

*Kevin Austin, Chairman of Board  
David Moxley, Vice Chairman  
Cliff Collins, Commissioner  
Marion Welborn, Commissioner  
Frank Zachary, Commissioner*



*Ed Powell, County Attorney  
Lisa Hughes, County Manager  
Tanya Gentry, Clerk to the Board*

## COUNTY MANAGER'S REPORT

### May 3, 2024

#### NCDHHS

The State Auditor's Office conducts annual Single Audits of all State departments/divisions. According to an article by Theresa Opeka, NCDHHS mismanaged millions of dollars in federal funding last fiscal year. NCDHHS is blaming reporting errors on employee turnover and placed blame on county DSS staff for not applying policies correctly. In the early 2000s, NCDHHS had staff that conducted training for all county DSS staff and consultants who travelled to counties monthly to meet with staff to talk about changes in policy and procedures. To reduce costs at the time, the State eliminated those positions and, in my opinion, it created less knowledge of State policies for county DSS staff and created inconsistencies amongst counties because it was left to each county's interpretation of policy. That's why the regional offices mentioned in last week's Manager's Report are important for county DSS staff. Exhibit A contains a copy of Opeka's article.

#### Vacancy Report

This week we have 24 vacancies. Human Services continues to have a significant number of vacancies this week, with 15. Three of the vacancies are in the Sheriff's Office and 2 in Emergency Services. The Tax Assessor's Office has 2 vacancies. Seventeen of these positions have been vacant over 30 days, with 12 of them being in Human Services. Nine of them have been vacant over 100 days. Two of these positions have been vacant over 300 days, which in accordance with the County's Personnel Policy positions vacant for 12 months are eliminated.

#### FY2025 Budget

This week's budget highlight is on the fire departments. As presented in the study conducted by NC Fire Chiefs Consulting, rural volunteer fire departments are struggling to recruit and maintain volunteers and most of the fire departments within the County have aging apparatus that needs replacing.

In accordance with their existing contracts fire departments are supposed to submit the following and not all have met these requirements:

- a notarized statement that they have conducted and evaluated criminal history checks in accordance with NCGS 143B-943

- provide Annual Board meeting minutes and amended Articles of Incorporation and IRS Form 990 as part of the budget process
- completed budget forms as specified by the County, which lists required budget documents such as an OSFM Member Roster and a list of Board members and email addresses

While the fire departments are considered “volunteer”, there is only one fire department that is truly volunteer in that they have no full-time or part-time staff or a system to compensate volunteers per call. All of the other fire departments have part-time staff and compensation programs in place to pay members per call.

Below is a chart that shows the fire departments and their funding request and their contract amounts for the current year and last fiscal year. The percentages reflect the increase from one year to the next. At the bottom of the columns is the total of funding for all the fire departments and the average increase.

	FY2025 Requested		FY2024 Contract		FY2023 Contract
Arlington	\$ 485,653	32%	\$ 368,680	8%	\$ 340,000
Boonville	\$ 546,917	97%	\$ 277,257	11%	\$ 250,000
Buck Shoals	\$ 87,400	16%	\$ 75,202	14%	\$ 65,800
Courtney	\$ 300,000	50%	\$ 200,000	14%	\$ 175,000
East Bend	\$ 387,530	62%	\$ 238,705	6%	\$ 224,500
Fall Creek	\$ 236,894	10%	\$ 214,671	8%	\$ 198,000
Forbush	\$ 387,000	17%	\$ 331,465	18%	\$ 280,000
Lone Hickory	\$ 76,500	0%	\$ 76,577	5%	\$ 73,000
West Yadkin	\$ 345,000	3%	\$ 335,000	10%	\$ 305,000
Yadkinville	\$ 719,778	17%	\$ 613,879	14%	\$ 538,337
	\$ 3,572,672	30%	\$ 2,731,436	11%	\$ 2,449,637

Most of the increases are due to increased operational costs, building maintenance or remodels, paving of parking lots, apparatus repairs, apparatus replacements and SCBA replacements. To fully fund the requests of the fire departments, it would require a 2.2 cents tax rate increase in the General Fund. Outside of these contracts, the County also pays for hose and ladder testing for all of the fire departments and offers a reimbursement program for turn-out gear, dual band radios, website maintenance and fingerprinting costs. We spend approximately \$48,000 for the hose and ladder testing and the reimbursement amount varies depending upon the departments submitting the requests for reimbursements. This current year the County budgeted \$90,000 for the reimbursement program and has reimbursed approximately \$45,000 to date.

#### ***US Department of Labor Rule***

The US Department of Labor has adopted a new overtime rule that increases the salary thresholds effective July 2024. It increases the salary for exemptions of overtime to \$43,888 July 1, 2024 and again on January 1, 2025 to \$58,656. We have two employees that will be impacted by the Rule change, which would make them eligible for overtime

compensation. If the 3.5% COLA is adopted with the FY2025 budget, only 1 employee would be affected.

### **Old 421 Highway Bridge Replacement**

NCDOT plans replace the bridge on Old 421 Highway over the Yadkin River. The right of way work for this project begins in September 2024 and a target contract date of March 2026. The schedule is dependent upon the coordination with the park and river accesses and the farmers in the area. This project impacts both Yadkin and Forsyth counties.

### **DSS MOU**

The legislatively required DSS MOU is making its rounds to cover FY24-25 and FY25-26. Exhibit B contains a letter from NCDHHS and a draft copy of the MOU. Due to the volume of attachments which are mostly the performance measures, I have not included them in the Exhibit. Printed copies of the full document will be made available to you, if you like.

### **Legislative Goals**

It's time to start thinking about Legislative Goals to submit to the NCACC. The submission process will kick-off in May. Please be thinking about what you would like to submit. In the past, the Board has submitted an average of 4-6 goals. The goals will be in any of the following areas: Agriculture, Environment, General Government, Health and Human Services, Justice and Public Safety, Public Education and/or Tax and Finance. Exhibit B contains the Legislative Goals Handbook.

### **Conferences and Trainings**

The Upcoming Dates section below includes several Conferences and meetings that require pre-registration. As a County, we try to be good stewards of County funds and take advantage of early bird registrations, when registration fees are at their lowest point. Most of these registrations, as well as hotel registrations, have cancellation dates to receive full refunds or partial refunds. If these cancellation dates are not met, the registration fees and / or hotel fees are not-refundable.

Attending Conferences and Trainings is beneficial to employees and Commissioners, however, we all need to be cognizant of the costs involved and the commitments to attend once registered.

Please note the early bird registrations in the Upcoming Dates below and ask Tanya about cancellation dates in the event you register and are later not able to attend. Tanya is the point of contact for the Commissioners to register for Conferences and Trainings.

### **Upcoming Dates**

NCACC's County Advocacy Days will be held **June 11 & 12** in Raleigh. Registration is now open. The meeting starts with a Networking Reception at 1pm, followed by Steering

Committee meetings at 2pm and a Reception/Dinner starting at 6pm. The Legislative Program starts Wednesday morning at 8am at the Quorum Center before moving to the Legislative Building for meetings with our local representatives. Please let Tanya know if you are interested in attending. She will register you and make hotel reservations for June 11.

The NACo Annual Conference & Exposition is **July 12-15** in Hillsborough County, Florida. Please let Tanya know if you are interested in attending.

