

# **Status of Implementing Legislation Regarding the Eastern Band of Cherokee Indians**

**Session Law 2015-241, Section 12C.10.(h)**



**Report to  
The Joint Legislative Oversight Committee on  
Health and Human Services**

**By**

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

**July 1, 2016**

## **Status of Implementing Legislation Regarding the Eastern Band of Cherokee Indians**

### **Reporting Requirements**

North Carolina Session Law (SL) 2014-100 and SL 2015-241 require the transfer of certain services to the Eastern Band of Cherokee Indians (EBCI), and modifications and enhancements to the Medicaid, NC Health Choice and Simplified Nutritional Assistance Program (SNAP) programs to accomplish the identified goals. SL 2015-241 establishes the quarterly reporting requirement on the status of implementation of Section 12C to begin October 1, 2015 and end when implementation is complete. The NC Department of Health and Human Services (DHHS or Department) in collaboration with the EBCI Public Health and Human Services (PHHS) provides the following report in accordance with SL 2014-100 as amended by SL 2015-241.

### **Background**

An estimated 15,500 North Carolinians are members of the EBCI Tribal trust lands in Cherokee, Graham, Haywood, Jackson, and Swain counties (Counties). EBCI is a federally recognized Indian tribe under federal law and is asserting its inherent sovereign authority to assume responsibility for certain human services by October 1, 2016.

SL 2014-100, Section 12C.3, and SL 2015-241 enabled the EBCI Tribe to assume responsibility for certain social services, including SNAP, and Medicaid and NC Health Choice healthcare benefit programs, and ancillary services, including Medicaid administrative and service related functions, and related reimbursements no later than October 1, 2016.

### **Implementation Update for Child Protective Services, Foster Care, Adoption, Adult Protective Services, Guardianship, Low Income Energy Assistance and Crisis Intervention**

The Administration of Children and Families (ACF) approved a plan submitted by EBCI to administer the Low Income Home Energy Assistance Program (LIHEAP) for members of their service area. The Tribe in collaboration with DHHS and the five counties, finalized processes and procedures to transition LIHEAP to the Tribe for families that contained an EBCI enrolled member living in the household. That process was completed and the Tribe began administering the program on February 8, 2016.

The complexity of child and adult protective services, adoption, foster care and guardianship cases, along with the involvement of multiple systems has led to a slower than expected transfer of existing cases to EBCI from counties. However, the identification of solutions to mitigate the challenges continues.

Transition meetings continued throughout the quarter (April-June 2016) among the PHHS, the County Departments of Social Services (DSS), and the DHHS Office of the Secretary, Division of

Medicaid Assistance (DMA), Division of Aging and Adult Services (DAAS), and Division of Social Services (DSS) targeting the transition of the child and adult protective services and guardianship cases remaining in the Counties and the management of new referrals. EBCI continues to refine the infrastructure, hire staff and provide outreach to the community regarding the new programs. In addition, efforts to ensure compliance with the Interstate Compact on the Placement of Children (ICPC) are underway.

EBCI and DHHS completed an agreement outlining the transfer of funding as required by SL 2015-24. This has been completed successfully.

### **Additional Initiatives**

As a result of the substantial collaboration between DHHS and EBCI in the previous quarter, the 1115 Medicaid Waiver submitted on June 1, 2016 to the Centers for Medicare & Medicaid Services (CMS) laid the foundation for further implementation of Indian self-determination and addressed the significant health disparities unique to Native Americans. The 1115 Waiver contained suggested points requested by EBCI, including: 1) enabling Tribal members to voluntarily enroll in prepaid health plans (PHPs) on an opt-in basis and disenroll without cause at any time; and 2) providing that Indian health/Tribal providers not be required to be part of PHP networks. Members of federally-recognized tribes who opt to enroll in PHPs would be able to access Indian health/Tribal providers on an out-of-network basis without authorization from the PHP. EBCI has expressed an interest in developing a sub-regional specialty Provider-lead Entity (PLE) that could serve as the PHP for the Cherokee community in North Carolina, and uncompensated care initiatives for their members. EBCI has also expressed an interest in being able to assist members of federally-recognized tribes with their selection of PHPs.

The DMA Deputy Secretary, Dave Richard, traveled to the Qualla Boundary on May 31, 2016 for the ribbon cutting of the new Family Safety Building. This new facility is the location for child and adult services for EBCI. The facility was needed to serve the over 300 families and children who have been identified through the EBCI Family Safety program. The volume of families and children continues to grow and far exceeds the projected volume that was based on the historical volume previously served in the Counties.

