indicates that, in order to be successful, the catchment areas for a managed care organization must meet minimum population densities. The specific population requirements vary based on the types of services to be provided and the census/penetration indicators available for the persons served.

The current configuration of Local Management Entity-Managed Care Organizations for the Department of Health and Human Services have evolved through mergers of previously existing Area Authorities. The process described in the proposed Secretary's Rules has been undertaken to facilitate the mergers that produced the current eight LME-MCOs.

As the catchment areas grow there is recognition that a single county may desire to align with an LME-MCO for reasons other than historical affiliation. Movement of a county from one LME-MCO to another, without sufficient planning, oversight and systems consideration, has the potential to disrupt services to citizens and to change the population densities for the catchment areas involved. The Rules support a county decision to pursue changing its association with an LME-MCO and recognizes the Secretary's responsibility for the stability and continuity of the larger service system in exercising his right to approve or deny the request to disengage.

III. Analysis of Fiscal Impact

a. Background Description of Funding Streams

LME-MCOs receive funding from federal, state, county and grant sources to support the infrastructure, operations and delivery of services to persons in need of mental health, developmental disabilities and substance use disorders.

Federal:

- Medicaid: Medicaid funding is a capitated distribution based on a population "per member/per month" (PMPM) calculation.
- Federal Block Grants (Mental Health, Substance Abuse, Social Services): DMH/DD/SAS has a specific budget of block grant funds to be distributed among the LME-MCOs for services.
- Grant Funds: Grant funds obtained by DMH/DD/SAS are distributed according to the purposes of the grant, typically through a Request for Action (RFA) or a Request for Proposal (RFP).

State:

- State appropriations for the purposes of providing MH/DD/SAS services to citizens are determined by the legislature for the state as a whole. Funds are distributed to LME-MCOs based on appropriate formula taking into consideration total population, historic use and need for funds, and any new initiatives.

Local Government:

- The county is responsible for participating in the cost of the delivery of mental health, developmental disabilities and substance abuse services. Its contribution to the LME-MCO is based on a formula that considers its population and tax base ability to pay as approved by the County Commissioners.

b. Impact of Rules

Federal:

- The capitation of Medicaid expenditures at the state level results in no additional budgetary impact to the federal government due to a county moving from one LME-MCO to another. The process described in the Rule does not create any change in the Medicaid PMPM distribution of funds.
- Federal Block Grants:
 - The amount of overall funding is neither increased nor diminished by the movement of a specific county between two LME-MCOs.
- Grant Funds:
 - Grant funding is based on the individual grant award and is not influenced by the LME-MCO membership of a county.

State:

The total amount of state appropriated funds to the DMHDDSAS system would not change resulting in no additional budgetary impact to the state due to a county moving from one LME-MCO to another. The amount of Single Stream Funding allocated to each LME-MCO is based on the historic funding that was available to the former Area Authorities that were merged to create the current configuration of LME-MCOs.

State employee time is necessary, however, to complete the following tasks for changing the configuration of LME-MCOs. The tasks are a part of the responsibilities of existing staff and have been completed in the past for LME-MCO mergers:

- Liaison to facilitate negotiations between merging parties;
- Align computerized systems that process information or claims billing;
- Updates to state sponsored public communications (web-sites, maps, etc.).

Historically, a variety of state employees at different levels have been involved with the processing of the mergers of Area Authorities. Using a team of three employees, with an average hourly wage of \$107, benefits equivalents to 52% of the wage,¹ and a timeline of full-time work expectation for three months (based on the agency's based experience with county disengagements), the cost to facilitate a merger was approximately \$234,000. Three positions used for the calculation of the average hourly wage are: Mental Health Program Manager II, Human Services Planner and Evaluator II, and Information Specialist.

The Secretary's Rules for County Disengagement provide a streamlined and standardized process for all parties to follow. The estimated reduction in the time required for state employees to participate in support of a county disengagement is 30 days resulting in a potential savings of about \$117,000. It is unclear at this time when the disengagements would happen, and therefore when exactly these savings would be incurred.