The NCACC Annual Conference will be held **August 8-10** in Forsyth County.

# Audit: NCDHHS mismanaged millions in federal funds

THERESA OPEKA

APRIL 15, 2024

---

LISTEN TO THIS STORY (9 minutes)

---

**T**he North Carolina Department of Health and Human Services (NCDHHS) was found to have mismanaged millions of dollars in federal funding for the Fiscal Year ending June 30, 2023, according to the North Carolina Office of the State Auditor's **Statewide Single Audit**.

NCDHHS blamed reporting errors on employee turnover and placed blame on county DSS staff for not applying policies correctly. In all accounts, NCDHHS agreed with all of the findings, and said steps to correct the deficiencies have already or will be completed.

Among the findings:

NCDHHS incorrectly used Foster Care Title IV-E funds to reimburse counties.

The department reimbursed counties approximately \$28.8 million to cover care costs for 5,834 beneficiaries. Auditors reviewed the \$28.8 million in foster care reimbursement payments and found that the Division of Social Services (DSS) used foster care funds to reimburse a county for a beneficiary who was also receiving Supplemental Security Income (SSI). The Title IV-E state plan does not allow a beneficiary who is receiving SSI to also receive Title IV-E foster care funding. Payments totaling \$35,504 (\$26,050 federal share) were reimbursed to the county for the beneficiary.

As a result, the cost of the foster care program for both the state and the federal government increased. In addition, NCDHHS may be required to pay \$26,050 back to the federal government.

According to NCDHHS management, the error occurred because of the county DSS staff's inaccurate application of established eligibility policies.

Auditors recommended that NCDHHS management analyze the error to identify why it occurred and develop additional training or establish other procedures to prevent future errors. They should also determine if the foster care funds should be recouped.

They also say NCDHHS did not submit complete and timely subaward information for subrecipients of the Foster Care Title IV-E Program to the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). Auditors reviewed all 329 subawards totaling \$88.5 million that were required to be reported to the FSRS during the audit period and found the following errors:

- 246 subawards totaling \$65.2 million were not reported at all.
- 83 subawards totaling \$23.3 million were reported 134 days late.

NCDHHS management blamed turnover in the Division of Social Services Business Operations Section for the issue.

Auditors say a contingency plan should be put in place to make sure FFATA reporting is completed when employee turnover occurs.

The audit also revealed that NCDHHS made Adoption Assistance Title IV-E benefit payments to adoptive parents based on inaccurate eligibility determinations.

Approximately 13,500 beneficiaries received \$72.3 million in adoption assistance benefits. Although county DSS departments are given the task of determining eligibility for the program, NCDHHS was responsible for ensuring compliance with the eligibility requirements. Auditors redetermined eligibility for a sample of 93 beneficiaries that had benefits totaling \$611,796 paid to adoptive parents on their behalf during the audit period and found one (1.01%) beneficiary that did not meet the program's special needs eligibility requirements.

While evaluating the eligibility error, auditors also identified a sibling of the beneficiary who received adoption assistance benefits. After reviewing the sibling's case file, auditors determined that the sibling did not meet the program's special needs eligibility requirements.

Payments totaling \$12,336 (\$9,042 federal share) were paid to adoptive parents on behalf of these ineligible beneficiaries. The error increased the cost to the adoption assistance program for both the state and the federal government.

Even though the tests identified only \$12,336 (\$9,042 federal share) that was paid on behalf of ineligible beneficiaries, if tests were extended to the entire population, questioned costs could be greater than \$25,000, and NCDHHS may be required to pay the federal share back to the federal government.

NCDHHS blamed the errors on the county DSS staff's inaccurate application of established eligibility policies. The county DSS staff utilize the Child Placement and Payment System (CPPS) to input data and make eligibility determinations, but NCDHHS is responsible for establishing the eligibility determination policies, maintaining CPPS, and facilitating training.

Auditors recommended that management analyze each error to see why they occurred and develop additional training or establish other procedures to prevent future errors. They should also determine if the adoption assistance funds should be recouped.

#### MEDICAID ELIGIBILITY PROCESS UNDER SCRUTINY

The audit also questioned the Medicaid eligibility process. According to the audit, NCDHHS made Medical Assistance Program (Medicaid) payments to providers based on inaccurate and inadequately documented eligibility determinations. During the audit period, approximately 2.3 million beneficiaries received \$18.6 billion in Medicaid benefits.

Auditors redetermined eligibility for a sample of 111 beneficiaries who had benefits totaling \$34 million paid on their behalf during the audit period. Auditors found two (1.8%) beneficiaries that were ineligible because they moved out of state and continued to receive benefits they were not entitled to. Payments totaling \$7,982 (federal share \$5,894) were paid on behalf of these beneficiaries.

They also identified 38 beneficiaries whose case files were either missing required eligibility documentation, such as self-employment verification, or inaccurate calculations and household composition were used. However, when auditors redetermined eligibility using the correct information, the beneficiaries were found to be eligible. As a result, there is an increased cost to the Medicaid program for both the state and federal governments. The program is jointly financed by these two governments and is administered by the state.

Even though the tests only identified \$7,982 (federal share \$5,894) that was paid on behalf of ineligible beneficiaries, if tests were extended to the entire population, questioned costs could be greater than \$25,000. Although \$7,982 (\$5,894 federal share) resulted from the errors identified, the amount of Medicaid funds paid to ineligible beneficiaries is likely greater.

NCDHHS management again blamed the errors on the county DSS staff's inaccurate application of established eligibility policies. The county DSS staff utilize NC FAST13 to input data and make eligibility determinations; however, the department is responsible for establishing the eligibility determination policies, maintaining NC FAST, and facilitating training.

Auditors previously reported the same finding in the 2022 Statewide Single Audit.

They recommend that NCDHHS management analyze each error to find out why they occurred and develop additional training or establish other procedures as necessary to prevent future errors from occurring.

#### **INCOMPLETE PAPER TRAILS AND INADEQUATE MONITORING**

The audit also found that NCDHHS didn't complete the reporting of 85 subawards totaling \$16.8 million for the required Federal Funding Accountability and Transparency Act (FFATA) for the Low Income Household Water Assistance Program (LIHWAP) or the 30 subawards totaling \$35.9 million for the State Opioid Response grant program.

NCDHHS said unfilled vacancies and staff turnover are to blame for the non-reporting.

Other findings include:

NCDHHS didn't adequately monitor the \$39.1 million in federal funds passed to subrecipients to address the opioid abuse crisis. Auditors found no reviews were completed for eight (89%) subrecipients receiving \$38.9 million in Opioid funds. They also didn't adequately monitor \$59.6 million in federal funds passed to subrecipients for providing treatment and prevention services for substance abuse through Substance Abuse Block Grant (SABG) funds. Auditors found that no reviews were completed for 34 of 36 (94%) subrecipients that received \$58.6 million in SABG funds.

In both accounts, NCDHHS management said they implemented a pause in monitoring due to the coronavirus pandemic; however, management did not get approval from the federal oversight agency.

The finding for the monitoring of substance abuse funds was previously reported in the 2022 Statewide Single Audit.

Auditors recommended obtaining federal oversight agency approval to deviate from required processes and procedures.



