

**DSS ADMINISTRATIVE LETTER
CHILD WELFARE SERVICES CWS-AL-03-16**

TO: COUNTY DIRECTORS OF SOCIAL SERVICES

ATTENTION: ALL CHILD WELFARE STAFF

DATE: DECEMBER 15, 2016

SUBJECT: EASTERN BAND OF CHEROKEE INDIANS (EBCI) PUBLIC HEALTH AND HUMAN SERVICES AGENCY (PHHS)

EFFECTIVE: IMMEDIATELY

I. Intent and Background

This notice is to inform county child welfare agencies about collaborative work with the Eastern Band of the Cherokee Indians (EBCI). “On October 1, 2015, with the approval of the Administration of Children and Families of the Title IV-E State Plan, EBCI initiated their unique child welfare system as part of the Integrated Child Welfare Model that includes behavioral specialists and mental health support” (Eastern Band of Cherokee Indians Public Health and Human Services Title IV-B Annual Progress and Service Report, 2016). EBCI operates these child welfare services on the Qualla Boundary and other EBCI territories in Western North Carolina located in Jackson, Swain, Cherokee, Graham, and Haywood counties.

The Eastern Band of Cherokee Indians Public Health and Human Services (PHHS), the agency providing services within EBCI jurisdiction, operates autonomously under Cherokee statutes which differ from those of North Carolina, including statutory definitions for intervention. With the initiation of the child welfare program, EBCI has asserted its exclusivity in providing services on Tribal lands. This assertion requires county child welfare agencies to receive express permission from PHHS prior to any entry onto Tribal lands for contacts or service provision. For more information about PHHS and the many services provided, visit their website at <http://www.cherokee-hmd.com/>.

This notice outlines interactions only with the EBCI. Instructions regarding Indian Child Welfare Act (ICWA) compliance and interactions with state recognized tribes and other federally recognized tribes are still in effect and outlined in the Child Placement Services Manual <https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-10/man/CSs1201c4-06.htm>, Adoption Services manual <https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-50/man/appendixd.htm>, and Administrative Letters https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-05/man/CWS_AL_03-11.htm and <https://www2.ncdhhs.gov/info/olm/manuals/dss/csm-05/man/CWS-AL-02-13.htm>.

The goal of this letter is to assure safety, permanence, and well-being of children in North Carolina when the provision of needed services transcends jurisdictions. Successful collaboration between North Carolina county child welfare agencies and the EBCI to provide seamless child welfare services to children and families is essential. Below is critical information that county child welfare agencies need to know for successful collaboration.

II. Jurisdiction

The provision of child welfare services by the counties on Tribal trust land prior to October 1, 2015, was carried out with permission from the Tribe. Effective October 1, 2015, EBCI revoked that permission. As of that date and going forward, intake, child protection, foster care, licensing, adoption, and other child welfare services on the Eastern Band of Cherokee Indians’ Tribal trust land are to be provided exclusively

by the Tribe. The same child welfare services within North Carolina, but outside of Tribal trust land, will be provided exclusively by one or more North Carolina Counties or, for the provision of certain services, the North Carolina Department of Health and Human Services (DHHS), subject to the Indian Child Welfare Act (ICWA) when applicable.

There are only three exceptions to this revocation of permission to provide child welfare services on Tribal trust land. 1) For child protection assessments that were pending prior to October 1, 2015, the involved county will continue to provide CPS Assessment services until a case decision has been reached. 2) For foster care cases over which a North Carolina Court had already assumed jurisdiction prior to October 1, 2015, the involved county child welfare agency with custody will continue to provide services unless the Tribe requests a transfer of jurisdiction under ICWA or the Tribe and involved county agree, in writing, that the Tribal Court should assume jurisdiction. 3) When the Tribe and a North Carolina county or DHHS expressly agree in writing that extra-jurisdictional child welfare services should be provided, such services may be provided, despite the Tribe's revocation of permission to provide these services on Tribal land.

III. Additional Information

Communication

Policy requires that county child welfare agencies maintain consistent, frequent, and substantive communications to assure child safety, permanence and well-being when more than one jurisdiction is involved with a family; however small or large that involvement may be. Similarly, county child welfare agencies must maintain open and frequent communication, verbally and in writing, when collaborating with PHHS. The differences in respective statutory authority county child welfare agencies and PHHS have requires a clear and thorough exchange of information. Misunderstandings and miscommunications must be avoided in order for the collaborating agencies to fully discharge their responsibilities to mitigate risk to children known to county child welfare agencies and PHHS and other EBCI agencies.

