NORTH CAROLINA
CENTER FOR COUNTY RESEARCH

RESEARCH RESOURCES

North Carolina Food and Nutrition Services (FNS)
Research and Resources For Food Stamp Application Processing

Outline

- Overview and Recent Updates

- North Carolina Food and Nutrition Services (FNS) Processing Efforts: February 2016 Briefing Material
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- Considerations for 2016-2017 County Budget
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- FNS Processing Best Practices
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- Letter from N.C. Department of Health and Human Services on the Merit Staff Requirement

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- Administrative Waivers
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NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS FOUNDED 1908

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North Carolina Food and Nutrition Services (FNS)

Overview

Food and Nutrition Services (FNS), a collection of federal nutrition assistance programs under the U.S. Department of Agriculture, provides food stamps to eligible North Carolinians through the Supplemental Nutrition Assistance Program (SNAP). Through North Carolina's "state-supervised, county-administered" system, FNS administers SNAP benefits to low-income families on Electronic Benefit Transfer (EBT) cards. Eligibility for SNAP is determined by household income, size, and available resources. Recipients must be U.S. citizens or immigrants eligible under a specific immigration status.

Applicants in North Carolina are required to complete an application and interview for SNAP through a county Department of Social Services (DSS) office. Applicants are screened for either expedited benefits – which are provided within 7 days – or non-expedited benefits – which are provided within 30 days.

Following a determination of eligibility by the DSS office, a new applicant receives an EBT card, which is similar to an ATM card, loaded with the monthly benefits. A recipient may use SNAP benefits to purchase food; SNAP benefits may not be used to purchase alcohol or tobacco products, paper products, or general household items.

Recent Updates

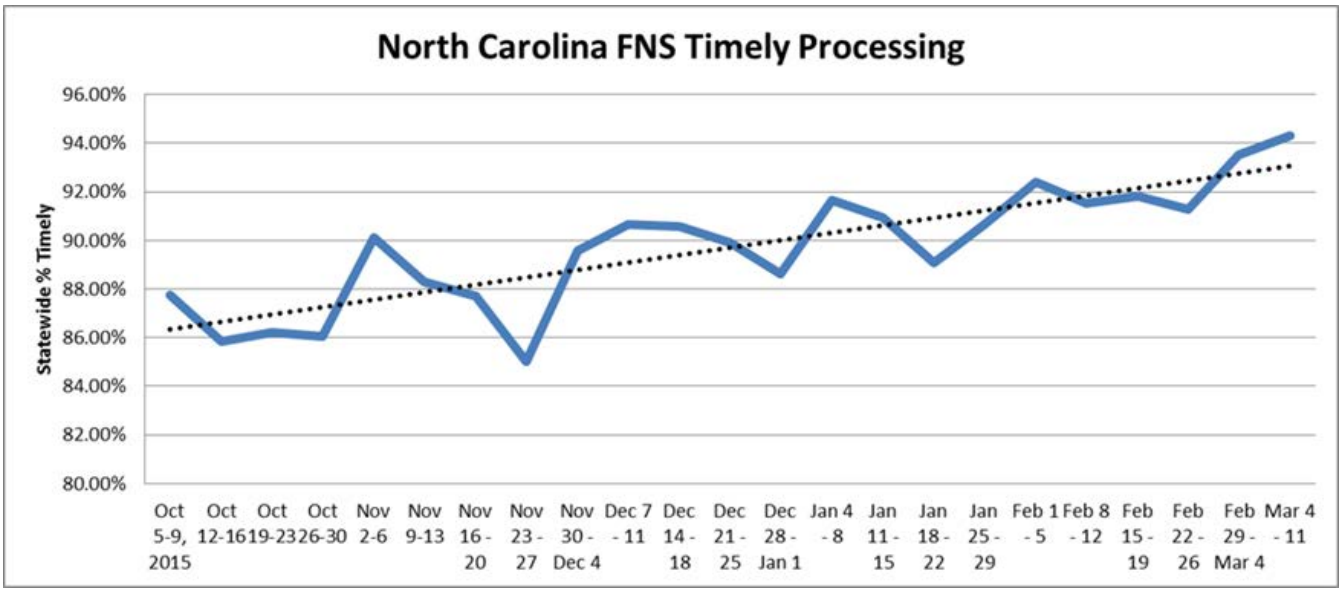
North Carolina received an "Advance Warning Letter" from the USDA on May 21, 2015, which indicated that the state must achieve and maintain:

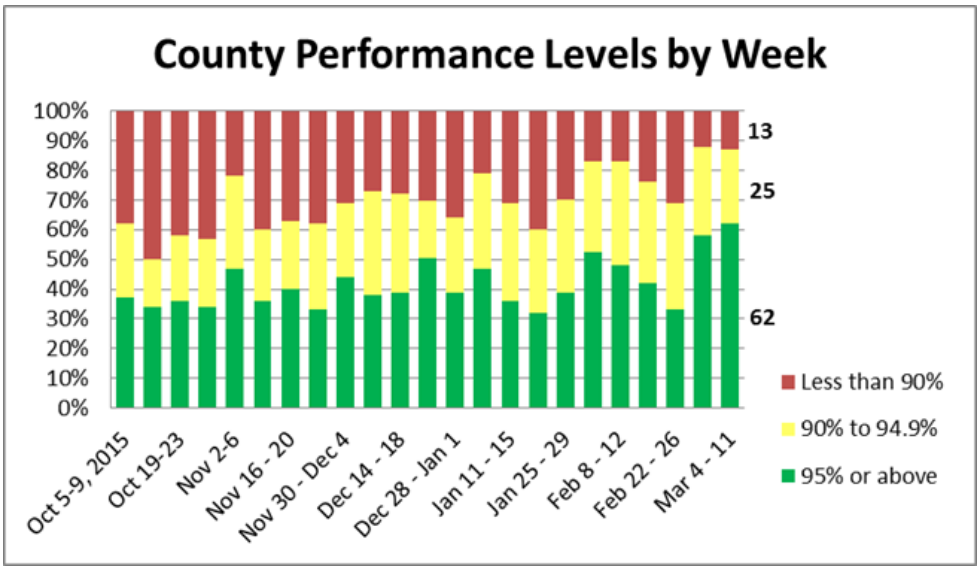
- an 85% average statewide timeliness FNS processing rate for the 6-month period from July 2015 through December 2015; and
- a 95% average statewide timeliness FNS processing rate for the 6-month period from January 2016 through July 2016.

Timely processing is met when a county DSS office processes an application within the 7-day or 30-day time period. A failure to meet the federally-prescribed processing rates could subject the state and counties to a collective loss of $80 million in federal administrative funds that help counties

administer DSS services. Because the processing rate is a statewide requirement, counties not meeting the standard will impact the counties that are achieving the rate.

For Fiscal Year 2014, North Carolina's processing rate was 73%, ranking the state 50th out of 53 U.S. states and territories. The state has made significant progress, as shown in the graph below, and maintains between a 91%-93% processing rate in early 2016.





North Carolina Center for County Research

Research Resources

Health & Human Services

North Carolina Food and Nutrition Services (FNS) Processing Efforts
February 2016 Briefing Material

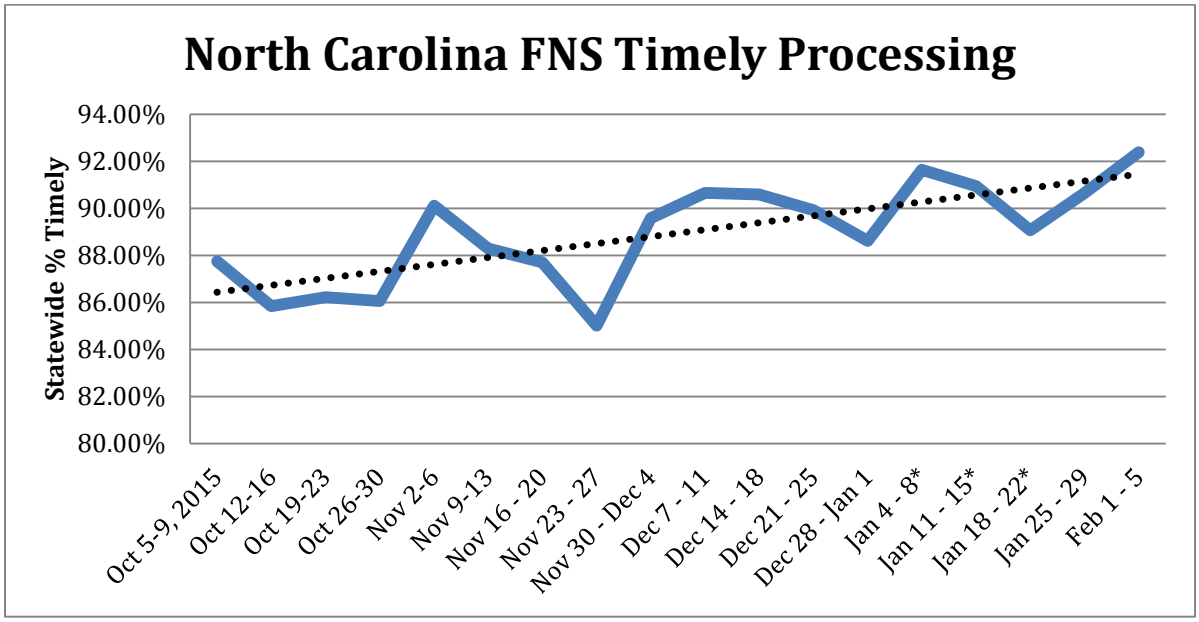
Challenges

North Carolina has been faced with a number of challenges related to the administration of major economic services programs. Consider the following:

- FNS caseloads increased by 75% between 2008 and 2013.
- Medicaid caseloads increased by 35% from 2008 to 2015.
- Regulatory and technology changes create an increase in workload beyond caseload growth.
- Implementation of NC FAST (Families Accessing Services through Technology) continues to create personnel and workload challenges at the state and local level.
- TurboTax and the ACA Marketplace continue to generate a large volume of cases, an extremely large portion of which are denied.
- North Carolina gains an average of 281 people a day, making us the 6th fastest growing state in the country.