NC DEPARTMENT OF  
**HEALTH AND  
 HUMAN SERVICES**  
 Division of Social Services

ROY COOPER • Governor  
 KODY H. KINSLEY • Secretary  
 CARLA WEST • Division Director, Human Services

April 22, 2024

Dear County Manager and County Director of Social Services:

Session Law 2017-41 requires all counties to enter into an annual written agreement, referred to as a Memorandum of Understanding (MOU), with the North Carolina Department of Health and Human Services (NCDHHS) for all social services programs excluding medical assistance (Medicaid). State Fiscal Year (SFY) 2018-2019 was the first year of these agreements.

Since March 2020 COVID-19 has had an impact on our daily business. In 2020 the leadership in NCDHHS made the decision to not issue formal corrective actions relating to MOU performance for SFY 2019-2020. We know that the focus of all work was to provide services to the families of North Carolina, and you continued to commit to meeting the needs in your communities, because of that NCDHHS chose to not issue a new MOU for SFY 2020-2021 but continued to work with counties to improve performance and meet or exceed the standards that were outlined. A MOU was issued with an effective date of January 1, 2021, through June 30, 2022, and June 30, 2022 through June 30, 2024. In an effort to allow each county to remain focused on providing the best possible services to the families in North Carolina, NCDHHS again chose not to issue formal corrective actions relating to MOU performance for the period of January 1, 2021, through June 30, 2024. The MOU effective January 1, 2021, also formalized the ongoing criteria for implementing a pause in issuing Corrective or Development Plans that NCDHHS would follow.

This letter provides an overview of the MOU process for SFY 2024-2025 and SFY 2025-2026.

The Department worked jointly with the NC Association of County Directors of Social Services to vet all measures prior to the finalization for the upcoming MOU, which remains the same as the most recent MOU. Attached you will find the MOU with an effective date of July 1, 2024, through June 30, 2026. The measures for the SFY 2024-2025 and SFY 2025-2026 MOU can be found in **Attachment I** entitled Mandated Performance Requirements. **These are the only measures that will be evaluated as part of the MOU for SFY 2024-2025 and SFY 2025-2026 and are subject to performance improvement actions.**

**Attachment II** includes information concerning the upcoming Child and Family Services Review Round IV and the measures that will be reviewed by the Administration for Children and Families (ACF) and **will not be included in any corrective action**. Ongoing monitoring and support activities will continue as they have in prior years for these measures. We will continue to develop reports and validate data for these remaining performance measures. As always, we will work with the NC Association of County Directors of Social Services and counties to assist with the data validation process.

The goal of this work is not intended in any way to be punitive. NCDHHS will work collaboratively with counties that are having difficulty consistently meeting the measures and provide support using a Continuous Quality Improvement framework.

COVID-19 changed our world and had a tremendous impact on the work of human services. We recognize that you experienced significant increases in requests for the safety net services you provide. We also recognize that through Medicaid unwinding, Medicaid Expansion, Tailored Plans, and workforce shortages, there continues to be barriers that are difficult to overcome in meeting the performance measures outlined in the SFY 2024-2025 and SFY 2025-2026 MOU.

**Based on the conditions established in 2019, NCDHHS has determined that the barriers that counties are currently facing meet the criteria for a pause in issuing corrective or development plans. This pause will give counties time to establish procedures to meet the barriers outlined in the previous paragraph. The pause will be reevaluated in December of 2024.** In the future, NCDHHS will consider a pause on issuing a corrective action or development plan on a county-by-county basis if there are barriers outside the control of the county that has a significant impact on the counties ability to meet their performance requirements (i.e., a significant hurricane, tornado, etc.). While we will continue to monitor performance and share data with you and provide your team support, if the pause is in place there will be no formal performance improvement or corrective actions taken related to MOU performance. We will also hold off publishing the Rylan's Law Dashboard to the public at this time.

Several items are included with this letter for your review and information:

- Memorandum of Understanding for SFY 2024-2025 – SFY 2025-2026
- Addendum A – Data Sharing Memorandum of Agreement
- Attachment I - MOU Performance Measures At-A-Glance
- Attachment II - Child Welfare Performance Measures At-A-Glance
- Fact Sheets for each program area that provide information on the measures

Please take the steps below and return signed agreements to Carla West ([carla.west@dhhs.nc.gov](mailto:carla.west@dhhs.nc.gov)) and Danielle Upchurch ([Danielle.upchurch@dhhs.nc.gov](mailto:Danielle.upchurch@dhhs.nc.gov)) no later than June 30, 2022.

1. On page 6 please add the name and contact person to whom information and notices regarding this agreement should be sent.
2. On page 10 submit this document for signature to the person who the county designates as the signature authority. In case the county elects to have the document co-signed by county leadership and the Department of Social Services director, two spaces for signatures have been provided.
3. On page 9 of Addendum A: Data Sharing Agreement please add the name and contact person who will be designated as the point of contact for data sharing/security.
4. Once we receive your returned, signed copy of the MOU it will be submitted to Secretary Kody Kinsley for signature and a signed copy will be returned for your records.

Please note that any signing statement, resolution or other documentation that a County may return to NCDHHS along with a signed MOU will be deemed separate from the MOU and not incorporated as a part of the MOU. If any documentation is physically affixed to the signed MOU, NCDHHS may return the MOU to be signed without any affixed documentation. NCDHHS will review and retain any submissions received from a County and follow up with a County as needed.

Thank you for your ongoing partnership with us in serving North Carolina's citizens with critical services. Please feel free to contact me directly if you have any questions or need any additional information.

Sincerely,



Carla West  
Division Director, Human Services  
Child Support, Economic Services, Aging and Operations

**MEMORANDUM OF UNDERSTANDING**  
**(FISCAL YEAR 2024-25 and 2025-26)**  
**BETWEEN**  
**THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**AND**  
**COUNTY**

**A Written Agreement Pursuant to N.C. Gen. Stat. § 108A-74,  
an Act of the North Carolina General Assembly**

This Memorandum of Understanding (“MOU”) is made by and between the North Carolina Department of Health and Human Services, (hereinafter referred to as the “Department”) and **County** a political subdivision of the State of North Carolina (hereinafter referred to as the “County”) to comply with the requirements of law, N.C. Gen. Stat. § 108A-74. The Department and the County may be referred to herein individually as a “Party” and collectively as the “Parties.”

**TERMS OF UNDERSTANDING**

In consideration of the mutual promises and agreements contained herein, as well as other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree to this MOU, effective July 1, 2024, in compliance with the mandates of law enacted by the North Carolina General Assembly and in recognition of possible amendments by the General Assembly, the Parties further agree to conform to changes made to the law, notwithstanding a contractual term previously agreed upon.

**1.0 Parties to the MOU**

The only Parties to this MOU are the North Carolina Department of Health and Human Services and **County**, a political subdivision of the State of North Carolina.

**1.1 Relationships of the Parties**

Nothing contained herein shall in any way alter or change the relationship of the parties Parties as defined under the laws of North Carolina. It is expressly understood and agreed that the enforcement of the terms and conditions of this MOU, and all rights of action relating to such enforcement, shall be strictly reserved to the Department and the County. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Department and County that any such person or entity, other than the Department or the County, receiving services or benefits under this MOU shall be deemed an incidental beneficiary only.

