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Social Services

by Janet Mason

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The Constitution requires it, humanity demands it, and the platform of all parties pledge themselves to accomplish it. The state is able to bear the necessary burden for bringing about this result and nothing short of its accomplishment will satisfy the public conscience.

—Governor Charles B. Aycock, defending his administration’s efforts to address issues related to poverty¹

“SOCIAL SERVICES” REFERS TO a complicated system of programs that can be divided into two primary categories: economic services and social work services. The first of these, also referred to as public assistance, assists eligible people through money payments and other economic supports such as food stamps, child care subsidies, and employment services. Eligibility for most of these programs is determined on the basis of a person’s or family’s income and resources. The second assists citizens, including many who are at risk of abuse or neglect, in a variety of ways and often without regard to income.

Today’s complex web of programs and services had its roots in the English Poor Laws. The North Carolina Constitution of 1776 did not address care of the poor. Nevertheless, the General Assembly passed laws calling for locally elected overseers of the poor, providing for wardens of the poor to be elected by county courts, and authorizing counties to build almshouses or poorhouses to house and provide employment for the poor. Slowly but steadily the use of public tax funds to provide some care for needy citizens became accepted as an important and legitimate function of county government.

The North Carolina Constitution of 1868 established, for the first time, a role for the state government with respect to social services:

Beneficent provision for the poor, the unfortunate and orphan[s] being one of the first duties of a civilized and a Christian state, the General Assembly shall, at its first session, appoint and define the duties of a Board of Public Charities, to whom shall be entrusted the supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.²

Statewide public welfare laws, enacted in 1917 and supplemented in 1919, provided for a state Board of Charities and Public Welfare, a state Commissioner of Public Welfare, three-member local boards of charity and public welfare, and county superintendents of public welfare. The enactment in 1923 of a Mother’s Aid law provided financial assistance to indigent mothers with children under the age of fourteen. County participation was optional, and the program costs were split between the state and participating counties. Into the 1930s the state’s role in social services increased, but both the funding and administration of social services remained primarily county responsibilities.

The Social Security Act of 1935 became, and remains, the “cornerstone of the American welfare state.”³ It included public assistance or “relief” programs for low-income people in specified categories, including children in single-parent families. It marked the beginning of a drastic redefinition of the role of government in the social services field. Needy persons who did not qualify for these categorical programs continued to be dependent on completely county-funded programs or on nongovernmental charitable institutions for assistance. North Carolina enacted laws establishing the new federal programs in the state, requiring all counties to participate, designating a single state agency to supervise administration of the programs, and assigning to counties primary responsibility for the nonfederal share of the programs’ costs.

The major social services programs are based in federal law, are funded in part by the federal government, and involve complicated relationships among the federal, state, and county governments. Of course, the social services system also is affected by shifts in the availability of private and charitable resources, economic conditions, and the prevailing political climate. The rest of this article provides an overview of the roles of the federal, state, and county governments in relation to social services, with an emphasis on the specific responsibilities of county officials.

1. Albert Coates, *Talks on Problems and Leaders in the Cities, the Counties and the State of North Carolina*, published through a grant from the Z. Smith Reynolds Foundation (Winston-Salem, 1979), 105.

2. N.C. CONST. of 1868, Art. XI, § 7.

3. Edward D. Berkowitz, *America’s Welfare State from Roosevelt to Reagan* (Baltimore, Md.: Johns Hopkins University Press, 1991), 13.

The Federal Role: Congress and Federal Agencies

Significant parts of the social services system in North Carolina still reflect the programs created by the Social Security Act in 1935, and the system has evolved based largely on changes in the Social Security Act. Federal law does not require any state to operate particular programs. Rather, Congress enacts laws that establish a variety of programs and appropriates funds that are available to states that agree to operate them in accordance with applicable federal laws and regulations. The level of federal financial participation varies from program to program, and within programs it often is different for administrative costs and direct benefits costs.

In recent years, for example, the federal government has paid almost 64 percent of the cost of Medicaid services provided in North Carolina—costs that dwarf those of all other programs combined.⁴ With respect to Medicaid administrative costs and all costs of other programs that involve federal and/or state financial participation—that is, excluding those funded only by counties—the state Department of Health and Human Services (DHHS) estimated that for state fiscal year 2005–6 federal funds would provide:

- almost 84 percent of public assistance payments (those paid to or for clients);
- about 66 percent of associated administrative costs (staff, overhead, and other expenses); and
- about 57.8 percent of the costs of service programs.

Thus for states that want to provide certain kinds of financial assistance and services for their citizens, there are significant financial incentives to participate in the federally supported programs.

The federal executive agency with primary responsibility for overseeing social services programs is the federal Department of Health and Human Services. The Department of Agriculture supervises the Food Stamp program. These agencies promulgate regulations to carry out the federal laws, issue policies to the states, and monitor states' compliance with federal requirements. They can impose financial sanctions on states for failing to meet these requirements, including failing to stay within the prescribed error-rate limits—that is, limits on payments to ineligible individuals and overpayments to eligible recipients.

Federal laws and regulations define basic characteristics of federally assisted public assistance programs, but leave a number of decisions to the states. In the Medicaid program, for example, federal law defines categories of people who may be eligible for assistance, while states have leeway in determining which medical services are covered, how much the providers are paid, and what the income limits are for eligibility.

Federal requirements and restrictions apply to federally funded service programs as well as public assistance programs. As a condition of receiving federal child welfare funds, for example, the state must ensure that any court order placing a child in the custody of a county department of social services includes certain specific findings, that the agency develops a case plan for each child in its custody, and that the court conducts periodic hearings to review the plan for the child. State law reflects these requirements and many others whose origins can be traced to federal funding criteria.