Local Government:

- Each county contributes toward the provision of behavioral health services by providing some funding to the LME-MCO. The county outlay of funding participation to the LME-MCO would not change, the funding would simply be paid to a different LME-MCO.
- The Secretary Rules for Disengagement call for the county to provide "evidence of a recent independent audit." The Rules do not require a county to conduct an audit solely for the purpose of Disengagement. A recent, regularly conducted audit would suffice resulting in no additional expense for the county.
- The county requesting to disengage from the LME-MCO must get stakeholder input, including that of consumers. The input may be gathered through the use of public forums. The county would use a regularly scheduled Board of County Commissioners meeting time and space with the Disengagement as a part of the agenda which does not result in any additional cost, aside time costs, which are difficult to estimate.
- County staff would be responsible for preparing a transition plan and the information packet required by Rule for the Secretary's consideration of the request to disengage. There is not a requirement for any additional staff or consultant work to prepare the transition plan or information packet.

The state is unable to establish the fiscal impact to a county during the previous LME-MCO mergers. Using a model that requires the County Manager and an administrative assistant to prepare the reports, with an average hourly salary plus benefits equivalent to 52% of \$117 combined, working for the equivalent of 30 days full-time, as estimate of the time required to perform the various tasks identified in and required by the Rules, results in a cost to the county of close to \$28,100. This cost may, or may not, be different from the cost to an individual county during one of the previous Area Authority mergers. The act of disengaging from one LME-MCO

¹ NC Office of State Human Resources. "2015 Compensation & Benefits Report."

http://s3.amazonaws.com/oshr.ncgovstaging.fayze2.com/s3fs-public/migrated_files/Guide/CompWebSite/2015%20CompBenefits%20Report%20_finalpdf.pdf

to join a different LME-MCO may have other unknown costs or savings for a county. The county authorities have a choice to undertake disengagement or to remain with the original LME-MCO.

LME-MCOs:

The process to disengage does not have any effect on the funding distributed to the LME-MCOs from federal or state resources. The result of a county invoking the process of the Rules and successfully disengaging from an LME-MCO would require funding to support services to the county disengaging to be moved from the LME-MCO of disengagement to the LME-MCO joined. The result of a county proceeding through the disengagement process would result in a change in the amount of funds distributed to each LME-MCO, however, the population that the LME-MCO is expected to serve would also change. The county disengaging would have the PMPM funding for the population of citizens within that county moved to the LME-MCO the county is joining along with the services expectations for the county's citizens. Given the non-profit nature of LME-MCOs, the net impact on LME-MCOs from the disengagement is generally expected to net out.

APPENDIX

Proposed Adoption of Rules 10A NCAC 26C .0701-.0703

County Disengagement from a Local Management Entity – Managed Care Organization

1 **10A NCAC 26C .0701 is proposed for adoption as follows:**

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3 **SECTION .0700 COUNTY DISENGAGEMENT FROM A LOCAL MANAGEMENT ENTITY-**

4 **MANAGED CARE ORGANIZATION**

5 **10A NCAC 26C .0701 SCOPE**

6 (a) A county seeking to disengage from a Local Management Entity-Managed Care Organization (LME-MCO) and
7 align with another LME-MCO operating under a Medicaid waiver shall first obtain the approval of the Secretary of
8 the Department of Health and Human Services (DHHS).

9 (b) The purpose of the rules in this Section is to set forth the process the Secretary shall use to approve county
10 requests to disengage from an LME-MCO and realign with another LME-MCO operating under a Medicaid waiver.

11 (c) These rules also set forth the requirements that a county seeking approval to disengage from an LME-MCO
12 must adhere to in submitting its request for approval.

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14 *History Note: Authority G.S. 122C-115;*
15 *Eff. October 1, 2016*

1 **10A NCAC 26C .0702 is proposed for adoption as follows:**

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3 **10A NCAC 26C .0702 COUNTY REQUEST TO DISENGAGE FROM A LOCAL MANAGEMENT**
4 **ENTITY-MANAGED CARE ORGANIZATION**

5 (a) A county seeking to disengage from an LME-MCO shall provide written notice of its intent to initiate the
6 process to disengage from an LME/MCO to the Secretary, the Co-Chairs of the Joint Legislative Oversight
7 Committee on Health and Human Services, and affected counties a minimum of nine months prior to the proposed
8 effective date of disengagement.

9 (b) A county seeking to disengage from an LME-MCO shall publish its plan for disengagement on its website, and
10 the website of the LME-MCO with which it seeks to align.