Communication with PHHS regarding individual cases, as with any other agency, must first focus on plans for children's safety and building their family's capacity to assure that safety before discussing strategies and activities. A clear understanding of the case plan goal will frame the strategies and activities to assist the child and family.

The county child welfare agency and PHHS each have a role to assure safety, and defining those roles in the context of the plan is essential before determining which agency will take the lead in service provision. In no instances should a county child welfare agency make unilateral decisions regarding case management responsibility without a thorough and complete staffing of all information regarding a family between agencies.

Services to Children and their Families

Collaboration to assure safety of children requires notification to PHHS as soon as the potential need and nature of services becomes evident to a county child welfare agency. Requests could include:

- Requests for assistance interviewing persons with relevant information in CPS Assessments;
- Assistance in completing Fostering Connections Act relative searches within EBCI jurisdiction;
- Conducting home studies on potential kinship care arrangements;
- Verification of Tribal membership or eligibility for membership;
- Tribal Central Registry inquiries;
- Locating absent parents;
- Researching benefits and services for a child or family as a Tribal member; and,
- Any other requests for information and assistance.

For CPS issues or situations in which there are time constraints or issues of safety, the county child welfare agency should contact PHHS using the Tribal CPS Intake number, 828-359-1520, and explain the nature of the request. All verbal requests for assistance must be confirmed in writing.

For more routine requests, inquiries can be sent to:

EBCI PHHS Family Safety Team
Post Office Box 666
Cherokee, NC 28719

PHHS administrative assistants receive and process all incoming ICWA notices. They should be contacted for assistance completing the process, including how to send notices in the proper format. Their contact information is:

Crystal Hicks, ICWA Admin Assistant, (828) 359-1522
Patty Buchanan, ICWA Admin Assistant, (828) 359-1519

For ongoing cases, county child welfare workers will have a PHHS worker assigned who will serve as the liaison. For ICWA cases, Brittany Fuller is currently the primary contact at PHHS and will be the ICWA expert testifying in the majority of cases. Her supervisor is Jenny Bean. Their contact information is:

Jenny Bean, ICWA Supervisor, (828) 359-6149
Brittany Fuller, ICWA Worker, (828) 359-1553

Requests for assistance from PHHS will be made directly to county child welfare agencies. The requests can be made to county CPS Intake numbers and followed up with a written request. A PHHS Family Safety Social Worker will be the primary contact regarding the case for which assistance is sought. Jenny Bean is the PHHS supervisor regarding these requests.

CPS Intake

When a county child welfare agency receives a CPS report regarding a child within EBCI jurisdiction, the information must be documented on the CPS Structured Intake Form (DSS-1402) and, if known at the time, the reporter must be informed that the information will be transmitted to PHHS for screening. The reporter should also be provided the telephone number for PHHS, (828) 359-1520. Unlike reports received regarding children in other counties in which the report is screened, county child welfare agencies will not make screening decisions on reports regarding a child within EBCI jurisdiction. All information received during CPS Intake should be recorded so PHHS can make the screening decision. There must be direct telephone contact with CPS Intake at PHHS before faxing a CPS report. Upon receiving CPS information, the county child welfare agency must call the PHHS CPS Intake number and provide basic information to confirm residence on Tribal land and receive instructions on faxing the report to PHHS. PHHS will screen the CPS report when it is received.

Conversely, if PHHS receives a report regarding a child who resides off Tribal lands, PHHS will document the information provided by the reporter, call CPS Intake in the appropriate county, and fax the information. A directory of county child welfare agencies can be found at <https://www2.ncdhhs.gov/dss/local/>.

Information Sharing

Safety of children is paramount. In order to effectively assure this goal, county child welfare agencies must provide all information relevant to assuring the children's safety and well-being to PHHS when the children and families reside within EBCI jurisdiction.

Conversely, PHHS will assure that all relevant information is provided to county agencies when there are concerns for children's safety when they reside within counties' jurisdiction.