State Government's Role

General Assembly

Since enacting laws in 1937 to enable North Carolina to participate in federally funded welfare programs, the General Assembly has amended or rewritten those laws many times to establish new programs, conform state law to federal changes, modify program features that federal law leaves to the state, and establish or modify programs based solely on state law. Chapter 108A of the General Statutes contains most of the state's social services legislation. G.S. 108A-25 establishes the following public assistance programs:

1. Work First
2. State-County Special Assistance for Adults

4. For fiscal year 2005–6, the federal share of the cost of Medicaid services in the state is estimated to be more than \$5.8 billion. North Carolina Department of Health and Human Services, *NC Division of Social Services County Budget Estimates 2005–2006* (hereafter, DHHS, *County Budget Estimates*, SFY 2005–6). Available at http://www.dhhs.state.nc.us/dss/budget/docs/2005_2006MedicaidEstimates.xls.

3. Food Stamps
4. Foster Care and Adoption Assistance
5. Low-Income Energy Assistance
6. Medical Assistance (Medicaid)

In addition, G.S. 108A-71 authorizes DHHS to accept all grants-in-aid for social services programs that may be available under the Social Security Act, other federal laws or regulations, and nonfederal sources.

Chapter 108A also addresses confidentiality, appeal rights, and other subjects to ensure the state's compliance with federal requirements. It also reflects state policy regarding social services matters that are not determined by federal law. Many program details do not appear in the General Statutes. Some are addressed by administrative rules and policies pursuant to authority the General Assembly has delegated to DHHS and the state Social Services Commission (described later in the article). Others are decided by the legislature when it appropriates funds for public assistance and social services programs.⁵

The General Assembly determines how the state and the counties will share responsibility for the nonfederal portion of the cost of federally supported programs. For example, in the Current Operations and Capital Improvements Appropriations Act of 2005 the legislature provided that the state would pay 85 percent and the counties 15 percent of the nonfederal share of the cost of Medicaid services—the same proportional shares as in a number of preceding years.⁶

In addition to appropriating state funds to pay the state's share of the cost of certain social services programs, the legislature allocates lump-sum federal funds that the state receives under federal block grants for social services programs and approves plans for the expenditure of these funds. The General Assembly also decides issues that federal law leaves to the states' discretion, such as income eligibility limits and the designation of covered medical services for Medicaid. It determines what other, nonfederally based, public assistance and service programs counties must provide; decides whether to provide state funding for services for which federal funds are not available; and defines counties' responsibilities in relation to programs such as child protective services, adoptions, and guardianship.

Department of Health and Human Services

DHHS is the state executive department that is responsible for most public human services programs. The secretary of DHHS, who is appointed by the governor, appoints the directors of various departmental divisions that issue policies and program manuals for use by county departments of social services in interpreting and implementing the various laws and regulations.⁷ DHHS divisions that supervise programs administered by the county departments of social services, or with which county departments must interact regularly, include those described in the following sections.⁸

Division of Social Services

The Division of Social Services oversees the counties' administration of the Work First program, the Food Stamp program, and other public assistance programs except Medicaid.⁹ The division is directly responsible for administering child support enforcement programs that serve almost a third of the counties, and for supervising county-administered child support programs in the remaining counties. Other county-administered programs that the division supervises include foster care services, adoption services, child protective services, and family preservation services.

5. These provisions appear in session laws but are not codified as part of the General Statutes. *See, e.g.*, SL 2005-276, §§ 10.5, 10.11(a).

6. SL 2005-276, § 10.11(b).

7. The manuals are available at <http://info.dhhs.state.nc.us/olm/manuals/default.aspx>.

8. A complete list of DHHS divisions and fuller descriptions of their functions are available at <http://www.dhhs.state.nc.us/docs/division.htm>.

9. The home page for the Division of Social Services is <http://www.dhhs.state.nc.us/dss>.

The division develops policy, conducts some training for county staff, and monitors counties' performance. It also provides consultation, support, and technical assistance to counties, primarily through regional program representatives and teams.¹⁰

Division of Medical Assistance

The Medicaid program is the responsibility of a separate Division of Medical Assistance in DHHS.¹¹ The division supervises county social services departments' administration of Medicaid eligibility determination, establishes policies and procedures, and oversees the payment of medical providers—such as hospitals, physicians, and nursing homes—that deliver services to eligible clients. A third-party recovery section pursues claims for reimbursement of Medicaid expenses. The division also manages North Carolina Health Choice for Children, which provides free or reduced price health care for children in families whose incomes are too high to qualify for Medicaid. And along with the Division of Public Health, it manages the Baby Love program, which focuses on early prenatal care for pregnant women and preventive health care for low-birth-weight infants. The division has obtained from the federal government waivers that enable it to implement programs that otherwise would not be authorized under Medicaid. These include Be Smart, which extends eligibility for family planning services, and Community Alternatives, which allows certain recipients to receive care in noninstitutional settings.

Division of Facility Services

This division licenses and regulates a variety of medical, mental health, and residential child care facilities.¹² Staff members do on-site inspection and monitoring in collaboration with the staff of the county departments of social services and the Division of Social Services.

Division of Child Development

The Division of Child Development regulates more than 9,000 child care centers and family child care homes that enroll more than 253,000 children.¹³ It licenses and monitors child care programs, enforces regulations that apply to those programs, works with local councils to assure appropriate services for children with disabilities, and assists providers of services under the federal Head Start program. The division also administers funds to help low-income families pay for child care so that parents can work and functions in other ways to improve the quality and increase the availability of child care and related services to children and families.

Social Services Commission

Three state commissions play a significant role in relation to the state's social services programs. The Social Services Commission, a semi-independent state body, has rule-making authority for most of the state's social services programs.¹⁴ The commission also is authorized by statute to establish standards for inspecting and licensing maternity homes, adult care homes for aged or disabled persons, and residential child care facilities. The governor appoints the commission's thirteen members, one from each congressional district, for four-year terms.

The Social Services Commission's rule-making authority, defined in G.S. 143B-153, is quite broad. Its rules and regulations, when properly adopted pursuant to the Administrative Procedure Act (G.S. Ch. 150B), have the force and effect of law. The commission may authorize investigations of social problems, subpoena witnesses, and compel the production of documents. It appoints either one or two members (depending on whether the county has a three- or five-member board) of each county social services board. It also may assign responsibilities to county social services boards and directors.