Processing Over Time

Despite these challenges, North Carolina has made significant progress on timely FNS processing.



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Highlighted Efforts to Date

North Carolina has employed a number of strategies to increase timely processing statewide.

- All 100 counties have implemented Action Plans to meet and exceed USDA standards.
- Regular conference calls including state administrators, county managers, county social service directors and association staff for updates and information sharing.
- Quarterly meetings of the 12 largest caseload counties focused primarily on FNS issues.
- State quality assurance teams deployed to more challenged counties to assist with business re-engineering and performance management.
- Counties voluntarily offering training and best practice assistance to other counties to improve overall state timeliness rates.
- Significant expansion of social service staffing at the county level.
- Weekly or bi-weekly communication with managers on processing progress.

Federal Partner Request

While we are pleased with our progress to date, we believe even more progress can be made with assistance from USDA in the following areas:

Turbo Tax – Receipt of applications generated by Turbo Tax have created a huge administrative burden to the State. Many applications that are being received are not eligible for benefits but these applications must be processed the same as any other application received. We request that USDA continue to intervene on the behalf of states with Turbo Tax to reduce non-qualifying applications.

Regulations that define a valid SNAP application – Federal regulations define a valid application as an application that consists of name, address and signature only. This creates an administrative hardship for agencies to process these applications within the required timeframes. We request that this definition be altered to better reflect the data needed to make an accurate eligibility determination.

Quality Control standards vs. Regulatory standards – Federal quality control standards many times differ from the regulatory standards. We request that USDA use the actual statewide data provided, rather than a sample to improve accuracy and appropriate accountability, particularly when determining the timeliness of processing applications.

Interview Requirements – Regulatory requirements mandate either a face-to-face interview or telephone interview for all applications. This requirement impedes the ability of staff in many instances to conduct interviews to meet the required processing timeframes, as applications are submitted via mail, ePASS, and in-person. With the ability of states to interface with other agencies such as the Social Security Administration, Department of Motor Vehicles, Department of Corrections and other state and federal agencies, verifications from these sources prove to be more efficient than information collected from an interview. We request that North Carolina counties be empowered to use this agency data to facilitate timely processing of applications.

RESEARCH RESOURCES

Considerations for 2016-2017 County Budget

Officials from Buncombe County DSS, Catawba County DSS, and other counties compiled this list of recommended considerations for counties as they plan their 2016-17 budgets:

- What is the county's current FNS timeliness rate? What is the trend over the last six months? How does the county compare to counties of similar size?
- What is the workload impact across economic services? For example, caseload growth; TurboTax applications; Affordable Care Act impact; IRS Form 1095-B (for reporting health coverage); additional workload due to imcomplete applications and required client follow-up
- How much more time is required to complete the work via the NC FAST system, when compared with the previous method? What tools can be used to assess staffing needs?
- How many eligibility workers do we need to complete the incoming work and still meet timeliness and quality standards (based on average incoming work and peak times)? What standardized tools support this number of workers?
- Is it possible to quantify the loss of time/productivity due to workforce turnover and required re-training?
- What strategies are in place to ensure the county hires qualified eligibility staff to train and retain?
- How many cases are currently pending at the State NC FAST helpdesk? What is the date of the oldest help ticket?
- Has the county altered its business practice to improve performance? How?
- Have we taken advantage of the State agency's offer to provide a lean assessment of the county's business practices?
- If our county is already meeting the timeliness standards, how can we share practices with other counties? Are there staff resources dedicated to quality assurance?

- What is the amount of federal reimbursement claimed on DSS Form 1571 for FNS administration?

- What percentage of applications/recertifications are denied due to a failure to provide? Do most of these denied applicants reapply soon thereafter?

- What is the amount of FNS benefit that comes to grocery retailers in the county each year?

FNS Processing Best Practices

Officials from Buncombe County DSS and Catawba County DSS, with input from additional counties, provided these lists of "FNS Processing Best Practices":

Buncombe County

- Upon receipt screen/triage all applications received by ePASS, mail, fax, drop-offs or walk-ins

- Interview applicant on same day when possible; be sure to screen for expedited. If identity is provided and interview is completed, application should be processed on same day as applicant applies. Remember identity does not have to be a picture ID

- If interview cannot be completed on same day of application you must send a DSS-8650 with an exact date, time and method of interview. If applicant fails to keep the interview appointment, you must send a second DSS-8650 informing the household they missed their appointment and it is their responsibility to contact the agency to reschedule

- **ePASS Applications**:
    - All ePASS applications must be assigned to staff on same day received and screened for expedited. Attempt to contact applicant by phone for interview; if unable to make contact, send DSS-8650 with appointment (See previous bullet points)
    - If ePASS application received after normal business hours of your agency, the application date should be changed to reflect the next business day; this should be clearly documented why the date was changed