**Subcontracting:** The County shall be responsible for the performance of all of its subcontractors. The County shall disclose the names of its subcontractors to the Department within thirty (30) days of the execution thereof. The County shall also provide additional information concerning its subcontractors as may be requested by the Department within thirty (30) days of the request. The County additionally agrees not to enter into any confidentiality agreement or provision with a

subcontractor or other agent to provide services related to this MOU that would prevent or frustrate the disclosure of information to the Department. Subcontractors shall be defined under this MOU to mean any party the County enters into a contractual relationship with for the complete administration of one or more social services programs covered by this MOU. Temporary employees hired by the County shall not be considered subcontractors under this MOU.

**Assignment:** No assignment of the County's obligations or the County's right to receive any funding made in any way concerning the matters covered by this MOU hereunder shall be permitted.

## **2.0 Terms of the MOU**

The term of this MOU shall be for a period of two years beginning July 1, 2024 and ending June 30, 2026.

### **2.1 Default and Modification**

**Default:** In the event the County fails to satisfy the mandated performance requirements as set forth in **Attachment I** or fails to otherwise comply with the terms of this MOU, the Department may withhold State and/or federal funding. Any such withholding shall be in compliance with, and as allowed by, state and/or federal law.

**Performance Improvement:** Prior to the Department exercising its authority to withhold State and/or federal funding for a failure to satisfy the mandated performance requirements set forth in **Attachment I** or failure to meet the terms of this MOU, the process for performance improvement set forth in N.C. Gen. Stat. § 108A-74 will govern. Nothing contained in this MOU shall supersede or limit the Secretary's authority to take any action otherwise set forth in N.C. Gen. Stat. § 108A-74.

**Waiver of Default:** Waiver by the Department of any default or breach in compliance with the terms of this MOU by the County shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this MOU unless stated to be such in writing, signed by an authorized representative of the Department and the County and attached to the MOU.

**Force Majeure:** Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, public health emergency or other catastrophic natural event or act of God.

**Modification:** The terms and conditions of this MOU may only be modified by written agreement of the Parties, signed by an authorized representative of the Parties.

### **3.0 MOU Documents**

The Recitals and the following attachments are incorporated herein by reference and are part of this MOU:

- (1) The portions hereof preceding the Terms of Understanding, including but not limited to the introductory paragraph and the Recitals, which are contractual as well as explanatory.
- (2) The Terms of Understanding
- (3) Addendum A – Data Sharing Memorandum of Agreement
- (4) Attachment I – Mandated Performance Requirements:
  - a. I-A: Energy Programs
  - b. I-B: Work First
  - c. I-C: Food and Nutrition Services
  - d. I-D: Child Welfare – Foster Care
  - e. I-E: Adult Protective Services
  - f. I-F: Special Assistance
  - g. I-G: Child Support Services
- (5) Attachment II - Child Welfare - CFSR

### **4.0 Entire MOU**

This MOU and any documents incorporated specifically by reference represent the entire agreement between the Parties and supersede all prior oral or written statements or agreements between the Parties.

### **5.0 Definitions**

While "County" is used as an abbreviation above, the following definitions, some of which are contained in N.C. Gen. Stat. § 108A-74(a), also apply to this MOU:

- (1) "County department of social services" also means the consolidated human services agency, whichever applies.
- (2) "County director of social services" also means the human services director, whichever applies.
- (3) "County board of social services" also means the consolidated human services board, whichever applies.
- (4) "Child welfare services or program" means protective, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (5) "Social services programs" or "Social services programs other than medical assistance" means social services and public assistance programs established in Chapter 108A other than the medical assistance program (Part 6 of Article 2 of Chapter 108A). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Article 9 of Chapter 110 of the General Statutes, and the North Carolina Subsidized Child Care Program.

To the extent that any term used herein is defined by a statute or rule applicable to the subject matter of this MOU, the statutory or rule definition shall control. For all remaining terms, which are not defined by statute or rule, those terms shall have their ordinary meaning. Should any further definition be needed, the Parties agree that the meanings shall be those contained in the current version (as of the time the dispute or question arises) of Black's Law Dictionary, and if not defined therein, then of a published unabridged modern American English Language Dictionary published since the year 2000.

## **6.0 Audit Requirements**

The County shall furnish to the State Auditor, upon his/her request, all books, records, and other information that the State Auditor needs to fully account for the use and expenditure of state funds in accordance with N.C.G.S. § 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

## **7.0 Record Retention**

The County shall retain records at its own expense in accordance with applicable State and Federal laws, rules, and regulations. The County shall facilitate and monitor the compliance of its subcontractors with all applicable requirements of record retention and disposition.

In order to protect documents and public records that may be the subject of Department litigation, the Department shall notify the County of the need to place a litigation hold on those documents. The Department will also notify the County of the release of the litigation hold. If there is no litigation hold in place, the documents may be destroyed, disposed of, or otherwise purged through the biannual Records Retention and Disposition Memorandum from the Department's Controller's Office.

## **8.0 Liabilities and Legal Obligations**

Each party hereto agrees to be responsible for its own liabilities and that of its officers, employees, agents or representatives arising out of this MOU. Nothing contained herein is intended to alter or change the relationship of the Parties as defined under the laws of the State of North Carolina.

## **9.0 Confidentiality**

Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Department or to the County under this MOU shall be kept confidential and not divulged or made available to any individual or organization except as otherwise provided by law. The Parties shall comply with all applicable confidentiality laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative simplification rules codified at 45 Parts 160, 162, and 164, alcohol and drug abuse patient records laws codified at 42 U.S.C. §290dd-2 and 42 CFR Part 2, and the Health Information Technology for Economics and Clinical Health Act (HITECH Act) adopted as part of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

## **10.0      Secretary's Authority Undiminished**

Certain functions delegated to the County pursuant to this MOU are the duty and responsibility of the Department as the grantee of federal grant funds. The Parties understand and agree that nothing in this MOU shall be construed to diminish, lessen, limit, share, or divide the authority of the Secretary of the Department to perform any of the duties assigned to the Department or its Secretary by the North Carolina General Statutes, the terms and conditions of the federal funds and their applicable laws and regulations or other federal laws and regulations regarding any federal funding which is used by the Department to reimburse the County for any of its duties under this MOU.

## **11.0      MOU does not Diminish Other Legal Obligations**

Notwithstanding anything to the contrary contained herein and to facilitate the mandated performance requirements of N.C. Gen. Stat. § 108A-74, the Parties acknowledge and agree that this MOU is not intended to supersede or limit, and shall not supersede or limit, the County's obligations to comply with all applicable: 1) federal and state laws; 2) federal and state rules; and 3) policies, standards, and directions of the Department, as all such currently exist and may be amended, enacted, or established hereafter.

## **12.0      Notice**

The persons named below shall be the persons to whom notices provided for in this MOU shall be given. Either Party may change the person to whom notice shall be given upon written notice to the other Party. Any notice required under this MOU will only be effective if actually delivered to the Parties named below. Delivery by hand, by first class mail, or by email are authorized methods to send notices.