10. See <http://www.dhhs.state.nc.us/dss/team/>.

11. The home page for the Division of Medical Assistance is <http://www.dhhs.state.nc.us/dma/>.

12. The home page for the Division of Facility Services is <http://facility-services.state.nc.us/>.

13. From Division of Child Development Monthly Statistical Summary Report, September 2005, shown at http://ncchildcare.dhhs.state.nc.us/general/mb_snapshot.asp. The home page for the Division of Child Development is <http://ncchildcare.dhhs.state.nc.us/general/home.asp>.

14. See GEN. STAT. Ch. 143B, Art. 3, Part 6 (hereafter G.S.). The secretary of DHHS, rather than the Social Services Commission, has rule-making authority for the Medicaid program.

Child Care Commission

This commission in DHHS adopts standards and rules for the licensing and operation of child care facilities (G.S. Ch. 143B, Art. 3, Part 10A). It also is charged with making rules for responding to child abuse or neglect in child care facilities. The commission has fifteen members—seven appointed by the governor and eight by the General Assembly, all for two-year terms.

State Personnel Commission and Office of State Personnel

The State Personnel Commission and the Office of State Personnel regulate and administer the state personnel system, including the merit system under which most county social services personnel are appointed (G.S. Ch. 126). The director and staff of county social services departments are county employees. The State Personnel Act applies to all county social services employees, however, unless the county's personnel system, or a portion of it, has been approved by the State Personnel Commission as being "substantially equivalent" to that of the state.

The County's Role

In most states, the state, rather than local government, administers social services programs. By contrast, in North Carolina most social services programs are administered by counties under the state's supervision. North Carolina's county-administered, state-supervised social services system reflects the state's long history of local (county) responsibility for public social services, the strength of county government in the state, and the role of North Carolina's counties as the primary vehicle for the delivery of basic services to citizens.

County Social Services Board

Composition and Appointments

Every county except Mecklenburg and Wake counties, whose unique systems are described in the section "Mecklenburg County and Wake County," later in this article, has a three- or five-member social services board (G.S. Ch. 108A, Art. 1, Part 1). In these ninety-eight counties, the board of commissioners decides whether the county's social services board will have three or five members. Most counties have five-member boards.

Members are appointed as follows: two (or one, for a three-member board) by the state Social Services Commission; two (or one) by the board of county commissioners; and one (the fifth or third member) by the first four (or two) members. On a five-member board, the selection of the fifth member is by majority vote of the other four members. If a majority do not agree on a fifth member (or if the two appointed members of a three-member board do not agree on a third member), then the senior regular resident superior court judge of the county makes the selection. A county board of commissioners may select one of its members as its appointee to the social services board, and many boards of commissioners do this as a means of enhancing communication between the two bodies. At its July meeting each year, the board elects one of its members as the chair, to serve for one year or until a new chair is elected.

A social services board member must be a resident of the county to whose board he or she is appointed. The statutes specify no other required qualification for serving on the board. The fact that a person is related to someone who is employed by the department of social services does not preclude that person's appointment to the board. However, a social services department may not hire someone who is an immediate family member of someone who is a social services board member or a county commissioner.¹⁵

Terms

Social services board members are appointed for staggered three-year terms that end on June 30. If the board of commissioners appoints one of its members to the social services board, that person's term is three years even if his or her term as commissioner ends earlier. A member might resign voluntarily in this circumstance to enable the board of commissioners to appoint another of its members to the social services board, but the member is not required to do so.

15. 10A NCAC 68.0301. For purposes of this regulation, an immediate family member is "a spouse, parent, sibling, child, grandparent, grandchild, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, or nephew."

Social services board members may not serve more than two consecutive terms, with two exceptions. First, this limitation does not apply to those who were county commissioners at any time during the first two consecutive terms and are serving in that capacity at the time of reappointment. Second, when a person is appointed during a term to fill a vacancy, service on the board for the remainder of the former member's term does not count as a term for purposes of determining whether the new member has served two consecutive terms.

Change in Size of Board

The board of county commissioners may change the size of the county social services board from three to five members or from five to three members. The chairman of the board of commissioners must report to DHHS the board's decision to take either action. An increase in a board's size becomes effective as soon as the two new members are appointed—one by the board of commissioners and one by the state Social Services Commission. A decrease in a board's size is effective on the first day of July following the decision. Determination of which two members leave the board is made according to the dates on which the members' terms are set to expire, as provided in G.S. 108A-5(c).

Meetings

County social services boards must meet at least once a month, and more often at the call of the chair. The boards are subject to the open meetings law (G.S. Ch. 143, Art. 33C), and all meetings must be open to the public. During a public meeting, however, a board may go into a closed session from which the public is excluded, upon adoption of a motion to do so for one of the reasons specified in G.S. 143-318.11. The board would go into closed session, for example, for any discussion that involved identifying a particular client. Among the things the board may do only in an open session are consider candidates for or fill a vacancy on the board and appoint or discharge the director.

Compensation

Social services board members may receive per diem compensation in an amount established by the board of county commissioners. They also may be reimbursed for subsistence and travel in accordance with a policy set by the commissioners.

Removal of Board Members

Social services board members do not serve at the pleasure of the appointing authority and cannot be removed from office for political reasons. In fact, the social services law makes no provision for removal except as a consequence of decreasing the size of a board from five to three members. In that circumstance the statute determines which two members leave the board. Moving out of the county in which the member was appointed almost certainly is grounds for removing a board member, and one would expect a member who moves out of the county to resign from the board. Aside from these narrow circumstances, a social services board member probably can be removed only "for cause." Such a removal can be effected only by the appointing authority and only through procedures that protect the board member's due process rights.¹⁶

Mecklenburg County and Wake County

Pursuant to a special provision in G.S. 153A-77, the Mecklenburg County Board of Commissioners has abolished the county social services board and assumed its powers, duties, and responsibilities. The county took this step as part of its total reorganization of human services programs in the county. Under another provision of the same statute, Wake County has implemented a different form of reorganization, consolidating its human services programs and departments, including social services, into a consolidated county human services agency. The county's consolidated human services board, which is appointed by the board of county commissioners, has most of the powers and authority of a county social services board. The statute authorizing these reorganizations applies only to counties with populations in excess of 425,000.