- **Mail-In Applications:**
    - When applicants contact your agency requesting an application be mailed to them, inform them that if they are able to come to the agency on the same day and complete the application in the office it may speed up the application processing time. However, if applicant states they can't, then the application should be mailed
    - It is ok to include a checklist of possible items applicants may need to bring in order to speed up the application processing. It must be clear to the applicant that they don't have to bring anything but if they do it may speed up the application processing

- **Faxed Applications:**
  - Refer to information regarding ePASS applications above
  - Ensure fax machines are checked throughout the day for faxes received
  - Make sure faxed applications are assigned immediately

- **Drop Off Applications:**
  - Reevaluate location of agency drop box. Before application is dropped off, offer the client the opportunity for an interview, inform them this may speed up the processing time. If applicant cannot stay, get as much information as possible to contact them for interview. Provide a DSS-8650 on same day as drop off when possible
  - There is no requirement that a drop off box be available
  - If applicant understands they may get benefits sooner if they wait for an interview, they will likely wait

- **Walk-In Applications:**
  - Screen all applications for expedited
  - Complete the interview while applicant is in the office
  - Request only the "required" verifications; check NC FAST for verifications that may already be available before requesting again
  - If all information is available, process the application on the same day

- **Other Considerations:**
  - Supervisors and Managers review work of case managers
  - Ensure staff are not requesting unnecessary information
  - Ensure agency mail is disbursed immediately. Consult with post office to discuss possible changes needed with your mail delivery. Can mail be delivered more than once a day? Can mail be delivered earlier in the day?

Catawba County

- Eligibility Specialists (ES) complete both intake functions and case management functions.
- Keeps staff abreast of policy knowledge for both programs.
- Provides better customer service by client telling their story for our two major programs at one time.
- ALL staff rotate every 4 days on intake (this was at their request).
- The intake worker completes and processes applications for FNS and F&C Medicaid (exception is Work First and Day Care).
- Once the applications are processed, the case approved in the worker's area of expertise is kept in his/her caseload.
- The case approved for the program outside of his/her expertise is transferred to an eligibility specialist that manages cases of that type.
- Decreases the potential for county errors or intentional program violations by having one worker (and one with expertise) to react to applications.
- Have dedicated Staff to do FFMs and SSI cases.
- Have a Business Manager and Software Systems Engineer to assist with Economic Services.
- Monitor work to determine if additional staff are needed.
- Supervisor Review-Second Party Reviews of ALL Cases for ALL staff that are here 6 months or less. For seasoned staff, second party reviews are done on households with 5 or more.
- ePASS is accepted, but walk-ins are encouraged

Letter from N.C. Department of Health and Human Services: Merit Staff Requirement

North Carolina Department of Health and Human Services
Division of Social Services

Pat McCrory
Governor

Richard O. Brajer
Secretary

Wayne E. Black
Director

February 17, 2016

Dear County Managers and County Directors of Social Services:

RE: Merit Based Requirements for Eligibility Determination Functions

As counties prepare for staffing needs in their 2016-2017 Budget, we want to assure that the federal merit requirements for individuals performing eligibility determinations in both Medicaid and Food and Nutrition Services Programs are understood.

It has been confirmed with both the United States Department of Agriculture (USDA) and the Centers for Medicare and Medicaid Services (CMS) that only Social Services employees meeting merit based requirements as set forth in federal Office of Personnel Management Standards, Subpart F – "Standards for a Merit System of Personnel Administration"; Section 90-603 (pages 579-581), may perform eligibility functions for both Food and Nutrition Services and Medicaid programs. The merit principles set forth in these federal regulations cover; (a) recruitment, selection and advancement; (b) equitable and adequate compensation; (c) training; (d) retention; (e) equal employment opportunity and fair treatment; and (f) guidance on political activity. The guidance from USDA and CMS specifically states that non-merit based employees may not perform tasks associated with interviews and certification of eligibility for applicants/recipients of Medicaid and Food and Nutrition Services.

DHHS has determined that counties have utilized two (2) types of contractual arrangements in securing temporary staff; (a) contracting with a temporary agency to provide individuals to perform eligibility functions; and (b) contracting directly with individuals to perform eligibility functions. While we realize that utilization of both of these arrangements have been helpful in trying to meet workload demands in the past, both involve non-merit staff who are prohibited from performing Food and Nutrition Services or Medicaid interviews and certifications. In planning for the FY 2016-2017 Budget, counties should be aware that use of these two (2) contractual arrangements for eligibility determinations is prohibited and could result in loss of federal administrative reimbursement and other sanctions.

Counties have also depended on temporary staff to assist with growing workloads. Temporary non-merit staff may be used to assist with several programs such as the Crisis Intervention Program (CIP) and the Low Income Energy Assistance Program (LIEAP). Non-merit staff may assist with non-interview/certification tasks in both Food and Nutrition Services and Medicaid, such as data matching, data entry, and document scanning.

Counties may use temporary county staff for interviews/certification functions, only if the employee is classified as meeting the merit requirements of the federal Office of Personnel Management Standards as stated above.

