



MECKLENBURG COUNTY

**BOARD of COUNTY COMMISSIONERS**

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## Document Summary

- I. [North Carolina General Statutes - § 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.](#)
- II. [NC Administrative Code and Statutes - COUNTY DISENGAGEMENT FROM A LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION](#)

**§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.**

(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority. Beginning July 1, 2012, the catchment area of an area authority shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority shall contain a minimum population of at least 500,000. To the extent this section conflicts with G.S. 153A-77 or G.S. 122C-115.1, the provisions of this section control.

(a1) Effective July 1, 2012, the Department shall reduce the administrative funding for LMEs that do not comply with the minimum population requirement of 300,000 to a rate consistent with the funding rate provided to LMEs with a population of 300,000.

(a2) Effective July 1, 2013, the Department shall reassign management responsibilities for Medicaid funds and State funds away from LMEs that are not in compliance with the minimum population requirement of 500,000 to LMEs that are fully compliant with all catchment area requirements, including the minimum population requirements specified in this section.

(a3) A county that wishes to disengage from a local management entity/managed care organization and realign with another multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver may do so with the approval of the Secretary. 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) of this section.
- (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.

(b) Counties and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this

Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) Except as authorized in G.S. 122C-115.1, within a catchment area designated in the business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(c1) Area authorities may add one or more additional counties to their existing catchment area upon the adoption of a resolution to that effect by a majority of the members of the area board and the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area authority or county program.

(e) Beginning on the date that capitated contracts under Article 4 of Chapter 108D of the General Statutes begin, LME/MCOs shall cease managing Medicaid services for all Medicaid recipients other than recipients described in G.S. 108D-40(a)(1), (4), (5), (5a), (6), (7), (10), (11), (12), and (13). Until BH IDD tailored plans become operational, all of the following shall occur:

- (1) LME/MCOs shall continue to manage the Medicaid services that are covered by the LME/MCOs under the combined 1915(b) and (c) waivers for Medicaid recipients described in G.S. 108D-40(a)(1), (4), (5), (5a), (6), (7), (10), (11), (12), and (13).
- (2) The Division of Health Benefits shall negotiate actuarially sound capitation rates directly with the LME/MCOs based on the change in composition of the population being served by the LME/MCOs.
- (3) Capitation payments under contracts between the Division of Health Benefits and the LME/MCOs shall be made directly to the LME/MCO by the Division of Health Benefits. (1977, c. 568, s. 1; c. 679, s. 7; 1979, c. 358, ss. 5, 23; 1981, c. 51, s. 3; 1985, c. 589, s. 2; 1989, c. 625, s. 14; 1995 (Reg. Sess., 1996), c. 749, s. 1; 1999-202, s. 1; 2001-437, s. 1.8; 2004-124, s. 10.26(a); 2006-66, s. 10.32(c), (d); 2007-504, s. 1.3; 2011-264, s. 2; 2012-151, ss. 1, 6; 2013-85, s. 4(a)-(c); 2013-363, s. 4.12(a); 2013-378, s. 11; 2013-410, s. 23(a); 2015-245, s. 4; 2018-48, s. 1; 2019-81, ss. 12, 14(a)(8); 2020-88, s. 12(c).)

**SECTION .0700 – COUNTY DISENGAGEMENT FROM A LOCAL MANAGEMENT ENTITY-  
MANAGED CARE ORGANIZATION**

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

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

*History Note: Authority G.S. 122C-115;  
Eff. February 1, 2017.*

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

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

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

(c) The county seeking to disengage from an LME-MCO shall accept public comments on its disengagement plan for a minimum of 60 calendar days. The county shall solicit comments from consumers, advocates, self-advocates, and State and Local Consumer and Family Advisory Committees (CFACs) using locally established communication methods, such as mailings, routine stakeholder meetings, press releases, and social media messages, and shall post the public comments on its website for a minimum of 30 calendar days.

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

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

*History Note: Authority G.S. 122C-115;  
Eff. February 1, 2017.*

**10A NCAC 26C .0703 SECRETARY RESPONSE TO COUNTY REQUESTS TO DISENGAGE FROM A  
LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

(a) Upon written request by a county seeking to disengage from an LME-MCO, the Secretary may waive the nine month requirement set forth in Rule .0702(a) of this Section upon consideration of the following factors:

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

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

- (1) the impact to and public comments received from consumers, advocates, self-advocates, and State and Local CFACs within the county in response to Rule .0702(c) of this Section;
  - (2) the county's plan for disengagement from one LME-MCO and realignment with a different LME-MCO;
  - (3) the county's plan to ensure continuity of services during the disengagement and realignment phase;
  - (4) whether the county has complied with the requirements of Rule .0702 of this Section;
  - (5) whether the county is contiguous to the catchment area of the LME-MCO with which it is requesting to align;
  - (6) the timing of the request and whether the disengagement will conflict with setting capitation rates;
  - (7) whether the disengagement will impact the financial viability of the LME-MCO from which the county is seeking to disengage;
  - (8) whether the disengagement and realignment will ensure compliance with the population requirements of G.S. 122C-115(a);
  - (9) whether the disengagement and realignment will impact the stability, as a whole, of the State's healthcare system;
  - (10) how the disengagement and realignment will affect the quality, variety, and amount of services for the clients, as defined in G.S. 122C-3, in the subject county; and
  - (11) the operational alignment of the county within the context of the LME-MCO disengagement related to geography, service delivery, and demonstrated provision of whole-person centered care.
- (c) The Secretary shall issue a written decision to approve or deny the request for disengagement and realignment within 90 calendar days of receipt.
- (d) The Secretary may approve the request as submitted or set conditions upon its issuance based upon consideration of the factors set forth in Paragraph (b) this Rule.
- (e) The Secretary shall notify the following of the decision to approve or deny a county request for disengagement and realignment:
- (1) The Board of County Commissioners of the county seeking to disengage;
  - (2) The Boards of County Commissioners of the counties of the LME-MCO with which realignment is requested;
  - (3) The LME-MCO from which disengagement is sought;
  - (4) The LME-MCO with which realignment is requested; and
  - (5) The Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

*History Note: Authority G.S. 122C-115;  
Eff. February 1, 2017.*