Powers and Duties

County social services boards, unlike many other local boards, are primarily advisory. The statute that provides for their creation, G.S. 108A-1, states that social services boards are to establish policies for programs established by G.S. Chapter 108A. These policies, however, must be consistent with state and federal rules and regulations, which

16. For a thorough discussion of issues relating to the removal of board members, see John L. Saxon, "The County Board of Social Services (Part III): Appointment, Terms, Term Limits, and Removal from Office," *Social Services Law Bulletin* 36 (School of Government, June 7, 2002); "Removal of Members of County Social Services Boards from Office during Their Terms," *Social Services Law Bulletin* 17 (Institute of Government, February 1993).

leaves little room for county boards to engage in programmatic policy making. When the General Assembly expanded counties' local policy-making authority for the Work First Program in 1997, it assigned that authority directly to the boards of county commissioners (in electing counties) or to the county departments of social services (in standard counties), not to county social services boards.¹⁷

G.S. 108A-9 specifies the following duties and responsibilities of the county social services boards:

1. *To select the county social services director in accordance with the merit system rules of the State Personnel Commission.* The county social services board has sole responsibility for recruiting and selecting the director of the county department of social services. (Two or more county social services boards may employ one director jointly, but none have done so.) Board members may have little training or experience in personnel matters. A board that needs to hire a director (or to take other personnel action in relation to the director) should seek whatever help it needs to ensure that its procedures are effective and legally sound. Sources of assistance include the county's personnel department; the county attorney or county social services attorney; the Division of Social Services; and social services board members in other counties.

Implicit in the board's authority to hire the director are the authority to discipline or fire a director if necessary, in accordance with state personnel rules, and a responsibility to evaluate the director's performance. The social services board determines the director's initial salary and any salary changes in accordance with the State Personnel Commission's (or, in a few cases, the county's) pay and classification plan, subject to the approval of the board of commissioners.

In Mecklenburg County, the board of county commissioners, which acts as the social services board for the county, hires the social services director. In Wake County, the county manager, with the advice and consent of the consolidated human services board, hires the human services director, who reports directly to the county manager.

2. *To advise county and municipal authorities in establishing policies and plans to improve the community's social conditions.* This broad advisory authority indicates that the county social services board has a legitimate function that extends beyond the programs and activities of the county department of social services. Some social services boards are represented on local human services advisory committees or similar bodies that address social problems and conditions in the community. The law requires that the board be represented on the county's Work First planning committee, which is appointed by the board of commissioners to identify the needs of the population to be served by the Work First program and to review and assist in developing the county plan to respond to those needs.
3. *To consult with the county social services director about problems relating to the director's office.* The director is the administrator of the county department of social services. The board's role includes advising the director about administrative matters in the department or problems of program administration.
4. *To assist the director in planning budgets for the department.* The extent to which social services boards are actively involved in planning and presenting the department's budget varies from county to county. The department's position in the county's budgeting process is strengthened if the board understands the proposed budget, endorses it, and can advocate it knowledgeably. Some county social services directors routinely ask the board to approve the budget, although that is not legally required.
5. *To carry out whatever other duties and responsibilities the General Assembly, DHHS, the state Social Services Commission, or the board of commissioners assigns to the board.* The state Social Services Commission, through its rules, has given county social services boards responsibility for reviewing cases involving suspected public assistance fraud. The boards may either review each case individually or adopt a fraud policy and delegate its enforcement to the county social services director and staff.¹⁸

The General Assembly has assigned several other duties and responsibilities to social services boards. Under G.S. 108A-10, boards may enter into contracts to provide services for a fee. The fees may not exceed the cost of furnishing the services and must be based on a plan recommended by the county social services

17. The distinction between standard and electing counties is discussed below in the section on boards of county commissioners.

18. See, e.g., 10A NCAC 71W .0606, which addresses client fraud and intentional program violations in the Work First program.

director and approved by both the social services board and the board of commissioners. The social services board should report annually to the board of commissioners on the receipt of such fees. A number of counties have adopted fee policies with respect to the social services department's preparation of home studies for the district court's use in child custody disputes between private parties, a service that departments are not required to provide and for which they receive no federal or state funding.

Under G.S. 108A-16 and -18, the board of commissioners must have the approval of the social services board in order to appoint a special county attorney for social services matters. If such an attorney is appointed, the commissioners determine the attorney's compensation.

The duties and authority discussed previously apply to the social services board acting as a board, not to its individual members. Another law, G.S. 108A-11, gives board members the right to inspect confidential county social services records relating to public assistance and services. The statute prohibits members' disclosing or making public any information they acquire from the records. Obviously, individuals should exercise this authority only for purposes related to their responsibilities as board members, not for personal reasons.

County Social Services Department and Its Director

Except for the special arrangements in Mecklenburg County and Wake County described previously, each county has a social services department headed by a director selected by the county social services board. The director administers the public assistance and service programs directly and through the social services staff. In many counties the department also is the local agency responsible for administering the child support enforcement program.