DHHS recommends that counties hire permanent staff as needed to handle the ongoing workload in these programs. Merit based employees should be considered on a time-limited basis for handling seasonal work. Please refer to the "Dear County Managers and Directors of Social Services" letter dated February 17, 2016 entitled "Factors Impacting County Administration of Economic Services Programs" for a description of ongoing and seasonal factors impacting county workloads.

Questions regarding meeting merit requirements and delineating tasks that can be performed by non-merit employees, as well as assistance in planning for staffing resources for FY 2016-2017 can be directed to Wayne E. Black, Director of the Division of Social Services at Wayne.Black@dhhs.nc.gov or at 919-527-6336.

Thank you.

Sincerely,

Dave Richard
Deputy Secretary for Medical Assistance
Division of Medical Assistance

Wayne E. Black
Director of the Division of Social Services

Merit Staff Requirement: Additional Guidance

- State and local governments administering assistance programs are required to comply with federal regulations providing for merit personnel systems
  - Specifically, 5 CFR § 900.603 (Standards for a merit system of personnel administration) and § 900.604 (Compliance)
  - These standards address recruiting and hiring employees; compensation; training; retention; equal opportunity and nondiscrimination compliance; and protection from partisan pressures

- Positions making eligibility determinations for food stamps and Medicaid should be:
  - Posted, Interviewed, and Hired through DSS office. The DHHS memo clarifies that these positions cannot be hired through a temp agency or hired on contract. Positions classified as independent contractors or obtained through a staffing agency are not merit-based.
  - Convert "temp" positions to a "time-limited" or "part-time" classification

- Some counties are using lapsed salaries to classify positions as time-limited, merit-based. This can assist counties to fund time-limited staff, rather than creating new positions.
- Note that non-merit staff can perform other functions, provided these positions do not perform interviews and make eligibility determinations.

5 Code of Federal Regulations § 900.603, 604

§ 900.603 Standards for a merit system of personnel administration.

The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as—
(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
(b) Providing equitable and adequate compensation.
(c) Training employees, as needed, to assure high quality performance.
(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.
(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

§ 900.604 Compliance.

(a) *Certification by Chief Executives.*
(1) Certification of agreement by a chief executive of a State or local jurisdiction to maintain a system of personnel administration in conformance with these Standards satisfies any applicable Federal merit personnel requirements of the Federal assistance or other programs to which personnel standards on a merit basis are applicable.
(2) Chief executives will maintain these certifications and make them available to the Office of Personnel Management.
(3) In the absence of certification by the chief executive, compliance with the Standards may be certified by the heads of those State and local agencies that are required to have merit personnel systems as a condition of Federal assistance or other intergovernmental programs.

(b) *Resolution of Compliance Issues.*
(1) Chief executives of State and local jurisdictions operating covered programs are responsible for supervising compliance by personnel systems in their jurisdictions with the Standards. They shall resolve all questions regarding compliance by personnel systems in their jurisdictions with the Standards. Findings and supporting documentation with regard to specific compliance issues shall be maintained by the chief executive, or a personal designee, and shall be forwarded, on request, to the Office of Personnel Management.
(2) The merit principles apply to systems of personnel administration. The Intergovernmental Personnel Act does not authorize OPM to exercise any authority, direction or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee.
(3) When a chief executive requests the assistance of the Office of Personnel Management, the Office will provide consultation and technical advice to aid the State or local government in complying with the Standards.
(4) The Office of Personnel Management will advise Federal agencies on application of the Standards in resolving compliance issues and will recommend actions to carry out the purposes of the Intergovernmental Personnel Act. Questions regarding interpretation of the Standards will be referred to the Office of Personnel Management.

Letter from N.C. Department of Health and Human Services: Factors Impacting County Administration of Economic Services Programs

North Carolina Department of Health and Human Services
Division of Social Services

Pat McCrory
Governor

Richard O. Brajer
Secretary

Wayne E. Black
Director

February 17, 2016

Dear County Managers and Directors of Social Services:

RE: Factors Impacting County Administration of Economic Services Programs

Over the past several years, the administration of the major economic services programs, Food and Nutrition Services, and Medicaid, by County Social Services agencies has been significantly impacted by many factors. It began with the "Great Recession" of 2008, which significantly increased the number of families needing assistance. Between July, 2008 and June, 2013 the statewide Food and Nutrition Services caseload increased by 75% and the Medicaid caseload increased by 25%.

The implementation of NC FAST for processing Food and Nutrition Services (FNS) from April 2012 – March 2013 and Medicaid, Work First, Special Assistance and Refugee Services from October 2013 – December 2014 created new challenges for county leadership and staff. The implementation of Affordable Care Act (ACA) requirements in October 2013 also added to county workloads. Additional requirements of the ACA continue adding to county workload responsibilities. Through new guidelines issued on Oct. 1, 2014 and an advance warning letter sent in May 2015 by USDA, North Carolina and other states are now being held to rigid standards for FNS application processing timeliness. The implementation of new work requirements in FNS will impact all 100 counties by July 1, 2016.

