

**§ 122C-124.1. Actions by the Secretary when area authority or county program is not providing minimally adequate services.**

(a) Notice of Likelihood of Action. – When the Secretary determines that there is a likelihood of suspension of funding, assumption of service delivery or management functions, or appointment of a caretaker board under this section within the ensuing 60 days, the Secretary shall so notify in writing the area authority board or the county program and the board of county commissioners of the area authority or county program. The notice shall state the particular deficiencies in program services or administration that must be remedied to avoid action by the Secretary under this section. The area authority board or county program shall have 60 days from the date it receives notice under this subsection to take remedial action to correct the deficiencies. The Secretary shall provide technical assistance to the area authority or county program in remedying deficiencies.

(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. – If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate services to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:

- (1) Withhold funding for the particular service or services in question from the area authority or county program and ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department.

Upon suspension of funding, the Department shall direct the development and oversee implementation of a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of any ongoing concerns or problems with the area authority's or county program's finances or delivery of services.

- (2) Assume control of the particular service or management functions in question or of the area authority or county program and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority or county program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all other service delivery powers conferred on the area authority or county program by law as they pertain to this service or management function. County funding of the area authority or county program shall continue when the State has assumed control of the catchment area or of the area authority or county program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program.

Upon assumption of control of service delivery or management functions, the Department shall, in conjunction with the area authority or county program, develop and implement a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of the plan. The Department shall also keep the area authority board and the board of

county commissioners informed of any ongoing concerns or problems with the delivery of services.

(c) Appointment of Caretaker Administrator. – In the event that a county, through an area authority or county program, fails to comply with the corrective plan of action required when funding is suspended or when the State assumes control of service delivery or management functions, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and the applicable participating boards of county commissioners of the area authority or county program, shall appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the area director or program director or of the area authority board or board of county commissioners of the area authority or county program pertaining to the operation of mental health, developmental disabilities, and substance abuse services to the caretaker board or to the caretaker administrator as it deems necessary and appropriate to continue to provide direct services to clients, including the powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority or county program by law pertaining to the operation of mental health, developmental disabilities, and substance abuse services. County funding of the area authority or county program shall continue when the State has assumed control of the financial affairs of the program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program. The caretaker administrator and the caretaker board shall perform all of these powers and duties. The Secretary may terminate the area director or program director when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall apply to the decision to terminate the area director or program director. Neither party to any such contract shall be entitled to damages. After a caretaker board has been appointed, the General Assembly shall consider, at its next regular session, the future governance of the identified area authority or county program. (2001-437, s. 1.13(b); 2008-107, s. 10.15(ee).)