

§ 122C-115.5. Alignment of counties with an area authority.

- (a) Reserved for future codification purposes.
- (b) Reserved for future codification purposes.
- (c) Area authorities may add one or more additional counties to their existing catchment area, including through the merger or consolidation of area authorities, 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) The Secretary shall direct the dissolution of an area authority upon any of the following:
 - (1) The termination of a BH IDD tailored plan contract with an area authority.
 - (2) The Secretary's delivery of a notice of noncompliance to an area authority under G.S. 122C-124.2(c) or G.S. 122C-124.2(d).
- (e) When an area authority is dissolved at the direction of the Secretary, all of the following shall occur:
 - (1) The Secretary shall deliver a notice of dissolution to the board of county commissioners of each of the counties in the dissolved area authority.
 - (2) The area authority shall be dissolved on a time line established by the Secretary. The Secretary shall allow at least seven but no more than 30 calendar days for all of the following to occur:
 - a. The completion by the area authority being dissolved of negotiations for a merger or consolidation with one or more compliant area authorities.
 - b. The submission to the Secretary of any requests for consideration with regard to the realignment with another area authority by any county in the catchment area of the area authority being dissolved.
 - (3) The area authority being dissolved shall cooperate with the Secretary in order to ensure the uninterrupted provision of services to Medicaid recipients and the other individuals who received services through the area authority.
 - (4) The Secretary shall assign any contracts, as defined in G.S. 122C-124.2(g), of the area authority being dissolved to the one or more area authorities that (i) are under contract for the operation of a BH IDD tailored plan and (ii) are receiving at least one county from the area authority being dissolved. The Secretary may consult with the area directors and chairs of the area boards of (i) the area authority being dissolved and (ii) the remaining area authorities before assigning these contracts. The Secretary shall take into consideration the factors described in subsection (f) of this section in assigning these contracts.
 - (5) The Secretary shall assign the State-funded services contract between the area authority being dissolved and the Division of Mental Health, Developmental Disabilities, and Substance Use Services to the area authorities receiving the counties from the area authority being dissolved.
 - (6) The Secretary shall effectuate and oversee the orderly transfer of all management responsibilities, operations, and contracts of the area authority being dissolved, including the responsibility of paying providers for covered services that are subsequently rendered.
 - (7) The Secretary shall arrange for the providers of services to be reimbursed for proper, authorized, and valid claims for services rendered that were not previously paid by the area authority being dissolved. These reimbursements shall be made from the remaining fund balance or risk reserve of the area authority being dissolved, or from other funds of the Department if necessary.

In the event there are insufficient assets to satisfy the liabilities of the area authority being dissolved, it shall be the responsibility of the Secretary to satisfy the liabilities of the area authority being dissolved.

- (8) Effective until the date that BH IDD tailored plans begin operating, risk reserve funds of the area authority being dissolved may be used only to pay authorized and approved provider claims. Any funds remaining in the risk reserve transferred under this subdivision shall become part of the risk reserve of the area authorities receiving the realigned counties and shall be subject to the same restrictions on the use of the risk reserve applicable to those area authorities.
- (9) The Secretary may assume control, in part or in full, of the financial affairs of the area authority and appoint an administrator to exercise the powers assumed by the Secretary. This assumption of control shall have the effect of divesting the area authority of its authority as to the powers assumed, including service delivery, adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority by law.
- (10) County funding of the area authority shall continue and shall not be reduced as a result of the dissolution. A county shall not withdraw funds previously obligated or appropriated to the area authority.
- (11) Any fund balance or risk reserve available to an area authority at the time of its dissolution that is not utilized to pay liabilities shall be transferred to one or more area authorities contracted to operate the 1915(b)/(c) Medicaid Waiver or a BH IDD tailored plan in all or a portion of the catchment area of the dissolved area authority, as directed by the Department in accordance with G.S. 122C-115.6.
- (12) Effective until the date that BH IDD tailored plans begin operating, if the fund balance transferred from the dissolved area authority under subdivision (11) of this subsection is insufficient to constitute fifteen percent (15%) of the anticipated operational expenses arising from assumption of responsibilities from the dissolved area authority, the Secretary shall guarantee the operational reserves for the area authority assuming the responsibilities under the 1915(b)/(c) Medicaid Waiver until the assuming area authority has reestablished fifteen percent (15%) operational reserves.

(f) In considering whether to approve any merger or consolidation of area authorities, or in determining how to assign any contracts, as defined in G.S. 122C-124.2(g), of an area authority following the termination of a BH IDD tailored plan contract under subsection (d) of this section, the Secretary may consider, at a minimum, all of the following factors:

- (1) For any area authority receiving a county, the readiness of that area authority to operate the BH IDD tailored plan in the expanded catchment area.
- (2) For any area authority receiving a county, the area authority's operational capacity and history of performance.
- (3) Whether the distribution among area authorities of the population of individuals covered under BH IDD tailored plans will promote fiscal viability of BH IDD tailored plan contracts.
- (4) Assurances of network adequacy and the alignment with existing hospitals and health systems of the area authorities involved in the merger or consolidation.
- (5) For any area authority involved in the merger or consolidation, the area authority's experience with prior mergers and consolidations.

- (6) Any input received by a county being realigned from one area authority to another.
 - (7) Geographic contiguity of counties within a catchment area.
 - (8) For any area authority receiving a county, the number of providers that will have to enter into new contracts with that area authority.
 - (9) Any input received from a provider or a Consumer and Family Advisory Committee established under G.S. 122C-170 or G.S. 122C-171.
- (g) The Secretary's decision to approve or disapprove a merger or consolidation of area authorities is final, and there is no right to appeal the decision to the Office of Administrative Hearings, in accordance with G.S. 150B-1(e)(21), or any other forum. (2023-134, s. 9G.7A(a1).)