While caseloads have stabilized since 2013, a number of factors continue to significantly impact county workloads in Medicaid and Food and Nutrition Services. These are ongoing factors which shape what may be called the "New Normal" in administration of these programs. These include the following:

A. NC FAST

1. Implementation

NC FAST (Families Accessing Services through Technology) is a new eligibility determination and case management system that integrates various social service programs administered across N.C.'s 100 counties. The system's implementation has had the same challenges most major technology efforts have:

a. The new system is more comprehensive and rules-based, and therefore requires more data to be collected for each application than what was historically collected or is available in the 20 to 30-year-old legacy systems.

b. With all new systems, sometimes defects occur that must be corrected. These issues have created personnel challenges and additional work for county staff as the system continues to be rolled out.

2. New Channels for Applications

NC FAST created a new online method for submitting applications through the Internet, with FNS implementation in April 2012 and Medicaid in October 2013. Federal regulations prevent the applications from requiring complete and verified information at the time of submission. County staff may need to follow up with applicants to collect missing information. This adds to ongoing workload requirements.

B. AFFORDABLE CARE ACT AND MEDICAID REQUIREMENTS

1. New Medicaid Eligibility Requirements

a. ACA created new Modified Adjusted Gross Income (MAGI) eligibility requirements for Family and Children's Medicaid recipients, changing the income and household eligibility rules for all Family Medicaid programs, and requiring caseworkers to obtain tax information from households, adding to the ongoing workload.

b. Ex parte reviews are required for all Medicaid/NCHC programs, forcing caseworkers to complete electronic verifications and evaluate all Medicaid cases prior to contacting the household for information that is not available through another source. The reviews also give MAGI households 30 days to provide information needed for review, instead of the previous 12 days. The review process must begin sooner to allow for this requirement. This adds to the ongoing workload.

2. Open Enrollment
   Open enrollment will occur every year. For each of the past two years, during the annual Open Enrollment period (November-February), North Carolina received approximately 87,000 Medicaid applications from the Federal Marketplace. Approximately 10-13 percent of those were determined to be eligible. However, all applications must be processed. This adds to seasonal workload requirements.

3. Medicaid Processing Requirements
   Centers for Medicare & Medicaid Services requires all applications to be approved in a timely manner. With the growth in caseloads and new MAGI requirements, counties have had difficulty maintaining required processing standards. In addition, several counties continue struggling to meet recertification requirements, resulting in cases being extended. Achieving and sustaining these requirements is an ongoing workload requirement.

4. New Supplemental Security Income (SSI) Case Requirements
   a. County Transfers – The caseworker must evaluate the address and determine if a county transfer is needed. It was previously an automated county transfer for most of these cases.
   b. A SDX case creation triggers a reassessment of all cases associated with that income support case. All of these changed decisions have to be reviewed by the county caseworker.
      These requirements add to the ongoing workload.

5. Mandated Tax Form
   The new 1095-B tax form must be mailed annually by the N.C. Department of Health and Human Services to households with a resident receiving Medicaid/NCHC during any period over the previous year. Approximately 1.5 million such forms have to be mailed in February and March. DMA established a call center, but, recipients can still call their County DSS and undeliverable letters are still returned to the County DSS for processing, adding to the seasonal workload.

C. USDA FOOD AND NUTRITION SERVICES REQUIREMENTS AND RELATED IMPACTS

1. Timeliness Requirements
   The USDA mandates a high standard for timely applications for states. North Carolina must achieve and sustain a 95 percent timeliness rate for FNS applications, a rate that North Carolina and other states have struggled to achieve because of the "Great Recession of 2008" which significantly impacted the workload of counties. Failure to achieve USDA timeliness requirements may result in suspension or disallowance of federal reimbursement to county departments of social services and State DSS from USDA. Annually the State draws down approximately $80 million in federal reimbursement for counties for the administration of the FNS Program. If federal funds are disallowed or suspended counties will have to replace lost federal funds for the continued administration of the FNS Program. Federal requirements also apply to payment accuracy and recertifications – both need improvement. Achieving and sustaining these USDA requirements create ongoing workload demands.

2. Able Bodied Adults Without Dependents (ABAWD) Requirements (FNS)
   The statewide waiver in place since 2008 ended in January 2016 for the 23 counties implementing ABAWD requirements. The remaining 77 counties will implement effective July 1, 2016. Additional time will be needed for caseworkers to explain policies and to assess each recipient. This adds to ongoing workload requirements.

3. FNS Employment and Training Programs
   While this is voluntary, counties are strongly encouraged to implement Employment and Training (E&T) programs in collaboration with community partners to support FNS recipients going to work and help meet the time limit requirements for the ABAWD. Participation in an E&T Program allows an ABAWD to meet qualifying components and continue receiving FNS benefits beyond the time limit.

4. FNS Applications Generated by Tax Preparation Companies
   Counties received over 12,000 faxed applications from Intuit Turbo Tax last year. Others came via referrals to the ePASS on-line portal. Turbo Tax will refer tax filers to ePASS for FNS applications this year. While less than 20 percent were approved last year, all applications still must be processed. Other tax preparation companies could begin to provide this customer service. This adds to the seasonal workload and coincides with the ACA Open Enrolment period.