Both DHHS and EBCI benefit from the well-timed and expeditious pursuit of approval for Medicaid and NC Health Choice eligibility determination, State Plan Amendments (SPAs), and other waivers. Collaboration continues between DHHS and EBCI to expand the participation of Tribal providers in the Medicaid program.

Cherokee Indian Hospital Behavioral Health and Recovery Services continue to move forward with the planning and construction of the Substance Use Treatment facility and the renovation of two Recovery facilities, which are scheduled to open fall 2016 and winter 2017. The EBCI Tribal Council passed a resolution for the development of a proforma to convert the old Cherokee Indian Hospital facility to a psychiatric inpatient and detox facility. The facility would serve as a regional resource for western North Carolina. Collaborative efforts are underway with Smoky Mountain Center for joint utilization.

## **Implementation Update for NC Medicaid, NC Health Choice and SNAP**

Due to funding constraints at DHHS for both personnel and Information Technology (IT) support, it will not be possible to implement EBCI administration of these programs by October 1, 2016.

DHHS and EBCI jointly submitted proposed legislative amendments to change the implementation date to April 1, 2017. The change has been supported in both the House and the Senate.

Executive leadership from DHHS and the Tribe continue to hold status calls to discuss successes and challenges, and to negotiate funding streams that will ensure a successful transition for service transfers from the County DSS to EBCI. Additionally, EBCI hosts meetings with county DSS staff to work through transition challenges.

The evaluation of the DHHS systems for potential impact by the EBCI project is 94 percent complete, based on a total of 34 systems (NC FAST, DHHS Legacy Systems and NCTracks) combined. The NC Families Accessing Services through Technology (NC FAST) completed its analysis and functional designs and is proceeding with detailed design and development. The NCTracks work effort continues to be defined and will be supported through a customer service request (CSR) submitted to the application support vendor.

The project continues to meet the Department of Information Technology (DIT) oversight and tracking requirements as specified by SL 2015-241, Section 12C.10(f). As a result of the system impact analysis, the project is in the process of refining the project scope, schedule and cost.

DHHS has corresponded with the Social Security Administration (SSA) regarding approval for permitting re-disclosure of Social Security data and information to EBCI. EBCI and DHHS are also collaborating to identify and define the DHHS-EBCI memorandum of agreement (MOA) and memorandum of understanding (MOU) requirements.

DHHS and EBCI continue to investigate ramifications of the February 26, 2016 CMS State Health Official letter (SHO) #16-002 rule change in payment policy affecting federal funding for services received by Medicaid-eligible individuals, who are American Indians and Alaska Natives (AI/AN) through facilities of Indian Health Service (IHS) or referred to non-Tribal providers at a rate of 100 percent Federal Medical Assistance Percentage (FMAP). DMA has two CSRs in process with the claims processing contractor to prepare NCTracks to process eligible claims.

DHHS and the PHHS plan continued collaboration and work sessions in the upcoming quarter to discuss Tribal interfaces with Medicaid Transformation, ways to embrace and support the identified health disparities for the Cherokee, and approaches for the Tribe to assist the region in access to quality healthcare. The upcoming quarter will focus on Medicaid, Non-Emergency Medical Transportation (NEMT) and SNAP eligibility policy and procedure development and training. In addition, the SPA will be submitted to CMS for NEMT and eligibility as we work toward meeting the projected April 1, 2017 timeframe.

The Department remains fully committed to assisting EBCI to ensure a smooth transition of Medicaid and SNAP services.

Attachment A: Timeline of Implementation Phases  
Attachment B: EBCI Project Timeline