### **For the Department of Health and Human Services, Division of Social Services**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Carla West, Division Director, Human Services NCDHHS 2417 Mail Services Center Raleigh, NC 27699-2001	Carla West NCDHHS Dorethea Dix Campus, McBryde Building Phone: 919-855-4755 E-mail: carla.west@dhhs.nc.gov

**For County:**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS

### **13.0        Responsibilities of the Department**

The Department hereby agrees that its responsibilities under this MOU are as follows:

- (1) The Department shall develop performance requirements for each social services program based upon standardized metrics utilizing reliable data. The performance requirements are identified in Attachments I and II.
- (2) The Department shall provide supervision, program monitoring and technical assistance to the counties in the administration of social services programs.
- (3) The Department shall provide leadership and coordination for developing strategies that address system-level barriers to the effective delivery of social services programs, including but not limited to: the Administrative Office of Courts, the LME/MCO, Department of Public Instruction, and the Department of Public Safety.
- (4) The Department shall have the following administrative responsibilities:
  - a. Staff Training and Workforce Development:
    - i. Develop training requirements for county personnel and provide guidance for adequate staffing patterns related to the provision of social services programs. The Department will publish annually, a list of required and recommended trainings for county personnel directly involved in the administration of social services programs covered under this MOU.
    - ii. Develop training curricula and provide, timely, adequate access to statewide training opportunities for county personnel related to the provision of social services programs. Training opportunities may include in-person, self-guided, web-based and remotely facilitated programs.
    - iii. The Department will publish a training calendar, at least quarterly, notifying the counties of training opportunities.
    - iv. Provide timely written guidance related to new federal or state statutes or regulations. The Department will provide information thirty days in advance of the effective date of new policy to the extent feasible or practicable, including interpretations and clarifications of existing policy.
    - v. Provide technical assistance and training in areas where quality control, monitoring or data indicates a lack of correct application of law, rule or policy.
  - b. Performance Monitoring:
    - i. Monitor and evaluate county compliance with applicable federal and state laws, rules and policies.
    - ii. Provide feedback to counties with recommended changes when necessary.

- iii. Monitor that all financial resources related to the provision of social services programs covered by this MOU are utilized by the county in compliance with applicable federal and state laws.

- c. Data Submission:

- i. Maintain and review data submitted by counties pursuant to the mandatory performance requirements.
- ii. Provide counties with reliable data related to their performance requirements as well as accuracy and timeliness of programs in accordance with state and federal program guidelines. This includes but is not limited to processing applications and recertification, quality control standards, program statistics and fiscal information.
- iii. The Department shall be responsible for the maintenance and functionality of its information systems utilized in the statewide administration of social services programs covered by this MOU.

- d. Communication:

- i. Provide counties with clarification or explanation of law, rule or policy governing social services programs when necessary or as requested.
- ii. Disseminate policy on social services programs and provide counties with timely information on any updates to policy.
- iii. Provide timely information to counties on any changes to federal law or policy made known to the Department.
- iv. Provide counties with a timely response to requests for technical assistance or guidance.
- v. Maintain all policies covering social services programs in a central, accessible location. Policies will be updated, to the extent possible, in advance of the effective date of any new policies or policy changes.
- vi. Provide counties with an opportunity to submit questions, concerns and feedback related to the administration of social services programs to the Department and provide County a timely response to such communication.
- vii. Communicate proactively with the County Director of Social Services on matters that affect social services programs covered under this MOU. Communication shall be timely, and alerts sent to counties to let them know of the upcoming changes.
- viii. Communicate directly with the County Manager, Governing Boards, and the County Director of Social Services on matters including but not limited to, corrective action, and significant changes to law, rule and policy that impact the administration of social services programs covered by this MOU.

- e. Inter-agency Coordination:

- i. Provide guidance to counties in the event they are unable to reach a resolution on a conflict of interest that arises related to the provision of social services programs covered by this MOU.
- ii. Provide guidance for county DSS personnel on federal and state Emergency Management, mass shelter, Business Continuity Plan (BCP) and Continuity of Operations Plan (COOP) requirements.
- iii. Coordinate with and communicate to county DSS agencies regarding available and required training opportunities associated with DSS Mass Shelter, BCP and COOP responsibilities.

- iv. Assist and support counties as needed in implementation of operational functions of mass shelter operations and as needed during other emergencies as they arise.
- (5) The Department shall timely meet all of its responsibilities contained in this MOU. “Timely” shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, and policy. Where timeliness is not otherwise defined, “timely” shall mean within a reasonable time under the circumstances.

## **14.0      Responsibilities of the County**

The County hereby agrees that its responsibilities under this MOU are as follows:

- (1) The County shall adhere to the mandated performance requirements for each social services program as identified in Attachment I. The County will ultimately work toward achievement of the Standard Measure for all performance requirements set forth in Attachments I and II.
- (2) The County shall comply with the following administrative responsibilities:
  - a. Staff Requirements and Workforce Development:
    - i. The personnel, including new hires and existing staff, involved in the County’s provision of social services programs covered by this MOU shall complete all required and necessary training, which is documented as required by federal and state law and policy.
  - b. Compliance:
    - i. Perform activities related to its social services programs in compliance with all applicable federal and State laws, rules, regulations and policies. Nothing contained herein is intended to, nor has the effect of superseding or replacing state law, rules or policy related to social services programs.
    - ii. Develop and implement internal controls over financial resources related to the County’s social services programs to ensure that all financial resources are used in compliance with applicable federal and state laws.
    - iii. Provide and adhere to corrective action plans as required based on monitoring findings and the Single Audit.
  - c. Data Submission:
    - i. Maintain accurate, thorough records of all social services programs covered by this MOU, in particular, records related to the mandated performance requirements that can be accessed for the purpose of data collection, service provision, monitoring or consultation.
    - ii. Ensure reliable data entry into state systems utilized for the administration of social services programs covered under this MOU.
    - iii. Provide, upon request, data to the state for the purpose of, but not limited to, conducting monitoring, case file reviews, error analysis and quality control.
    - iv. Utilize data to understand the performance of their county and to conduct analysis and implement changes where needed if performance measures are not being met.
  - d. Communication:
    - i. Respond and provide related action in a timely manner to all communications received from the Department.

- ii. Provide timely information on all matters that have a potential negative impact on the social services programs they administer, including but not limited to, litigation risks (not including child welfare cases governed by Chapter 7B or adult services cases governed by Chapter 35A or 108A), network and computer issues, or data breaches.
- iii. Provide timely information regarding temporary or permanent changes to the Social Services Governing Board, or the County Social Services Director, including retirements, separations, or any leaves of absence greater than two calendar weeks.

e. Inter-agency Cooperation:

- i. Ensure that county social services personnel complete required training and are prepared to engage in Disaster Management, mass shelter, BCP and COOP operations.
- ii. Ensure that all plans and systems are in place to meet potential disaster (natural, technical, otherwise) response requirements.
- iii. Engage with DHHS, state Emergency Management and local leadership in associated efforts.
- iv. Assist or operate mass shelter operations or other required disaster management responsibilities.

(3) The County shall timely meet all its responsibilities contained in this MOU. "Timely" shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, policy or as otherwise required by the Department. If timeliness is not otherwise defined, "timely" shall mean within a reasonable time under the circumstances.

## **15.0 Data Security and Reporting**

**Data Security:** The County shall adopt and apply data privacy and security requirements to comply with all applicable federal, state, department and local laws, regulations, and rules. The Parties hereby adopt and incorporate the terms of the Data Sharing Agreement attached as Addendum A as if fully set forth herein.

