

**Plan for Allowing the Eastern Band of Cherokee Indians to Assume  
Responsibility for Administering the Home and Community Care  
Block Grant**

**SL 2018-5, Section 11D.1.**



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

**and**

**Fiscal Research Division**

**by**

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

**May 9, 2019**

## **Introduction**

Session Law 2018-5, Section 11D.1 requires the Department of Health and Human Services (DHHS), Division of Aging and Adult Services (DAAS), to develop, in consultation with the Eastern Band of Cherokee Indians (EBCI), a plan to enable the EBCI to assume responsibility for administering the Home and Community Care Block Grant (HCCBG) on behalf of the Tribe. In addition, Section 11D.1 states that the plan must include at least all of the following information:

1. The amount of funding received by the EBCI from the Older Americans Act and the source and amount of any other funding available to the EBCI to pay for services provided under the HCCBG.
2. The number of individuals who would be eligible to receive HCCBG services from the EBCI upon assumption by the EBCI of this responsibility.
3. An explanation of how the Department will avoid double counting individuals eligible for HCCBG services administered by the EBCI and by another county within the area agency on aging.
4. Whether eligibility for services would be determined by Tribal enrollment, geographic location, or some other method and an explanation of the method for determining eligibility for services.
5. Any federal laws, rules, or other guidance that should be taken into consideration in order to allow the EBCI to assume this responsibility.
6. Any State laws, rules, or other guidance that should be taken into consideration or amended in order to allow the EBCI to assume this responsibility.
7. Any federal waiver application or State Plan amendment the Department would be required to file in order to allow the EBCI to assume this responsibility.
8. An explanation of any information technology issues that should be addressed and any recommendations for how to address them.
9. Identification of all recurring and nonrecurring implementation costs.
10. A proposed time line for the EBCI to assume this responsibility.
11. Any other information the Secretary of Health and Human Services deems relevant to the EBCI successfully assuming this responsibility.

In addition to the requirement to develop the plan, the Joint Conference Committee Report on the Base and Expansion Budget (Senate Bill 99) provided for funding in the amount of \$43,731 intended for EBCI as a first step in allowing the tribe to assume full responsibility for the HCCBG.

## **Plan for Allowing the Eastern Band of Cherokee Indians to Assume Responsibility for Administering the Home and Community Care Block Grant**

The EBCI maintained a contract prior to SFY18-19 with the Southwestern Commission Council of Governments Area Agency on Aging (AAA) for providing services under the HCCBG. Under that contract they provided In-Home Services, Transportation, Home Delivered Meals and Congregate Nutrition and received a contract budget of \$41,601 in HCCBG funding. The subcontracted arrangement presented some challenges as both parties to the contract were performing some functions of HCCBG administration. The Southwestern Commission AAA completed budgetary entry information for each of these services and upon receiving monthly

unit reports from EBCI placed service unit information into the Aging Resource Management System (ARMS) for reimbursement. ARMS is both a client demographic tracking system and a reimbursement system used by the NC Division of Aging and Adult Services (DAAS) to administer the HCCBG. ARMS data consist of basic client demographics, client functioning, unit costs, program budgets and reimbursements.

As part of implementing the required action for the current year, and in consultation with the Southwestern Commission AAA and the EBCI, DAAS was able to make adjustments to ARMS to effectively provide reimbursement for services provided by EBCI. DAAS provided training and ongoing consultation for EBCI staffing order to ensure proper administration.

DHHS in conjunction with representatives from EBCI worked together to implement the directive as was required in the Joint Conference Committee report. While the Department is required to report on the feasibility of HCCBG administration per Section 11D.1, the Department is pleased to report that the requirement has been successfully implemented. As of the publication of this report, a contract has been signed by both parties (EBCI, DHHS), ARMS access has been expanded to allow additional administration responsibilities, and payment has successfully been made to EBCI through this process.

**1.The amount of funding received by the EBCI from the Older Americans Act and the source and amount of any other funding available to the EBCI to pay for services provided under the HCCBG.**

The HCCBG consists of funding from the federal Older Americans Act, state appropriations and Social Service Block Grant (SSBG) funding. In the SFY 18-19 contract the EBCI contract is for \$43,731A key issue relates to two separate titles of the Older Americans Act and Title III and Title VI (which provides for funds to eligible tribal organizations to pay for services to eligible members) and a requirement to assure no overlap in the administration of these funds. Given the relatively small amount of funds in the HCCBG contract (\$43,731), and to prevent an undue burden on the EBCI to develop separate tracking and reporting systems for Title VI and HCCBG funds, the negotiated SFY18-19 contract contained only state appropriations. The plan going forward is to maintain the contract with 100% state appropriations.

**2. The number of individuals who would be eligible to receive HCCBG services from the EBCI upon assumption by the EBCI of this responsibility.**

The number of individuals who receive HCCBG services once administered by the EBCI would be determined by the EBCI as they would be responsible for the assessment of individuals for eligibility and enrolling individuals by service within the ARMS managed by DAAS. EBCI served 42 individuals in SFY17-18 while under contract with the Southwestern Commission. Information is not available on the number of EBCI tribal members who would be potentially eligible for services under the HCCBG (as explained later in the report).

**3. An explanation of how the Department will avoid double counting individuals eligible for HCCBG services administered by the EBCI and by another county within the area agency on aging.**

Individuals are enrolled in ARMS by county by unique identifier. An individual cannot actively receive services simultaneously in another region without being inactivated in the other county/region. For SFY18-19, DAAS staff assisted with the inactivation of enrollment of individuals receiving HCCBG services under the prior year Southwestern Commission contract and assisted with training EBCI on the enrollment process under the new established region for EBCI. Internal audits within ARMS will prohibit the duplicative active enrollment across counties/regions.