# DHHS EBCI Medicaid-SNAP Project

## Timeline of Project Implementation

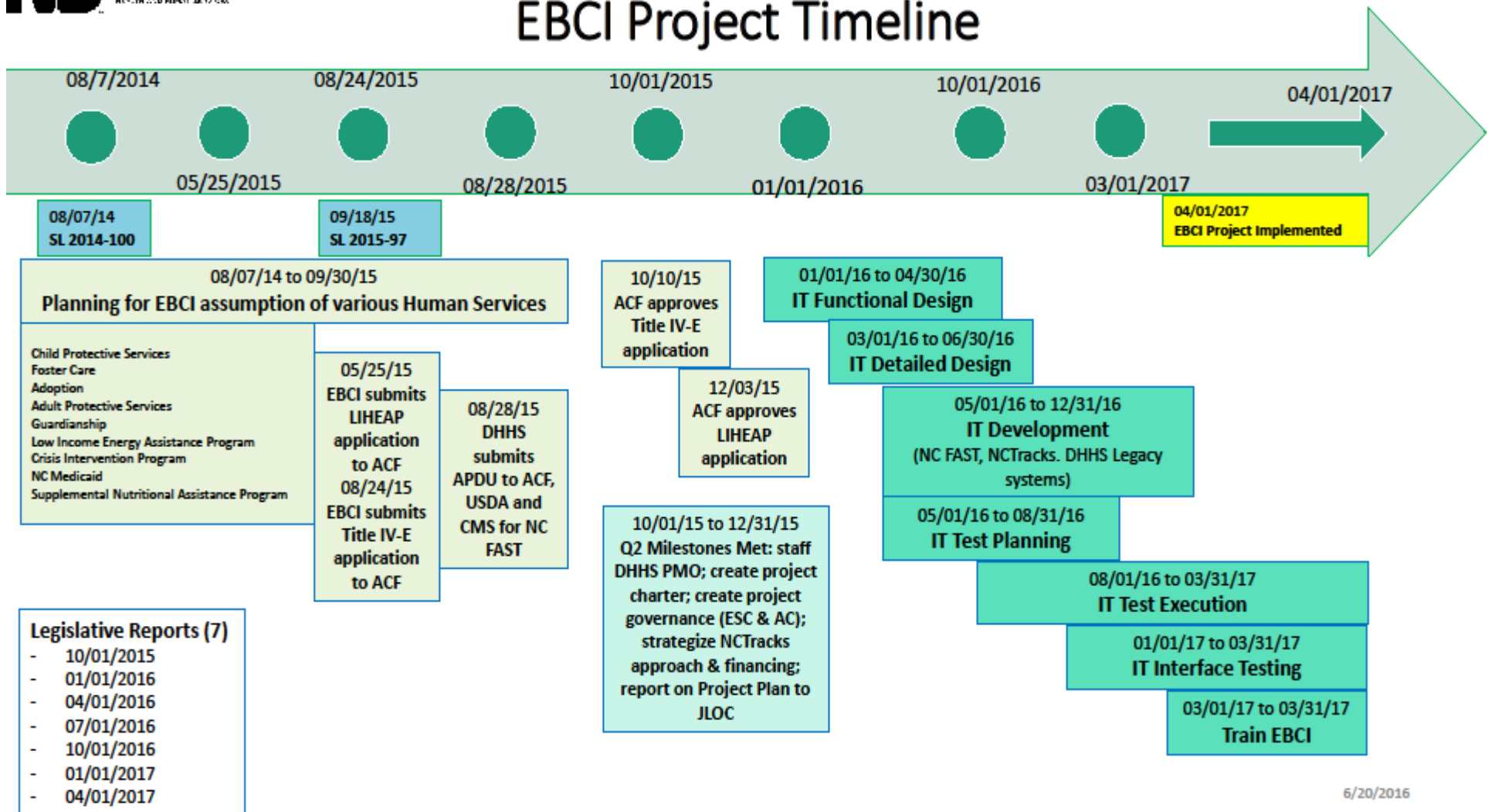
Jan '16 Month 1	Feb '16 Month 2	Mar '16 Month 3	Apr '16 Month 4	May '16 Month 5	Jun '16 Month 6	Jul '16 Month 7	Aug '16 Month 8	Sep '16 Month 9	Oct '16 Month 10	Nov '16 Month 11	Dec '16 Month 12	Jan '17 Month 13	Feb '17 Month 14	Mar '17 Month 15
IT Functional Design														
		IT Detailed Design												
				IT Development										
				IT Test Planning										
							IT Test Execution							
												IT Interface Testing		
														Training

### Assumptions:

- All approvals (SSA, CMS, USDA, IRS and NC Agency agreements) and funding are in place prior to start;
- NCTracks and the DHHS Legacy Systems are dependent on the NC FAST design and implementation, which requires 15 months from the start date;
- Timeline based on requirements identified and documented by business analysts assigned to this effort;
- Interface testing with all systems can be conducted in the remaining 3 months based on each downstream application timeline (schedule contingency +3 months);
- Estimates provided based on DHHS IT staff only; additional effort required by business staff to support efforts not shown;
- EBCI will use NC FAST to administer SNAP and the NC Food and Nutrition Services programs, and for Medicaid and NC Health Choice program eligibility determination;
- SNAP and Medicaid (includes Health Choice) are the only programs in scope at this time for EBCI;
- Maximus application listed is a county vendor supported system (interface for electronic reimbursement process) and is out of scope in this schedule analysis; EBCI needs to determine solution for reporting to the state;
- Both CMS and USDA will approve the EBCI data sharing request;
- Project close-out phase unknown and not indicated (schedule contingency +3 months);
- NCTracks requires system modifications to allow for the proper administration of the Medicaid/NC Health Choice programs; other DHHS system changes are also required to accommodate the exchange of new EBCI data.



# EBCI Project Timeline



6/20/2016