**Duty to Report:** The County shall report all privacy and security incidents related to the provision of social services programs covered by the MOU to the Department and the Privacy and Security Office within twenty-four (24) hours after the privacy and security incident is first discovered, provided that the County shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the incident is first discovered. During the performance of this MOU, the County is to notify the Department of any contact by the federal Office for Civil Rights (OCR) received by the County related to the provision of social services programs covered by the MOU. In case of a privacy and security incident, the County, including any subcontractors or agents it retains, shall fully cooperate with the Department.

## **16.0 Miscellaneous**

**Choice of Law:** The validity of this MOU and any of its terms or provisions, as well as the rights and duties of the Parties to this MOU, are governed by the laws of North Carolina. The Parties, by signing this MOU, agree and submit, solely for matters concerning this MOU, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive

venue for any legal proceedings shall be Wake County, North Carolina. The place of this MOU and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This MOU may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Department and the County. The Parties agree to obtain any necessary approvals, if any, for any amendment prior to such amendment becoming effective. Also, the Parties agree that legislative changes to state law shall amend this MOU by operation of law to the extent affected thereby.

**Effective Date:** This MOU shall become effective July 1, 2024 and shall continue in effect until June 30, 2026.

**Signature Warranty:** Each individual signing below warrants that he or she is duly authorized by the party to sign this MOU and to bind the party to the terms and conditions of this MOU.

**County**

BY: \_\_\_\_\_  
Name \_\_\_\_\_

BY: \_\_\_\_\_  
Name \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**North Carolina Department of Health and Human Services**

BY: \_\_\_\_\_  
Secretary, Department of Health and Human Services

DATE: \_\_\_\_\_

## **ADDENDUM A: DATA SHARING MEMORANDUM OF AGREEMENT**

**Between**

**North Carolina Department of Health and Human Services**

**And**

**[County Department of Social Services/Human Services Agency Name]**

This Data Sharing Memorandum of Agreement (MOA) between the North Carolina Department of Health and Human Services (NC DHHS or Agency) and [County] (County) (and collectively with Agency referred to as the Parties) establishes the agreement between the Parties regarding the County's access to, and use and disclosure of, all confidential data and information provided by the Agency to the County, for purposes of administering North Carolina's public assistance and public service programs.

### **1. PURPOSE AND SCOPE**

The purpose of this MOA is to identify certain roles and responsibilities of each party as it relates to the sharing and use of all confidential data and information provided by the Agency to the County in connection with the administration of North Carolina's public assistance programs as well as the County's administration and performance of other public services delegated to it by law (collectively referred to as NCDHHS Data). For purposes of this MOA, NCDHHS Data, includes, but is not limited to:

- a. Social Security Administration (SSA) data;
- b. Federal Tax Information (FTI) as defined in the current IRS Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies (IRS Publication 1075);
- c. protected health information as defined by 45 CFR 160.103;
- d. personal information, as defined by the North Carolina Identity Theft Protect Act, N.C.G.S. § 75-61(10);
- e. identifying information, as defined by N.C.G.S. § 14-113.20(b); and
- f. names or other information concerning persons applying for or receiving public assistance or social services which are confidential pursuant to N.C.G.S. §108A- 80.

More specifically, the objectives of this MOA are to:

- Manage the information technology process and systems pertaining to the NCDHHS Data provided by the Agency to the County, and received by the County from the Agency, to ensure compliance with all applicable federal and state laws, regulations, standards and policies regarding the confidentiality, privacy and security of this NCDHHS Data.

- Enhance the County's secure receipt, access to, and use of NCDHHS Data provided by the Agency to the County.
- Allow the County to access and utilize NCDHHS Data provided by the Agency for purposes of administering North Carolina's public assistance and public service programs.

## **2. BACKGROUND**

The Agency administers and oversees a variety of public assistance and public service programs for the State of North Carolina (collectively, Public Assistance Programs), including, but not limited to, the following:

- NC Medicaid Program
- NC Health Choice for Children (North Carolina's CHIP Program)
- Temporary Assistance for Needy Families
- Supplemental Nutrition Assistance Program
- NC Food and Nutrition Services (North Carolina's SNAP Program)
- Work First (North Carolina's Temporary Assistance for Needy Families program)
- Women, Infants and Children (WIC)
- Adult and Family Services
- Child Support Services
- Child Welfare Services

As part of its role pertaining to these Public Assistance Programs, the Agency receives, maintains, and stores certain data pertaining to applicants for, and recipients participating in, the Public Assistance Programs, which includes NCDHHS Data.

The County administers the daily operations of many of the Public Assistance Programs at the local level, in accordance with State and Federal law, and policies and rules adopted by the Agency. As part of its role pertaining to these Public Assistance Programs, the County accesses and utilizes certain data pertaining to applicants for, or recipients participating in, the Public Assistance Programs, which includes NCDHHS Data.

The Agency and the County agree to work cooperatively to ensure that NCDHHS Data is available to the County for purposes of administering North Carolina's Public Assistance Programs, and that the County accesses and utilizes NCDHHS Data in accordance with applicable federal and state laws, regulations, standards and policies governing confidentiality, privacy and security of the NCDHHS Data and the terms of this MOA. The parties acknowledge and agree that this MOA is intended to continue and renew and prior similar memorandum of agreement in place between the Parties which was effective on or about October 14, 2016.

### **3. AUTHORITY OF PARTIES**

Each Party is an agency of the State of North Carolina and operating pursuant to its respective statutory authority and obligations. This MOA is authorized under the provisions of N.C.G.S. §§ 108A-25, 108A-54, and 153A-11 and Article 13 of Chapter 153A of the North Carolina General Statutes, and the implementing recommendations or regulations of these laws, if any. For the convenience of the Parties and avoidance of doubt, the Parties acknowledge and agree that NC DHHS is the “Agency” as such term is used in IRS Publication 1075, and that the County is a statutory agent but not a “contractor” or “agent” as such term is used in North Carolina statutory or common law. The Agency acknowledges it is authorized to receive and use FTI pursuant to 26 U.S.C.

§ 6103.

### **4. PARTIES' ROLES AND RESPONSIBILITIES**

Pursuant and subject to this MOA, the Agency shall provide to the County NCDHHS Data pertaining to the Public Assistance Programs, through access to the Agency’s information technology systems utilized in conjunction with the Public Assistance Programs. These information technology systems include, but are not limited to, the Agency’s current NC FAST case management system (NC FAST), and the legacy information systems which preceded NC FAST (collectively, NCDHHS Information Systems). The NCDHHS Information Systems are secured via Agency access control mechanisms and related procedures, including, but not limited to, Resource Access Control Facility (RACF), North Carolina Identification (NCID), and Web Identity Role Management Portal (WIRM) (collectively, NCDHHS Access Controls).

All NCDHHS Data that the Agency provides to the County shall remain confidential and secure at all times. Confidentiality and security of this NCDHHS Data will be maintained by the County in accordance with all applicable federal and state laws, regulations, standards and policies governing this NCDHHS Data and in accordance with the terms of this MOA. Only appropriately authorized County employees and contractors whose job responsibilities require access to the NCDHHS Data will be granted access to the NCDHHS Data, through the NCDHHS Information Systems and NCDHHS Access Controls. Any data, records or other information shared through this MOA are protected from unauthorized use and disclosure and shall be accessed and used by the County solely for purposes of administering and operating the Public Assistance Programs.

NCDHHS agrees:

- a. To provide NCDHHS Data to the County through access to the NCDHHS Information Systems in strict accordance with the NCDHHS Access Controls and in accordance with the terms of this MOA.
- b. To allow the County to access and utilize the NCDHHS Data to administer and operate the Public Assistance Programs.