**4. Whether eligibility for services would be determined by Tribal enrollment, geographic location, or some other method and an explanation of the method for determining eligibility for services.**

EBCI must follow the HCCBG policy for eligibility and assessment in order to receive HCCBG funds; however, the responsibility for assessing individuals on those criteria will continue to be the responsibility of the EBCI as was the case prior to the DHHS SFY18-19 contract. DAAS will provide ongoing technical assistance on program policy and conduct monitoring of client eligibility as performed with other DAAS administered programs. Requirements for adherence to the eligibility criteria and agreement for monitoring are included in the SFY18-19 executed contract between DAAS and the EBCI.

New coding in ARMS was developed to support the payment of services to EBCI to prevent cross payments with another geographic county. This is the same methodology employed by DHHS, Division of Social Services in their contract with EBCI.

**5. Any federal laws, rules, or other guidance that should be taking into consideration in order to allow the EBCI to assume this responsibility.**

In development of the plan, DAAS consulted with staff from the Region IV Office of the Administration for Community Living (ACL), the federal agency responsible for administration of the Older Americans Act. As stated in Item 1, the Older Americans Act requires separate tracking of Titles III and VI funding. Maintaining the HCCBG allocation with state appropriation will allow an efficient process for providing services under the HCCBG.

**6. Any State laws, rules, or other guidance that should be taken into consideration or amended in order to allow the EBCI to assume this responsibility.**

Under this plan the Division did not identify any legislation or special provision that would need to be changed. However, the Division will need to amend 10A NCAC 05C .0205 ALLOCATION OF FUNDS and 10A NCAC 05C .0404 INTRASTATE FUNDING FORMULA to recognize the separate process for the HCCBG funds going to EBCI annually.

**7. Any federal waiver application or State Plan amendment the Department would be required to file in order to allow the EBCI to assume this responsibility.**

The Division's State Aging Plan which is subject to ACL approval will not need to be changed with EBCI receiving 100% state appropriated funds.

**8. An explanation of any information technology issues that should be addressed and any recommendations for how to address them.**

The Division had to overcome a few technical issues in order for EBCI to assume responsibility for budgeting for services and to bill for those services. EBCI was established as separate entity within ARMS and access rights were modified from provider level (which EBCI previously had under the Southwestern Commission contract) to a quasi-regional level which permitted access to the necessary regions to establish and maintain budgets and enrollment.

Because funding through ARMS is a combination of OAA, SSBG and State appropriation, the solution in ARMS separated the services for EBCI by program code (i.e. Access Services, In-Home Services, Home Delivered Meals, Congregate Nutrition). Proper restrictions are in place to ensure only state appropriated funds are drawn down. Audit confirmation reports that are shared with local auditors and regions will readily show the fund source.

**9. Identification of all recurring and nonrecurring implementation costs.**

There were some staff time costs associated with both the contracting process and additions to the ARMS data tables to allow for the administration of HCCBG services and entry of those budgets/services into ARMS. The costs were minimal and absorbed by current DAAS staff. Continuation of the contract process with EBCI in SFY19-20 and thereafter should not require any additional changes in ARMS. Future cost should be minimal and limited to technical assistance, future contracting processes and monitoring. This can be accomplished using existing DAAS staff resources.

**10. A proposed time line for the EBCI to assume this responsibility.**

The Conference Committee report attached to the appropriation bill, item C-135 stated "HCCBG Adjustment – Reduces the Southwestern Commission Area Agency on Aging allotment of the HCCBG" by \$43,731 with the intent that EBCI receive that amount for SFY18-19 EBCI HCCBG services. The contract was successfully executed November 8, 2018, for service administration starting July 1, 2018. Eligibility enrollment and service units were entered in January 2019 and the first payment utilizing the new process has been issued for services rendered. We believe the efforts by EBCI and DAAS to develop the SFY18-19 contract have resulted in an effective plan for ongoing administration of these funds.

**11. Any other information the Secretary of Health and Human Services deems relevant to the EBCI successfully assuming this responsibility.**

The US Census does enumerate demographic information by race, age and county for NC; however; the data do not include tribal affiliation or whether these individuals are official members of the Eastern Band of Cherokee Indians. Since the Older American Act Title III funds requires an approved Intrastate Funding Formula where reliable, recognized data sources must be used, it would be problematic at best to allocate funds in a way that accurately captures the qualifying tribal size for those funds. With the absence of this information from the US Census, coupled with the additional requirements for the EBCI if they received Title III Older Americans Act funds, the Department pursued a course of action that ensured a timely and minimally burdensome solution to implement the SFY18-19 contract directly with the EBCI. The Department and Division have worked closely with representatives of the EBCI to complete the contract process. Coordinate training necessary for implementation has been completed so EBCI can successfully administer HCCBG services to their tribal members. Plans are underway to ensure ongoing training and monitoring.

**Recommendations**

DHHS recommends the EBCI continue the current contract for administering the HCCBG with existing methodology for future allocations. Documentation regarding this arrangement between EBCI and DAAS will be added to both the Aging State Plan and DHHS administrative rules 10A NCAC 05C .0205 ALLOCATION OF FUNDS and 10A NCAC 05C .0404 INTRASTATE FUNDING FORMULA. DHHS recommends that DAAS and EBCI continue to work collaboratively to identify future training needs, technical assistance and monitoring schedules based on the requirements set forth for the administration and monitoring of the HCCBG.