General Duties of the Director

G.S. 108A-14 specifies the principal duties and responsibilities of a county social services director. The first five are general duties:

1. *To serve as executive officer of the county social services board and act as its secretary.* The director must provide clerical services to the board and, as its executive officer, implement its policies and decisions. The director is not a member of the board, however, and may attend closed sessions of board meetings only at the board's invitation.
2. *To appoint departmental staff under the state merit system rules.* It is the director's responsibility to hire staff and make personnel decisions regarding them. County social services staff are covered by the State Personnel Act unless the county's personnel system (or a portion of it) has been judged by the State Personnel Commission to be substantially equivalent to that of the state. In Wake County, the county human services director hires the staff of the consolidated human services agency with the county manager's approval.
3. *To administer public assistance and social services programs under applicable regulations.* Program administration is the director's responsibility, though much of it is accomplished through delegation of duties to and supervision of the staff. Most programs are administered according to federal and state laws and regulations; those funded solely with county funds are subject only to county policies.
4. *To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the social services board.* Counties are authorized to operate social services programs that are neither mandated nor funded by the federal or state government. A county might choose to provide financial or other aid to needy persons who do not qualify for federally or state-funded public assistance programs. The director is responsible for administering these programs under policies adopted by the social services board, subject to the direction of the board of commissioners in establishing and funding the programs.
5. *To act as the agent of the state Social Services Commission and the state DHHS in relation to work they require in the county.* The county social services director is a county employee who, as noted earlier, is hired and may be fired only by the county social services board. He or she oversees the expenditure of substantial federal, state, and county funds. The director also is required by statute to act as the agent of the state Social Services Commission and DHHS in relation to their programs in the county.

Programmatic Duties of the Director

Other parts of G.S. 108A-14 describe specific programmatic duties of the county director of social services or refer to duties that are the subject of other, more detailed, statutes:

1. *To investigate adoption cases and supervise adoptive placements.* Under the state adoption law (G.S. Ch. 48), county departments of social services have many responsibilities in relation to the adoption of children. They arrange for and supervise adoptive placements; recruit, screen, and supervise adoptive parents; and evaluate and report to the court on adoption cases.
2. *To issue youth employment certificates.* A state labor law, G.S. 95-25.5, provides for county social services directors to issue the youth employment certificates that persons under age eighteen must have before being employed in most occupations. With the approval of the Commissioner of Labor, a director may delegate this authority to personnel on or outside the director's staff.
3. *To supervise adult care homes for aged or disabled persons.* Under G.S. Chapter 131D, adult care homes must be licensed by DHHS. The county social services director's responsibilities include monitoring implementation of the Adult Care Home Residents' Bill of Rights (G.S. Ch. 131D, Art. 3) and investigating complaints relating to violations of these rights.
4. *To assist and cooperate with the Department of Correction.* G.S. 148-33.1(f) authorizes the Department of Correction to make payments out of prisoners' work-release earnings for the support of their dependents. If no court order provides for support, payments are to be made according to the county social services department's determination of dependency status and need. Under G.S. 148-4(7), which covers maternity leave for female prisoners, county departments of social services "are expected to cooperate" with prison officials to coordinate prenatal care, financial services, and placement of prisoners' children.
5. *To investigate and respond to reports of child abuse and neglect.* The state Juvenile Code (G.S. Ch. 7B) includes the child abuse reporting law, which requires anyone who suspects that a child is abused, neglected, or dependent, or has died as a result of maltreatment, to make a report to the county director of social services. The law requires the director to make a prompt and thorough assessment of each report, to evaluate the level of risk to the child or to other children in the home, and to take appropriate protective action.
6. *To arrange and supervise children's placements in foster care.* Under the Juvenile Code, a district court judge may place abused, neglected, dependent, undisciplined, or delinquent children in the custody of the county department of social services. Many of these children are placed in state-licensed foster homes. County social services departments also may place and supervise children in foster care pursuant to voluntary placement agreements with parents or following the parents' relinquishment of a child for adoption.
7. *To receive and respond to reports of abuse, neglect, or exploitation of disabled adults.* Under G.S. Chapter 108A, Article 6, anyone with reasonable cause to believe that a disabled adult needs protective services must make a report to the county director of social services, who must evaluate each report promptly and thoroughly and respond appropriately.

Other Duties of the Director

This list is not exhaustive. Other statutes address the county social services director's duties or authority in such areas as guardianship of incompetent adults (G.S. Ch. 35A); services to the blind (G.S. Ch. 111); and unclaimed dead bodies (G.S. 130A-415).

Boards of County Commissioners

Duties and Authority of All Boards of Commissioners

A primary role of the board of commissioners in relation to social services is ensuring the adequacy of funds for social services programs in the county budget. That role is discussed in the section "Financing Social Services," later in this article. The commissioners' other powers and responsibilities include the following:

1. *To determine whether the county has a three- or five-member social services board, and to appoint one or two, respectively, of the members (G.S. 108A-2, -3).* Many boards of commissioners appoint one of their own members to serve on the social services board to foster communication and understanding between the two bodies. The procedure for changing the size of a board from three to five members or from five to three members is described in the previous section, "Change in Size of Board."
2. *To establish per diem rates and policies for subsistence and travel reimbursement for county social services board members (G.S. 108A-8).* The commissioners need to establish these policies in addition to including funds in the budget to cover these expenses.