Referrals for services from county child welfare agencies to PHHS on behalf of EBCI members to whom the agency is providing CPS Assessments or In Home Services outside EBCI jurisdiction can and should be made to PHHS, but only with the family's consent.

CPS In-Home Services Case Transfers

Any transfer of CPS In-Home cases between a county child welfare agency and PHHS must be mutually agreed upon and on a case-by-case basis.

As outlined above, PHHS must be informed of any request for services to children, families, or kin residing within EBCI jurisdiction. If it is determined after the plan goal is established, strategies for intervention are discussed, and all relevant information is assessed that the child and family can best be served by transferring the CPS In-Home case to PHHS; the process for transfer will be outlined. When possible, the family should receive a joint visit by the county child welfare worker and PHHS Family Safety Social Worker, preferably as a Child and Family Team meeting, to facilitate the transfer of planning responsibility.

The preferred means of providing the county case information to PHHS is a flash drive or CD, but a paper record will be accepted.

Counties receiving requests from PHHS to transfer CPS In-Home Services cases must determine whether there is statutory authority to intervene in the family for the child's safety. The information should be received as a CPS report and a new assessment should be completed to determine if the situation meets the criteria for intervention under North Carolina Statutes. The information gathered during the CPS Assessment will be shared with PHHS and a case decision staffing will be arranged with PHHS. As with transfers to PHHS, the family would best benefit from a joint contact by the PHHS Family Safety Social Worker and the assigned county child welfare worker, preferably in a CFT, whenever possible.

Transitional Planning for Young Adults Aging Out of Care

When working with a youth who is a member of the EBCI on any Transitional Living Plan, there must be information considered regarding potential benefits available to the youth as a Tribal member and provision of a means to talk with Tribal representatives. PHHS should already be aware of the youth through an ICWA notice.

Foster Home Licensing

The EBCI and NC DHHS have agreed to reciprocal recognition of foster care licenses since both agencies maintain the same federal requirements for licensure.

For children in PHHS custody placed in North Carolina licensed homes, PHHS will require a copy of the license materials, which can be provided by the supervising agency. Conversely, if a county child welfare agency wishes to place a child in a PHHS licensed home, due to the means through which county child welfare agencies are reimbursed for foster care payments, a foster home licensed through PHHS must be assigned a North Carolina license number which will begin with an "E". This number will be assigned by the NCDSS Licensing and Regulatory Team located in Black Mountain when they receive the EBCI approved home study. This will be completed when PHHS sends a licensing study to the Licensing and Regulatory Team for the number assignment.

NCDSS does not have regulatory responsibility for PHHS licensed homes. If a county child welfare agency has a child placed in a PHHS licensed home, any issues regarding the foster home should be addressed with the PHHS social worker assigned to the case or the foster home.

At no time should a child be placed in a PHHS foster home without explicit approval of PHHS. Whenever a placement is made by PHHS in a foster home supervised by a county child welfare agency, it is expected that PHHS will inform the county child welfare agency to assure there are no safety or licensing problems.

Child and Family Services Review (CFSR) Program Improvement Plan (PIP) and Annual Progress and Services Review (APSR)

As NC implements an approved PIP in response to the 2015 Child and Family Services Review (CFSR), the EBCI will be kept informed of progress to assure their input and suggestions are incorporated into activities. The forum for conveying information and receiving feedback will be periodic meetings between PHHS, NC DHHS, and the five counties that include parts of the Boundary.

The EBCI will receive a copy of the North Carolina Annual Progress and Services Report (APSR) and notified of any updates and amendments to assure ongoing input and collaboration in providing services to children and families.

Review of Collaboration Efforts

The information outlined in this letter will be reviewed and will be reissued annually to assure clear collaboration and communication between North Carolina and Tribal agencies for child safety, permanence and well-being and to update contact information. The effectiveness of activities outlined in the letter will be evaluated. Other areas for which guidance may be necessary as a result of experiences between EBCI and county child welfare agencies will also be considered for inclusion in the update.

If there are any questions regarding interactions with EBCI Public Health and Human Services, contact Jeff Olson at jeffrey.olson@dhhs.nc.gov or 919-527-6404.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Kelley". The signature is written in a cursive style with a large initial "K".

Kevin Kelley, Section Chief
Child Welfare Services