- c. To allow appropriately authorized County employees and contractors whose job responsibilities require access to the NCDHHS Data to access and utilize the NCDHHS Data through access to the NCDHHS Information Systems, to the extent needed to perform their job responsibilities.
- d. To work cooperatively with the County regarding County employee and contractor access to NCDHHS Data and NCDHHS Information Systems, and compliance with this MOA and applicable law.
- e. To be responsible for supervision of its own employees and contractors.

The County agrees:

- a. To grant access to NCDHHS Data through access to the NCDHHS Information Systems only to County employees and contractors authorized in strict accordance with the NCDHHS Access Controls and in accordance with the terms of this MOA. The County shall conduct background checks for individual employees prior to authorizing their access to FTI.
- b. To ensure the NCDHHS Data and NCDHHS Information Systems are accessed and utilized only for the purposes authorized by law and under this MOA in conjunction with the administration and operation of the Public Assistance Programs.
- c. To grant access to the NCDHHS Data only to appropriately authorized County employees and contractors whose job responsibilities require access to the NCDHHS Data, and only for purposes of administering and operating the Public Assistance Programs.
- d. To ensure NCDHHS data is available only to persons authorized by law and this MOA to access and use the NCDHHS Data.
- e. To ensure NCDHHS Information Systems are accessed only by persons authorized by law and this MOA to access the NCDHHS Information Systems.
- f. To obtain prior written permission from NCDHHS for the disclosure of any NCDHHS Data to any contractor. If NCDHHS approves disclosure of any NCDHHS Data to a County contractor, the County shall ensure the contractor is provided a copy of this MOA and signs a written agreement with the County acknowledging receipt of a copy of this MOA and agreeing to comply with the terms of this MOA as it relates to the contractor's access to NCDHHS Data.
- g. To obtain prior written permission from NCDHHS for granting access to any of the NCDHHS Information Systems to any contractor. If NCDHHS approves access of a contractor to any NCDHHS Information System, the County shall ensure the contractor is provided a copy of this MOA and signs a written agreement with the County acknowledging receipt of a copy of this MOA and agreeing to comply with the terms

of this MOA as it relates to the contractor's access to NCDHHS Information Systems.

- h. To ensure that all information technology systems receiving, storing, processing, or transmitting FTI meet the requirements in IRS Publication 1075, including the requirements set forth in Exhibit 7 to IRS Publication 1075, a copy of which is available at: <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.
- i. To maintain a current list of employees and contractors authorized to access and utilize the NCDHHS Data provided by the Agency pursuant to this MOA, and to provide the Agency a copy of that list upon written request by the Agency.
- j. To submit, when requested by the Agency, a written certification that continuous security monitoring has been performed in accordance with applicable requirements. Additionally, the County will submit a written certification that all mainframe and network device configurations supporting the County environment is compliant with all applicable requirements. This certification will be provided to the Agency with supporting evidence, such as a recent vulnerability scan.
- k. At the Agency's request, the County will work with the IRS, Social Security Administration, or other federal agencies or their agents with respect to periodic safeguard and security reviews. The County will support the resolution of the Agency's finding based on a written plan satisfactory to both Parties.
- l. Upon notification from the IRS, Social Security Administration, other federal agencies, or the Agency of changes to functional and security specifications, the County will collaborate with the Agency to develop and implement plans to meet specified requirements in accordance with guidance and direction provided by the IRS and/or the Agency. The County will be responsible for costs arising from such modifications.
- m. To provide annual access and disclosure awareness and incident reporting training to its employees and any approved contractors that may have access to SSA data and/or FTI data (only certain functions in support of Child Support Enforcement may allow contractor access to FTI).
- n. To work cooperatively with the Agency regarding County employee or contractor access to NCDHHS Data and NCDHHS Information Systems, and compliance with this MOA and applicable law.
- o. To be responsible for supervision of its own employees and contractors.

## **5. ACCESS CONTROL**

The County shall be responsible for reviewing, approving, delegating and monitoring access by County employees and any approved contractors to NCDHHS Data, in strict accordance with the NCDHHS Access Controls applicable to the NCDHHS Information Systems involved and in accordance with the terms of the MOA. In addition, the County will adhere to any written standard or guidelines provided by the Agency regarding management and implementation of the NCDHHS Access Controls, and access to the NCDHHS Information Systems, including, but not limited to, the information systems [access control policy](#) in the current version of the [North Carolina Statewide Information Security Manual](#).

## **6. CONFIDENTIALITY AND SECURITY**

The Agency and the County acknowledge and agree that the NCDHHS Data which the Agency provides to the County shall be classified as, and shall remain, “NCDHHS Data” or “State Data”. At no time will the NCDHHS Data provided by the Agency ever be classified as County data.

The County acknowledges and agrees that in accessing, receiving, utilizing or otherwise dealing with the NCDHHS Data, it will safeguard and not use or disclose such NCDHHS Data except as provided in this MOA. The County shall protect the confidentiality of the NCDHHS Data in accordance with applicable federal and North Carolina laws, regulations, standards and guidelines, including, but not limited to the following:

- Privacy Act of 1974 (5 USC § 552a), as amended by the Computer Matching and Privacy Protection Act of 1988;
- IRS Publication 1075;
- Medicaid, 42 U.S.C. § 1396(a)(a)(7), 42 CFR Part 431.300-307;
- Temporary Assistance to Needy Families, 42 U.S.C. § 602 (a)(1)(A)(iv);
- Supplemental Nutrition Assistance Program, 7 U.S.C. § 2020 (e)(8); 7 CFR Part 272.1(c);
- Social Security Act, 42 U.S.C. § 1396(a)(a)(7);
- Social Security Administration Disclosure, 20 CFR Part 401;
- Child Support, 42 U.S.C. § 654(26);
- Public Assistance Programs (Public Welfare), 45 CFR Part 205.50; and U.S. Department of Labor Employment and Training Administration, 20 CFR Part 603;
- Health Information Portability and Accountability Act and HIPAA Privacy Rule, 45 CFR Part 160 and Subparts A and E of Part 164;
- North Carolina law governing confidentiality of, and access to, public assistance program data and records, including N.C. Gen. Stat. 108A-80 and implementing regulations; and
- North Carolina Identify Theft Protection Act, N.C. Gen. Stat. 75-60 et seq. and 132-1.10 and any implementing regulations.

The County acknowledges and agrees that some of the data elements included within the NCDHHS Data can be classified as “identifying information” within the meaning of N.C.G.S. § 14-113.20(b). In addition, the combination of certain data elements could classify the data elements as “personal information” within the meaning of N.C.G.S. § 75-61(10). Since the Agency and the County are subject to the North Carolina Identity Theft Protect Act requirements, N.C.G.S. § 132-1.10 and 75-65, the Agency and the County acknowledge and understand that the unauthorized disclosure, misuse, or loss of these certain data elements could subject the County and/or the Agency to security breach notification requirements.

The County shall safeguard and protect the security of the NCDHHS Data from loss, theft, or inadvertent disclosure, in accordance with applicable federal and North Carolina laws, regulations, standards and guidelines, and policies including, but not limited to the following:

- Federal Information Security Management Act of 2002 (44 USC 3541 et seq.);
- SSA’s “Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration”
- IRS Publication 1075;
- Health Information Portability and Accountability Act and HIPAA Security Rule, 45 CFR Part 160 and Subparts A and C of Part 164; and
- National Institute of Standards and Technology guidelines.