D. PROGRAM INTEGRITY REQUIREMENTS

North Carolina is under a Corrective Action Plan regarding compliance with Program Integrity requirements in Food and Nutrition Services (FNS) by USDA. Many counties have utilized their Program Integrity staff to help meet FNS and Medicaid processing requirements. Counties must assure adequate staffing to perform program integrity functions.

All of these factors contribute to the "New Normal" facing County Social Services agencies in administration of Economic Services programs.

Failure by North Carolina to achieve these program requirements could result in significant financial penalties and/or additional workload burdens. The attached document; "Potential Consequences of Failure to Achieve Federally Mandated Processing Requirements for Economic Services Programs", details some of these potential penalties.

Please direct questions regarding these factors impacting County Social Services agencies to Wayne Black, Director of the Division of Social Services, at Wayne.Black@dhhs.nc.gov or 919-527-6336.

Thank you for your continued commitment to the provision of timely and efficient services to the residents of North Carolina.

Sincerely,

Dave Richard
Deputy Secretary for Medical Assistance
Division of Medical Assistance

Wayne E. Black
Director of the Division of Social Services

DR;WEB/arg

Attachments

cc: Linda Millsaps, NCACC
Sharnese Ransome, NCACDSS
County Managers
County Finance Officers
County Human Services Directors/Assistant County Managers for Human Services

DIR-03-2016

2 Attachments

Attachment 1

Potential Consequences of Failure to Achieve Federally Mandated Processing Requirements for Economic Services Programs

North Carolina is required by federal regulations to achieve and maintain mandated processing standards in the administration of economic services programs. These standards include application processing timeliness, timeliness in completion of recertifications and accuracy in delivery of program benefits. Major federal programs include Medicaid and Food and Nutrition Services (FNS) (formerly referred to as Food Stamps).

Food and Nutrition Services: Timeliness

On Oct. 1, 2014 the United States Department of Agriculture (USDA) issued guidance on its plan to escalate the intervention process and promote significant improvements in the timely processing of FNS applications for states performing below acceptable levels. According to the USDA, the national timeliness average decreased from 91 percent in 2004 to 88 percent in 2013, the same year North Carolina's timeliness rate was approximately 75 percent.

On May 21, 2015 North Carolina received an advance warning letter from the USDA that required an aggressive corrective action plan to achieve and maintain a 95 percent timeliness rate for FNS application processing.

The advance warning letter states **that North Carolina could be subject to suspension or disallowance of federal funds to administer the FNS program** if we do not achieve significant progress toward meeting the required benchmark of a 95 percent average timeliness rate from January through June 2016. **The total annual federal reimbursement to North Carolina for administration of the FNS program is projected to be approximately $80 million for FY 2015-2016.**

Food and Nutrition Services – Payment Accuracy

The USDA mandates a payment error rate of less than 6 percent by states to avoid financial penalties. Calculated from a quality control review of a random sample of cases, North Carolina's payment error rate for FFY 2014-2015 was 6.64 percent, exceeding the mandated 6 percent threshold. **Failure to reduce the payment error rate could result in a financial penalty of approximately $1 million for North Carolina.**

Medicaid – Timely Processing of Applications

The Center for Medicare and Medicaid Services (CMS) requires Medicaid applications to be processed within a specified timeframe of filing. Meeting this requirement is a challenge for some counties in North Carolina. In addition, some counties are unable to complete all recertifications in a timely manner, resulting in the required extension of Medicaid coverage until ongoing eligibility can be determined.

Client advocacy groups continue to express concerns regarding North Carolina's application processing performance. Almost everyone who works in Social Services is familiar with the 1974 class action lawsuit *Alexander v. Hill*, which through various settlement agreements and further lawsuits (*Alexander v. Flaherty*, *Alexander v. Britt*, *Alexander v. Bruton*, et.al.) significantly added to county time, effort, and resources over the previous 40-plus years. In order to improve and closely monitor the timeliness of the counties in the processing of public assistance applications, the court orders imposed significant additional administrative requirements. In several cases, these additional requirements exceeded even the federal program requirements. Counties were required to maintain cumbersome daily logs and additional reporting and monitoring requirements were imposed. The requirements added to the workload and administrative time demands of the clerical and eligibility staff. The court also required that counties provide additional notices which resulted in increased postage expenses. **This tremendous amount of burdensome work to document activities, which has no direct impact on the actual delivery of benefits to eligible recipients, was one outcome of the lawsuit. Over the years, the additional administrative costs from this settlement is estimated to be in the millions. We must achieve and sustain timely Medicaid processing requirements in order to avoid further legal action and additional administrative cost burdens.** (For those of you unfamiliar with the *Alexander v. Bruton* case, attached is a brief one page summary of the case.)