3. *To approve, along with the county social services board, fees to cover the cost of certain nonmandated services that the social services board contracts to provide (G.S. 108A-10).* The board of commissioners should receive an annual report from the social services board concerning the receipt of such fees.
4. *To approve the county social services director's salary (G.S. 108A-13).* The social services board appoints the director and determines the director's salary based on the State Personnel Commission's pay classification plan, but the salary must be approved by the board of commissioners. Although the two boards should make every effort to reach agreement, the commissioners, having control over the budget, probably have the final say in accepting or rejecting the social services board's recommendation.
5. *To appoint, with the approval of the county social services board, a special attorney for social services matters and to determine the attorney's compensation (G.S. 108A-16, -17, and -18).* A county is not required to have an attorney designated under this section as a special county attorney for social services. If it does, the attorney's duties include serving as legal adviser to and performing duties assigned by the board of commissioners, the director of social services, and the social services board.
6. *To determine whether financial assistance for certain disabled persons will be provided under the State-County Special Assistance for Adults program (G.S. 108A-45).* State law requires counties to operate this state- and county-funded program, which is designed primarily to subsidize needy aged or disabled persons who live in residential care facilities. The board of commissioners has the option of including in the program certain needy disabled persons who live in their own homes.
7. *To be responsible, through the county department of social services, for the administration and operation of the Food Stamp program in the county (G.S. 108A-51).* As with most other statewide federally funded programs, the Division of Social Services, in DHHS, is responsible for supervising the counties' operation of the Food Stamp program.
8. *To decide which nonmandated public assistance programs or services the county will provide (G.S. 153A-255).* State law requires counties to participate in a number of social services programs but also authorizes counties to "undertake, sponsor, organize, engage in, and support other social services programs intended to further the health, welfare, education, safety, comfort, and convenience of its citizens." Many counties, for example, provide some form of general assistance to help address emergency needs of people who are not eligible for other benefits.
9. *To determine which agency or entity will operate the Child Support Enforcement program in the county (G.S. 110-141).* About two-thirds of the counties are responsible for administering a Child Support Enforcement program in the county. In the other counties, the state operates the program pursuant to an option counties were given when the program was established in 1975. Counties that administer the program no longer have the option of turning it over to the state; however, a county in which the state administers it may elect to administer the program itself. Most county-administered child support programs are operated by the county department of social services. The board of commissioners has the option, though, of creating an independent county department for child support enforcement, locating the program in another county department or office, or contracting with a private entity to operate the program.
10. *To plan for, or to both plan for and administer, the Work First program in the county.* The federal Temporary Assistance to Needy Families (TANF) program, which replaced the former Aid to Families with Dependent Children (AFDC) program, is called Work First in North Carolina. State law allows each board of county commissioners to indicate to the legislature whether it wants to be a "standard" or "electing" county for purposes of the Work First program. A board's request to be an electing county has to be supported by a three-fifths vote by the commissioners. The legislature designates the electing counties.

In an electing county, the board of county commissioners is responsible for the development, administration, and implementation of the Work First program. In a standard county, the state retains more control over the program, which is administered by the county department of social services. State law requires each board of county commissioners, regardless of the county's designation, to appoint a committee to identify the needs of the population to be served by Work First and to review and assist in developing a county plan to respond to those needs.

Duties and Authority of Boards of Commissioners in Standard Counties

The board of county commissioners in a standard county is required to review and approve the county Work First plan that is developed by the county department of social services, for submission to DHHS. In addition, along with the county department of social services, the board must consult with DHHS regarding some aspects of the plan.

Duties and Authority of Boards of Commissioners in Electing Counties

In relation to Work First, more authority and responsibilities fall directly on the board of county commissioners in an electing county. These include

- establishing outcome and performance goals
- establishing eligibility criteria and making eligibility determinations
- entering into mutual responsibility agreements with Work First recipients, ensuring that services and resources are available to help participants comply with the agreements, and monitoring compliance with those agreements
- ensuring that participants engage in the required hours of work activities
- developing and submitting to DHHS a biennial county Work First plan
- developing and implementing an appeals process for the county's Work First program that substantially complies with G.S. 108A-79

A board of commissioners may delegate most of these responsibilities to other public or private entities; however, the board remains accountable for all of them.

Allocation of Responsibility among Counties

The legal residence of a person who is eligible for public assistance or who needs social services determines which county is responsible for providing them. G.S. 153A-257 establishes the rules for determining an adult's or child's legal residence for social services purposes. In most cases, legal residence is the county in which a person resides. The fact that a person is in an institution or residential facility located in a county, however, is not sufficient, by itself, to establish legal residence in that county.

Financing Public Assistance and Social Services Programs

Federal, State, and Local Funding Responsibilities

More than any other area of local government finance, social services financing is complicated by intricate patterns of federal, state, and county funding. Since the 1930s, the federal government has assumed a major role in financing social services programs. Those programs contribute many federal and state dollars to local economies; they also require the expenditure of substantial county funds. Some county expenditures are required by the General Assembly's assignment to the counties of responsibility for a portion of the nonfederal cost of certain programs. Some are required as a condition of receiving other federal and state funds for social services. Others are required in order to provide needed, and sometimes mandated, services and programs for which state and federal funds are either unavailable or insufficient.

Some federally funded public assistance programs, such as Food Stamps and Medicaid, are entitlement programs, meaning that benefits must be provided to every person who applies and meets the program's eligibility requirements. The federal government's financial obligation is open-ended. Regardless of how many people qualify for benefits, the federal government must provide funds sufficient to pay the federal share of benefits for everyone who is entitled to assistance. In the Food Stamp program, the federal government pays the full cost of the benefits (but only half of the administrative costs). In the Medicaid program, the state's (and counties') financial obligation also is open-ended, as the state must provide funds sufficient to pay the nonfederal share of the cost of the benefits.

In other programs, such as Work First, the Low-Income Energy Assistance Program, and most service programs, the amount of federal funding is capped. Federal appropriations provide a fixed amount of funding, often called a *block grant*. State or local funds must provide either a specified percentage match or an amount representing a "maintenance of effort" tied to amounts expended or budgeted for the program in a designated prior period. The state must develop comprehensive plans, such as the Work First plan and the Social Services Block Grant plan, describing the proposed use of the federal block grant funds and related state and local funds. The General Assembly is responsible for approving the distribution of federal block grant funds to counties.

If the federal funds and the required state and local contributions are insufficient to provide benefits or services to everyone who is eligible, the state must limit the number of people served by the program, limit the amount of benefits or the level of services provided, or provide additional state or local funding for the program.

Under G.S. 108A-87 the General Assembly has the authority to decide whether and how to divide the nonfederal share of costs for social services programs between the state and counties. North Carolina generally requires counties to pay the bulk of the nonfederal share of administrative costs, as well as a significant portion of the cost of social services provided to county residents.

G.S. 108A-90 requires all boards of county commissioners to levy and collect taxes sufficient to meet the county's share of social services expenses. If a county does not pay or arrange for payment of its full share of the costs, the governor is authorized under G.S. 108A-93 to withhold from it any state appropriations for public assistance and related administrative costs or to direct the secretary of revenue and the state treasurer to withhold specified tax revenues owed to the county. Before withholding funds, the governor must notify the chairman of the board of commissioners of the proposed action. While the commissioners must provide funds sufficient to pay a county's formula-determined share of the cost of mandated programs, they have total discretion as to what, if any, county money to budget for non-mandated social services programs.