In accordance with applicable federal and North Carolina statutes, regulations, standards, and policies, the County shall use appropriate physical and technological security safeguards to prevent re-disclosure of NCDHHS Data, and to protect NCDHHS Data in paper and/or electronic forms during transmission, storage or transport. The County shall use encryption during the data transmission process and shall protect NCDHHS Data on portable computers and devices through the use of applicable encryption and strong authentication procedures and other security controls to make NCDHHS Data unusable and inaccessible by unauthorized individuals.

The County shall monitor County employees’ access to higher-risk NCDHHS Data elements such as Social Security numbers, dates of birth, and FTI. The County shall terminate access privileges to NCDHHS Data of County employees immediately when their employment has been terminated or their job responsibilities no longer require access.

The County shall dispose of paper and equipment containing NCDHHS Data in a secure manner in accordance with applicable law and information security NIST standards. At the request of the Agency, the County shall provide documentation of proper disposal of NCDHHS Data to NCDHHS.

The County shall implement procedures for detecting, investigating, reporting and responding to security incidents involving NCDHHS Data. The County shall implement an Incident Management Plan which will be the source for how to handle incident management involving NCDHHS Data, and the Incident Management Plan will be available to the Agency upon request.

The County shall evaluate and report all losses, misuse, or unauthorized disclosure of NCDHHS Data to the NCDHHS Privacy and Security Office without unreasonable delay. Any expenses incurred as a result of the loss, misuse, or unauthorized disclosure of NCDHHS Data by the County will be the responsibility of the County.

The County shall report any suspected or confirmed privacy or security breach or incident involving the NCDHHS Data to the NCDHHS Office of Privacy and Security via electronic mail and the Office's website: <http://www.ncdhhs.gov/about/administrative-divisions-offices/office-privacy-security>, within 24 hours after the suspected or confirmed breach is first discovered. The County shall report any suspected or confirmed privacy or security breach involving Social Security Administration or Federal Tax Information data to: (i) the NCDHHS Office of Privacy and Security via the online incident reporting tool at the link above, or if after normal business hours, (ii) the NCDHHS Chief Information Security Officer via the phone numbers listed at the link above, **IMMEDIATELY** and within 60 minutes after the suspected or confirmed privacy or security breach is first discovered. The County acknowledges and agrees that it must make immediate reports of any suspected or confirmed breach involving SSA or FTI data in the manner set forth above in order to enable the Agency to fulfill the Agency's obligation to report the suspected or confirmed breach to the SSA or IRS (as applicable) within one hour after it is first discovered.

The County will collaborate and cooperate with

the Agency regarding investigation, actions and potential remedies pertaining to any suspected or confirmed privacy or security breach or incident involving NCDHHS Data.

If the County experiences a security breach involving NCDHHS Data, the County will be responsible for providing notification to all affected persons. The County will collaborate and cooperate with the NCDHHS Office of Privacy and Security regarding the content and timing of notification prior to providing the notification. Any and all expenses incurred as a result of any suspected or confirmed security breach involving NCDHHS Data will be the responsibility of the County.

## 7. CONTACTS

The Parties mutually agree that the following named individuals will be designated as points of contact for the MOA on behalf of the Agency and the County:

### For NCDHHS:

Pyreddy Reddy Chief Information Security officer N.C. DHHS Privacy and Security Office 695 Palmer Drive Raleigh, NC 27605 Phone: (919) 855-3090 Fax: (919) 733-1524 Email: <a href="mailto:pyreddy.reddy@dhhs.nc.gov">pyreddy.reddy@dhhs.nc.gov</a>	
--	--

### For County:

[Name] [Title] [Address] [Phone Number] [Fax Number] [E-Mail]	
---	--

The Parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

## 8. LIABILITY AND INDEMNIFICATION

Nothing herein shall be construed as a waiver of the sovereign immunity of the State of North Carolina or the assumption by the State of any liability contrary to the laws and statutes of North Carolina. Each Party shall be responsible for its own liabilities and neither Party shall seek indemnification from the other.

This MOA shall inure to the benefit of and be binding upon the Parties hereto and their respective successors in the event of governmental reorganization pursuant to N.C.G.S. § 143A-6 or other authority.

## **9. MONITORING AND AUDITING**

The IRS, SSA, any other federal agency or the Agency, with advance notice, shall have the right to send its officers and employees into the offices and facilities of the County for inspection of the County's facilities to ensure that adequate safeguards and security measures have been maintained as required by this MOA. Key areas to be inspected include record keeping, secure storage, limited access, disposal, and computer security systems such as those described in IRS Publication 1075. The County and the Agency will work together to correct any deficiencies identified during any internal inspection. The Agency may opt to utilize the County representatives for compliance validation.

The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and other applicable laws or regulations.

The NC DHHS Privacy and Security Office will conduct privacy and security assessments based on NIST Standards, Federal, State and DHHS Privacy and security requirements,

## **10. DURATION OF AGREEMENT AND MODIFICATION**

This MOA is effective on January 1, 2024, and shall continue for an initial term of 18 months following the effective date, through and including June 30, 2026, after which it will be renewed automatically for up to two additional one-year terms, unless either party provides prior written notice to the other party of its intent not to renew the MOA within 90 days prior to the end of the current term.

The Parties shall review this MOA as deemed necessary by the Agency, or upon the written request of either the Agency or the County to the other party, or whenever a State or Federal statute is enacted that material affects the substance of this MOA, in order to determine whether it should be revised or renewed, as applicable.

Notwithstanding all other provisions of this MOA, the Parties agree that this MOA may be amended at any time by written mutual consent of both Parties.

## **11. GOVERNING LAW**

The validity of this MOA and any of its terms or provisions, as well as the rights and duties of the parties to this MOA, are governed by the laws of North Carolina. The place of this MOA and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

## **12. OTHER PROVISIONS/SEVERABILITY**

Nothing in this MOA is intended to conflict with current federal or state laws or regulations, or any governing policies of the County or the Agency. If any term of this MOA is found by any

court or other legal authority, or is agreed by the Parties to be in conflict with any law or regulation governing its subject, the conflicting term shall be considered null and void. The remaining terms and conditions of this MOA shall remain in full force and effect.

### **13. ENTIRE AGREEMENT**

This MOA and any amendments hereto and any documents incorporated specifically by reference represent the entire agreement between the Parties and supersede all prior oral and written statements or agreements.

### **14. TERMINATION**

The Parties may terminate this MOA at any time upon mutual written agreement. In addition, either party may terminate this MOA upon 90 days' advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice or at a later date specified in the notice. In the event this MOA is terminated unilaterally by the County, the Agency will suspend the flow of NCDHHS Data to the County until a superseding written agreement is executed by the Parties.

The Agency may immediately and unilaterally suspend the flow of NCDHHS Data to the County under this MOA, or terminate this MOA, if the Agency, in its sole discretion, determines that the County (including its employees, contractors and agents) has: (i) made an unauthorized use or disclosure of NCDHHS Data; (ii) provided unauthorized access to NCDHHS Information Systems; or (iii) violated or failed to follow the terms and conditions of this MOA.