11 (c) The county shall accept public comments on its disengagement plan for a minimum of 60 calendar days. The
12 county shall specifically solicit comments from advocates, self-advocates, State and Local Consumer and Family
13 Advisory Committees (CFACs) and shall post the public comments on its website for a minimum of 30 consecutive
14 days.

15 (d) A county seeking to disengage from an LME-MCO and realign with a different LME-MCO operating a
16 Medicaid waiver shall provide written documentation of the following to the Secretary, which shall constitute its
17 written request to disengage:

- 18 1. Approval of its disengagement plan by its Board of County Commissioners which reflects the date of
19 the approval and that the approval was by majority vote;
- 20 2. A written plan, approved by its Board of County Commissioners, to ensure continuity of services during
21 the transition which includes written notice to the provider agencies with which the LME-MCO contracts;
- 22 3. A written plan, approved by its Board of County Commissioners, which provides for distribution of real
23 property, where appropriate, and reflects title to the same;
- 24 4. Approval of the Area Board, by majority vote, of the LME-MCO with which it is seeking to realign;
- 25 5. Evidence of written notice to the other counties who are also members of the LME-MCO from which
26 the county is seeking disengagement;
- 27 6. Evidence of its written notice to the providers impacted by its decision to disengage;
- 28 7. Evidence of its compliance with the population requirements of G.S. 122C-115(a).
- 29 8. Evidence of its financial liabilities to the LME-MCO from which it is seeking to disengage within 30
30 calendar days of the request to disengage.
- 31 9. Documentation of its compliance with (a) through (c) of this Rule.

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33 History Note: Authority G.S. 122C-115;

34 Eff. October 1, 2016.

1 **10A NCAC 26C .0703 is proposed for adoption as follows:**

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3 **10A NCAC 26C .0703 SECRETARY RESPONSE TO COUNTY REQUESTS TO DISENGAGE FROM A**

4 **LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

5 (a) The Secretary may waive the nine month requirement set forth in Rule .0702(a) of this Section upon
6 consideration of the following factors:

- 7 (1) the impact of delay upon consumers currently served in the county seeking to disengage;
8 (2) the financial vulnerability of the LME-MCO from which disengagement is sought; and
9 (3) any substantiated evidence of criminal activity or malfeasance on the part of the LME-MCO from
10 which disengagement is sought.

11 (b) At a minimum, the Secretary shall consider the following in deciding whether to approve a county request to
12 disengage from an LME-MCO and realign with a different LME-MCO operating under a Medicaid waiver:

- 13 (1) the potential impact to and input from consumers, advocates and self-advocates within the county;
14 (2) the county's plan for disengagement from one LME-MCO and realignment with a different LME-
15 MCO;
16 (3) the county's plan to ensure continuity of services during the disengagement and realignment phase;
17 (4) whether the county has complied with the requirements of Rule .0702 of this Section;
18 (5) whether the county is contiguous to the catchment area of the LME-MCO with which it is requesting
19 to align;
20 (6) the timing of the request and whether the disengagement will conflict with setting capitation rates;
21 (7) whether the disengagement will impact the financial viability of the LME-MCO from which the county
22 is seeking to disengage;
23 (8) whether the disengagement and realignment will ensure compliance with the population requirements
24 of G.S. 122C-115(a);
25 (9) whether the disengagement and realignment will adversely impact the stability, as a whole, of the
26 State's healthcare system;
27 (10) whether the realignment will improve the quality, variety, and amount of services for the eligible
28 persons in the subject county; and
29 (11) the operational alignment of the county within the context of the LME-MCO disengagement related to
30 geography, service delivery, and demonstrated provision of whole-person centered care.

31 (c) The Secretary shall issue a written decision to approve or deny the request for disengagement and realignment
32 within 90 calendar days of receipt thereof.

33 (d) The Secretary may approve the request as submitted or set conditions upon its issuance based upon
34 consideration of the factors set forth in this Rule.

35 (e) The Secretary shall notify the following of the decision to approve or deny a county request for disengagement
36 and realignment:

- 37 (1) The Board of County Commissioners of the county seeking to disengage;

38 (2) The Boards of County Commissioners of the counties of the LME/MCO with which realignment is
39 requested;

40 (3) The LME-MCO from which disengagement is sought;

41 (4) The LME-MCO with which realignment is requested; and

42 (5) The Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

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44 *History Note: Authority G.S. 122C-115;*

45 *Eff. October 1, 2016.*

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