Food and Nutrition Services – Recertification Timeliness

North Carolina is currently operating under a corrective action plan with the USDA regarding timely processing of FNS recertifications. With a recertification timeliness rate for FFY 2014-15 of 83.04 percent, **North Carolina must significantly improve the rate of timely completion of FNS recertifications or become subject to possible financial penalties.**

Alexander v. Bruton

Alexander v. Bruton, Civil No. CC-74-183-M (Western District of North Carolina, Charlotte Division) was a class action lawsuit filed in 1974 the U.S. District Court for the Western District of North Carolina. The litigation took place over 28 years between 1974 and 2002. The case ended in 2002 after CMS (then HCFA) approved the DHHS Exit Plan ("Plan to Assure Timely and Quality Services to Applicants for Medicaid") which was approved by the Court.

Parties and claims. The lawsuit was filed by the Legal Aid Society of Mecklenburg County on behalf of all North Carolina applicants for Medical Assistance (Medicaid) and the Aid to Families with Dependent Children (AFDC) programs.[1] Defendants were the Division of Social Services and the Mecklenburg County Department of Social Services. The lawsuit alleged, and the Court found, that State and County administrators in all counties were failing to process applications for Medicaid and AFDC in a timely manner, in violation of federal requirements. Plaintiffs sought declaratory and injunctive relief to ensure that County DSS offices would process all applications on time and ensure that no benefits would be delayed to qualified applicants.

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Litigation history. In 1975, the Court ordered defendants to implement a plan for the timely processing of applications. In 1977, the Court ordered defendants to take additional affirmative steps to ensure that all applications be timely processed, absent good cause. To monitor these obligations, the Court ordered defendants to submit reports showing the number of applications processed and pending in each county each month. In 1981, the Court found that approximately 20% of Medicaid applications, and approximately 15% of AFDC applications, in Mecklenburg, Wake and Stokes counties, were not being processed on time. Based on these findings, the Court determined that, statewide, State and County officials had "seriously failed" to comply with their obligations under federal law, and with earlier Court orders. The Court ordered defendants to accelerate their efforts and, as a remedial sanction, that each applicant be paid $50 per week for each week that his or her application was delayed. Many of the Court ordered remedies actually exceeded the federal requirements and resulted in substantial additional expenditures by the counties in processing applications for public assistance.

In 1992, the parties entered into a detailed Consent Order. The 41-page Consent Order provided that applications for the Medicaid and AFDC programs will be processed in conformity with applicable federal law and regulations. As part of the Consent Order, the Court retained jurisdiction for six years to monitor defendant's compliance with federal law. This Consent Order included significant monitoring requirements to allow Plaintiffs' counsel and the Court to monitor NC's performance.

The end of the litigation. In 1999, the Court directed defendants to submit an Exit Plan to the Health Care Financing Administration ("HCFA") (now named CMS). In 2001, HCFA confirmed that the Exit Plan complied with all federal requirements for the processing of Medicaid applications. Based on HFCA's approval of the Exit Plan, the Court dismissed the case on February 5, 2002. This ended one of the most onerous class action lawsuits in North Carolina history; a lawsuit that resulted in the State and counties incurring significant expenditures to achieve compliance with various Court orders and a lawsuit which lasted almost 25 years. Many effects of this suit are still in place today.

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[1] The AFDC program was eliminated in 1996.

North Carolina Food and Nutrition Services (FNS) Administrative Waivers

Note: The following "novel" waivers were included in a May 2014 memo to SNAP Regional Directors. These administrative waivers are listed here for the purpose of reviewing possible application in North Carolina.

1) **Waiver to Postpone the Certification Interview for Certain Expedited Service Households**
   - Waives the federal regulation requiring a certification interview within seven days for applicants meeting expedited service criteria. Postpones the required interview, provided identify has been verified.
   - This waiver could be beneficial for counties with large numbers of online applications.
   - This waiver is available for a maximum of 18 months and includes program integrity measures
   - States with best practices under the waiver provide: staff training; call centers; multiple follow-up calls; effective case tracking; collect data on required program integrity measures about waiver
   - Challenges with this waiver include: lack of staff training on when to use the waiver; incomplete notice to applicants that a postponed interview must be completed

2) **On-demand Interview Waiver**
   - Waives face-to-face scheduled interview and instead allows staff to interview the applicant within a specified period of time (generally within 4-12 days); applicants that miss the interview must call for an interview within 30 days of original application date
   - This waiver is available for two years, and requires the state to fulfill program integrity measures
   - States with best practices under the waiver provide: call centers; translators; option to request face-to-face interview

3) **Electronic Notice Waiver**
   - Waives requirement to provide notices by mail and instead allows electronic notices
   - This waiver could be beneficial to save time and resources for communicating with applicants with regular email access
   - This waiver is available for two years and includes program integrity measures
   - States with best practices under the waiver provide: a separate email portal for notices; a read receipt for sent emails; method for saving and tracking electronic notices; secure portal
   - Challenges with this waiver include: tracking and monitoring notices sent electronically; failure to prompt applicant when notice is sent

4) **Paper Copy of Application Waiver**
   - Waives requirement that office provide online applicants with paper copy of application. The office provides an opportunity to review application electronically, but only a paper copy upon request
   - This waiver is available for two years