

**§ 122C-115.6. Transfer of area authority fund balance upon county realignment.**

(a) When a county realigns with another area authority under G.S. 108D-46 or G.S. 122C-115.5, regardless of whether the realignment was due to the merger of area authorities, the consolidation of area authorities, or another process, a portion of the risk reserve and other funds of the area authority from which the county is disengaging shall be transferred to the area authority with which the county is realigning. The amount of risk reserve and other funds to be transferred shall be determined by the Department in accordance with a formula or formulas developed in accordance with this section.

(b) Any formula developed by the Department under this section shall consider the stability of both the area authority from which the county is disengaging and the area authority with which the county is realigning. The formula shall support (i) the ability for each area authority to carry out its responsibilities under State law, (ii) the successful operation of the 1915(b)/(c) waivers, (iii) the capitated arrangements authorized by G.S. 108D-60(b), and (iv) the successful operation of BH IDD tailored plans under G.S. 108D-60. The formula shall assure that the area authority from which the county is disengaging retains sufficient funds to pay any outstanding liabilities to healthcare providers, staff-related expenses, and other liabilities.

(c) The area authority from which the county is disengaging and the area authority with which the county is realigning shall provide the Department with all financial information requested by the Department that is necessary to determine the amount of funds to be transferred using the formula or formulas developed under this section, upon any of the following:

- (1) The Secretary's approval of a county realignment under G.S. 108D-46 or G.S. 122C-115.5.
- (2) The Secretary's delivery of a notice of dissolution to the area authority under G.S. 122C-115.5(e)(1).

(d) Prior to finalizing any formula developed under this section, the Department shall post the proposed formula on its website and provide notice of the proposed formula to all area authorities, the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Medicaid, and the Fiscal Research Division. The Department shall accept public comment on the proposed formula. The Department shall post the final version of the formula on its website.

(e) The Department may amend the formula as needed to ensure the requirements of subsection (b) of this section are met. Prior to finalizing any amended formula developed under this section, the Department shall post the proposed amended formula on its website and provide notice of the proposed amended formula to all area authorities, the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Medicaid, and the Fiscal Research Division. The Department shall accept public comment on the proposed amended formula. The Department shall post the final version of the amended formula on its website.

(f) Beginning July 15, 2023, and quarterly thereafter, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Medicaid, and the Fiscal Research Division on any funds transferred as a result of county realignments during the previous quarter.

(g) The development, application, and amendment of the formula or formulas under this section shall be exempt from the rulemaking requirements and contested case provisions of Chapter 150B of the General Statutes, as provided in G.S. 150B-1(d)(34) and G.S. 150B-1(e)(27). (2023-134, s. 9G.7A(a1); 2024-1, s. 3.3(a), (b).)