The Budgeting Process

G.S. 108A-88 requires the state DHHS, by February 15 of each year, to notify the county social services director, the county manager, and the board of county commissioners of the amount of state and federal funds estimated to be available to the county for public assistance and social services programs and related administrative costs for the next fiscal year—July 1 through June 30. The notice states the percentage of county financial participation that is expected to be required for each program. Periodically, the state revises these estimates to reflect new state budget figures and actions taken by the General Assembly, Congress, and federal agencies. The budget process in the counties must proceed with some uncertainty as to the exact amount of county funds that will be required to fund the counties' share of the cost of mandated programs.

In providing estimates to the counties in odd-numbered years, the state must include notification of any changes in public assistance funding levels, formulas, or programs that the governor has proposed to the General Assembly under the Executive Budget Act. Counties also must be notified of changes in the proposed budget of the governor and the Advisory Budget Commission that result from action by the General Assembly or Congress subsequent to the February 15 estimates. It is not unusual for the initial estimates that counties receive to be revised several times.

Every county's social services budget contains more than the amounts indicated in the state's estimates. In the services area, for example, federal and state funds available to the county, along with any county match indicated in the state's estimates, may be insufficient to hire the number of social workers necessary to carry out the county's legal responsibility to provide protective services to abused and neglected children. Some state mandates, such as the requirement that a county social services director serve as guardian for incompetent adults when appointed by the court to do so, are not accompanied by state funding. In addition, to meet local needs, county social services departments may operate programs and provide services that are not mandated and that are funded with only county funds.

Directors of county departments of social services are responsible for preparing an annual budget for the county department of social services. G.S. 108A-9 states that the county board of social services should assist the director in planning budgets for the department and transmit or present the department's budget to the board of commissioners. County social services directors consult with the county social services board on budget matters, and some directors submit the department's proposed budget to the social services board for a formal vote of approval. Some boards actively help the director develop and advocate the budget, a practice that no doubt strengthens the department's position in the county budgeting process.

Local Budgeting Procedures

Budgeting for social services departments, like that for other parts of county government, is controlled by the Local Government Budget and Fiscal Control Act (G.S. Ch. 159, Art. 3). The act requires that before April 30 of each fiscal year (or an earlier date fixed by the county's budget officer) each department head transmit to the budget officer the budget request and revenue estimates for the budget year. (The county manager, if the county has one, is the budget officer.) Not later than June 1, the budget officer submits a proposed budget to the board of commissioners, which of course is responsible for adopting the county's budget ordinance.

For those programs for which the Division of Social Services allocates specific amounts to counties, each county is provided with funding authorizations for disbursements up to those amounts. By accepting these authorizations, a county certifies that the required local matching funds are available in its current budget. State and federal funds for other programs flow to the county in the form of reimbursements for program expenditures. The Division of Social Services provides budget forms for counties to use in allocating administrative costs among programs.

Unlike most states, North Carolina continues to call on counties to be the primary deliverers of public social services. North Carolina's arrangement of county administration and state supervision, and the intergovernmental cooperation it requires, generates some special frustrations and problems. But it also results in a statewide social services system that combines general uniformity with the maintenance of some measure of local flexibility and control.

Given the extent of federal involvement in establishing, regulating, and funding social services programs, the system is perhaps the most complex example of federal-state-county interaction. Social services programs in North Carolina will continue to be greatly influenced by changes at the federal level and by federal funding conditions for the many programs for which federal funding is critical. Even apart from federal influences, however, the state and counties must address serious issues regarding how best to meet the needs of children, families, and disadvantaged adults within the limited resources available.

Additional Resources

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Appendix 42-A

Social Services Programs

General descriptions of the major public assistance and social services programs follow. Detailed provisions relating to these programs may be found in the policy manuals that are issued by the Department of Health and Human Services and available at <http://info.dhhs.state.nc.us/olm/manuals/manuals/default.aspx>

Public Assistance Programs

Work First

In 1996, Congress enacted federal welfare reform legislation (Public Law 104-193) that replaced the former basic welfare program, Aid to Families with Dependent Children (AFDC), with a federal block grant to states for Temporary Assistance to Needy Families (TANF). North Carolina implemented the TANF program administratively in October 1996, and in 1997 the North Carolina General Assembly established it formally by statute. Welfare reform and the implementation of TANF reflected

1. a shift from open-ended to capped, or block grant, funding;
2. increased flexibility, especially in the area of services;
3. expanded involvement of other state and local agencies in both planning and implementing programs; and
4. a strong emphasis on and reporting requirements for measuring program results.

Work First is both a public assistance program and a social services program. The General Assembly is authorized to designate one or more counties as “electing” counties with local authority to set eligibility criteria, payment levels, and other program features that the state sets for other (standard) counties. Both electing counties and standard counties must develop biennial Work First plans and submit them to DHHS for approval.

Some of the key components of Work First include the following:

- Recipients of Work First cash assistance who are able to work must become employed or participate in short-term job training within a specified time period.
- Recipients must move off welfare within two years (or, in electing counties, the time established by the county but not more than five years). Extensions can be granted in hardship cases.
- Each recipient must sign a personal responsibility contract that describes the recipient’s plan for moving off welfare and for carrying out family responsibilities.
- Recipients must be provided help with child care, transportation, job search, and short-term job training, and can receive Medicaid for up to a year after they stop receiving assistance.
- Teen parents must stay in school and live at home or under other approved adult supervision.
- No additional cash payments may be made for children born after a family has been in Work First longer than ten months.
- Sanctions apply to families that do not meet their Work First obligations.

Food Stamps

State law requires every county to operate the federally funded Food Stamp program, which issues electronic benefit transfer (debit) cards to eligible recipients for the purchase of food products (G.S. 108A-51 to -53). Basic policies for eligibility are based on income and resource guidelines issued by the U.S. Department of Agriculture. The federal government pays the full cost of food stamp benefits, which are estimated to be more than \$1 billion in North Carolina in fiscal year 2006–7.¹⁹ The federal government pays half of the administrative costs; the counties pay most of the other half. Recipients who are age eighteen to fifty-nine who are not disabled or otherwise exempt must register for work and participate in job search or education and training activities.

19. DHHS, *Estimated Funds Available, SFY 2006–7*.

Medical Assistance Program (Medicaid)

Medicaid is a public assistance program that covers most of the cost of medical care and services for several categories of people who cannot afford the costs of health care (G.S. 108A-54 to -70.16). (Medicaid is completely separate from Medicare, which is a federal health insurance program administered by the federal Social Security Administration.) Those who may receive Medicaid include low-income aged, disabled, or blind persons; needy children and pregnant women; individuals who receive federal Supplemental Security Income (SSI) benefits; and other low-income people who meet eligibility requirements. Once people are certified as being eligible for Medicaid, direct payments are made on their behalf to medical providers, such as doctors, hospitals, and pharmacists. County departments of social services are responsible for assuring that transportation to needed medical services is available to Medicaid recipients.

State-County Special Assistance for Adults

Counties are required to participate in this program of financial assistance for people who (1) are either age sixty-five or older or permanently and totally disabled, (2) need rest-home care, and (3) are financially eligible (G.S. 108A-40 to -47). Counties have the option of providing assistance, with state financial participation, to “certain disabled persons” from eighteen to sixty-five years of age who come within a state definition of “disabled,” are in private living arrangements, and meet other eligibility requirements.

Low-Income Home Energy Assistance Block Grant Programs

The federal Low-Income Home Energy Assistance Block Grant provides funds to the state for two energy programs that are administered by county departments of social services. The Low-Income Energy Assistance Program (LIEAP) provides one-time cash payments to help eligible families pay their heating bills. The Crisis Intervention Program is a year-round heating and cooling assistance program that provides cash payments to help eligible families.

Foster Care and Adoption Assistance Payments

All counties administer and contribute to the funding of programs to pay for room and board (as well as provide a modest special-needs allowance) for children placed in foster care and to subsidize the cost of caring for some adopted children (G.S. 108A-48 to -50).

Service Programs

Protective Services for Children and Adults

State laws require that cases of suspected child abuse, neglect, dependency, and death from maltreatment, and cases involving disabled adults who may be abused, neglected, or exploited, be reported to the county department of social services. The North Carolina Juvenile Code, which includes the child abuse, neglect, and dependency reporting law, is designed to protect children under age eighteen from neglect and abuse by parents or other caretakers. The Juvenile Code also requires that protective services be provided for children who either have no parent or caretaker or whose parent is not able to care for the child or to make suitable alternative arrangements. The disabled-adult reporting law, which is part of the Protection of the Abused, Neglected, or Exploited Disabled Adult Act (G.S. Ch. 108A, Art. 6), is meant to protect persons who are age eighteen or older, are physically or mentally incapacitated, and are vulnerable to abuse, neglect, or exploitation. These laws are aimed at identifying children and disabled adults who are being harmed or are at risk and ensuring that they receive protective services. When a county department of social services receives a report under either law, it must conduct a prompt assessment and take appropriate action to protect the child or disabled adult.

In cases of child abuse, neglect, or dependency the department provides a wide range of treatment and supportive services to children and their families, often while the children remain at home, since one purpose of the law is to keep families intact unless the risk of harm to a child requires the child’s removal from the home. Under the Juvenile Code, the department may file a petition in district court seeking either legal custody of a child or some other court order to protect the child.

When a department finds that a disabled adult needs protective services, it must provide or arrange for services if the disabled adult consents. If the individual lacks the capacity to consent, the department may seek a court order authorizing it to provide services. The broad range of services covered by this law includes social, medical, psychiatric, psychological, and legal services. In appropriate cases, the department may petition to have the disabled adult declared incompetent and to have a guardian appointed for the person.

Permanency Planning Services

Social services policies emphasize the prevention of unnecessary or unduly long foster care placements, viewing them as costly in terms of both money and children’s well-being. A permanency planning program that operates in every county aims to provide all children with permanent homes, preferably with their own parents, as early as possible.

While the emphasis is on keeping children in or returning them to their own homes, there is a complementary emphasis on moving children into long-term plans like adoption or guardianship if returning them to their homes is unlikely. County departments provide preventive services to help families deal with their problems so that children can remain in their own homes, as well as reunification services aimed at reuniting children with their families as soon as possible when removal is necessary.

Adoptions

Every county department of social services has an adoption program that includes accepting children for placement, recruiting and screening adoptive parents, and arranging and supervising placements. State adoption law (G.S. Ch. 48) requires that either the county department of social services or a licensed child-placing agency conduct a preplacement assessment of every prospective adoptive home and a report to the court on every adoptive placement. (Some exceptions exist for relative and stepparent adoptions.) The state Division of Social Services supervises county adoption programs. State support includes legal guidance to ensure sound adoptions; guidelines for services to biological parents, children in need of adoption, and adoptive parents; a central registry for indexing and filing adoption proceedings and protecting adoption records; and an adoption resource exchange.

Services to Aged or Disabled Adults

In addition to, and sometimes in conjunction with, the protective services described previously, county departments of social services provide a number of services to aged and disabled adults that range from those furnished in the client's own home, to community-based services, to institutional care. The focus is on helping people remain in their own homes and avoiding unnecessary and expensive institutional care, although people may be helped in obtaining appropriate care outside the home when it is needed.

Child Support Enforcement (IV-D) Program

The Child Support Enforcement program helps locate absent parents for the purpose of obtaining child support and assists in establishing paternity and establishing and enforcing child support obligations. In most counties the program is administered by the county social services department, but in some it is administered by another department of county government, by the state, or by a contracted provider. Child support agencies are authorized to use a variety of methods, including the interception of state or federal tax refunds, to collect child support. They are required to seek support on behalf of children who receive public assistance, and also must provide services to anyone else who applies and pays a modest application fee. The Child Support Enforcement program is often referred to as the "IV-D" program because it is based on Title IV-D of the Social Security Act.

