

1 10A NCAC 10 .0101 is amended with changes as published in 33:08 NCR 806-807 as follows:

2  
SECTION .0100 - IDENTIFYING AND GENERAL INFORMATION

3 10A NCAC 10 .0101 SCOPE

4 ~~The rules in this Chapter govern the purchase of child care services with state and federal child care funds administered~~  
5 ~~by the Division.~~ The rules in this Chapter shall apply to child care facilities that participate [participating] in the  
6 Subsidized Child Care Assistance Program.

7  
8 *History Note: Authority G.S. 143B-10; 143B-153; S.L. 1985, c. 757, s. 155(q);*

9 *Eff. October 26, 1979;*

10 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990; February 1, 1986;*

11 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*  
12 *~~2016~~ 2016;*

13 *Amended Eff. March 1, 2019.*

10A NCAC 10 .0102 is readopted with changes as published in 33:08 NCR 807 as follows:

### 10A NCAC 10 .0102 DEFINITIONS

In addition to the terms defined in G.S. 110-86, 110-86(2), (3), (4a), (6), (7), and ~~(8)~~ (8), the following definitions apply to the term used in this Chapter: shall ~~[apply:]~~ apply to this Chapter:

(1) "Child with special needs" means:

- (a) a child who is determined by the Division of Public Health, Children's Developmental Services Agency, to be developmentally delayed or have an established condition pursuant to 10A NCAC 43G .0110, incorporated by reference including subsequent amendments. A copy of the Rule can be found at no cost at <http://reports.oah.state.nc.us/ncac/title%2010a%20%20health%20and%20human%20services/chapter%2043%20%20personal%20health/subchapter%20g/10a%20ncac%2043g%20.0110.pdf>;
- (b) a child who is determined by the local educational agency (LEA) to have a disability as defined in G.S. 115C-106.3; or
- (c) a child who is determined to be a child with special needs by a Local Managing Entity – Managed Care Organization (LME-MCO) as defined in G.S. 122C-3(20b) and (20c).

~~(+)(2)~~ "Director" means the Director of the Division of Child Development and Early Education.

~~(2)(3)~~ "Division" means the Division of Child Development and Early Education, Department of Health and Human Services, located at 820 South Boylan Avenue, 333 Six Forks Road, Raleigh, North Carolina 27603, 27609.

~~(3)(4)~~ "Foster Parent" parent means anyone other than ~~that~~ a child's parent ~~parent(s)~~ or legal custodian ~~eustodian(s)~~ who is providing full time care for a child who is in the custody of a North Carolina county department of social services.

(5) "Funds" means all state and federal funds appropriated and otherwise made available to the Department of Health and Human Services that are administered by the Division of Child Development and Early Education for the Subsidized Child Care Assistance Program.

~~(4)(6)~~ "Homeless Children" children ~~means the definition~~ as ~~is defined~~ in section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), ~~which is hereby~~ incorporated by reference ~~and includes~~ including subsequent amendments and editions. A copy of the Act can be found at <https://www.gpo.gov/fdsys/pkg/FR-2016-03-17/pdf/2016-06073.pdf>.

~~(7)~~ "Legal Guardian" means a person appointed by a court to be legally in charge of the affairs of a minor;

~~(5)(8)(7)~~ "Local Purchasing Agency" means the local agency responsible for administering the ~~state's~~ subsidized child care program. Subsidized Child Care Assistance Program.

1       ~~(9)~~(8) "Market Rates" means the child care subsidy market rates set forth in the annual appropriations act  
2       enacted by the General Assembly. ~~[rates that more than half of private paying parents in the locality~~  
3       ~~are paying for child care.]~~  
4       ~~(40)~~(9) "NC FAST" means the electronic integrated case management ~~[system,]~~ system developed and  
5       managed by the North Carolina Department of Health and Human Services.  
6       ~~(6)~~(41)(10) "Owner" means any person with a five percent or greater equity interest in a child care facility.  
7       center or family child care home as defined in G.S. 110-86(3)b.  
8       ~~(7)~~(42)(11) "Private Agency" means a ~~private, for profit, profit or non-profit, non-profit~~ non-governmental  
9       entity.  
10       ~~(8)~~(43)(12) "Provider" means the owner of a child care center or family child care home.  
11       ~~(9)~~(44)(13) "Recipient" means the parent or responsible adult approved for subsidized child care ~~services~~  
12       assistance pursuant to Section .1000 of this Chapter.  
13       ~~(45)~~(14) "Recipient Fee" means that portion of an operator's payment that is paid to the operator by a  
14       recipient approved for subsidy assistance.  
15       ~~(40)~~(46)(15) "Subsidized Child Care Assistance Program" means the North Carolina program to assist  
16       eligible families in paying the cost of child care services. ~~the administrative, programmatic, and~~  
17       ~~fiscal activities related to the use of public funds to pay for child care services for families.~~  
18       ~~(47)~~(16) "Supplemental Payment" means payment or reimbursement by the Division for additional  
19       expenses incurred by the operator to care for a child with special needs.  
20

21   History Note:    Authority G.S. 143B-153(2a);

22                    Eff. February 1, 1986;

23                    Amended Eff. June 1, 2016; December 1, 2011; April 1, 2001; February 1, ~~1996.~~ 1996;

24                    Readopted Eff. March 1, 2019.

1 10A NCAC 10 .0201 is repealed as published in 33:08 NCR 807 as follows:

2  
3 SECTION .0200 - REQUIREMENTS FOR THE PURCHASE OF CHILD CARE

4  
5 10A NCAC 10 .0201 APPLICABILITY

6  
7 *History Note: Authority G.S. 143B-153(2a);*

8 *Eff. October 26, 1979;*

9 *Amended Eff. April 1, 2001; January 1, 1987; April 1, 1985;*

10 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*

11 *~~2016~~, 2016;*

12 *Repealed Eff. March 1, 2019.*

1    **10A NCAC 10 .0202 is repealed through readoption as published in 33:08 NCR 807 as follows:**

2

3    **10A NCAC 10 .0202        PAYMENT RATES**

4

5    *History Note:     Authority G.S. 143B-153(8)a;*

6                    *Eff. January 1, 1987;*

7                    *Amended Eff. April 1, 2001; August 1, 1994; July 1, ~~1990~~, 1990;*

8                    *Repealed Eff. March 1, 2019.*

10A NCAC 10 .0203 is readopted with changes as published in 33:08 NCR 807-808 as follows:

**10A NCAC 10 .0203      PAYMENT RATES FOR SUBSIDIZED CHILD CARE**

(a) ~~With the exception of Centers that are certified as developmental day centers by the Division, the~~ The payment rates for child care ~~facilities centers, and family child care homes, and nonlicensed child care homes are~~ shall be ~~implemented in accordance with the annual appropriations act. [act and shall be]~~ limited to the market rate or the child care facility's private rate, whichever is lower.

(b) ~~Centers, as defined in G.S. 110-86(3), which~~ For centers that are certified as developmental day centers by the Division of Child Development and Early Education and ~~that~~ serve children who meet the definition of special needs set forth in 10A NCAC 10 .0910, ~~are exempt from the provisions of Paragraph (a) of this Rule. The payment the~~ following shall apply:

(1) ~~payment~~ rates for ~~special-needs~~ children with special needs served in developmental day centers ~~are~~ shall be calculated by deducting the total revenues per child per month from the total costs per child. ~~child-month. That rate is~~ shall then be multiplied by the current inflation percentage provided by the Office of State Budget and ~~Management. Management;~~

(2) ~~payment rates for~~ For typically developing children ~~enrolled~~ served in developmental day centers ~~the rates~~ shall exclude those costs associated exclusively with serving children with special ~~needs.~~ needs; and

(3) ~~The payment~~ payment rates for ~~special-needs~~ children with special needs and typically developing children served in developmental day centers ~~are~~ shall be calculated every two years and ~~are~~ shall be implemented as ~~[state]~~ State and federal funding allows.

(c) ~~Any A facility approved for participation in the Subsidized Child Care Assistance Program Local Purchasing Agency (LPA) approved child care provider not included in Paragraph (b) of this Rule who that~~ provides care to children ~~who meet the definition of special needs set forth~~ with special needs, as defined in 10A NCAC 10 .0910 .0910, that is not a certified developmental day facility ~~[may]~~ shall be paid a supplemental rate above the provider's LPA supplement to the facility's approved ~~rate, rate for a particular age group.~~ subject to available funding, as follows:

(1) the facility shall submit a request to the Local Purchasing Agency for approval for a supplemental payment;

(2) ~~The the~~ supplemental ~~rate~~ payment shall be based on ~~actual~~ additional documented costs incurred by the ~~provider~~ facility in serving the child with special ~~needs.~~ needs, such as learning materials, equipment, and additional staff for one-on-one care;

(3) ~~The the~~ costs shall be determined by ~~the early intervention specialist, the local education agency's exceptional children program specialist, the local purchasing agency,~~ Local Purchasing Agency and the ~~provider~~ facility based on the plan developed to meet the child's individual ~~needs.~~ needs; and

(4) the Local Purchasing Agency shall submit requests for all one-time supplemental payments in excess of one thousand dollars (\$1,000) and all recurring supplemental payments in excess of three hundred dollars (\$300.00) to the Division. The Division shall approve all requests that ~~[the Division]~~

~~determines~~] meet the child's development needs. All other supplemental payments ~~must~~ shall be approved by the Local Purchasing Agency.

~~(d) The reimbursement of additional fees as charged by centers is limited to registration fees. The payment rate for registration fees is determined by the annual appropriations act. Registration fees may not be paid more than twice per year per child regardless of the type of center.~~

~~(e) Purchasing agencies may negotiate with child care center providers for purchase of child care services at payment rates lower than those prescribed by this Rule, only with approval from the Division. Approval shall be granted if it can be determined that a non-negotiated payment rate would have a negative impact on the purchasing agency's ability to purchase subsidized child care services, based on the following factors:~~

~~(1) the number of children on the waiting list for subsidized child care services;~~

~~(2) whether the non-negotiated rates exceed the rates for services paid by private paying families in the service area; and~~

~~(3) the amount of subsidized child care funds available.~~

~~(d) Payment rates for part time care shall be prorated according to the number of hours the child is scheduled to ~~attend.~~ attend the child care facility.~~

~~(e) Recipient fees imposed in accordance with the annual appropriations act shall be subtracted from the facility's payment rate to determine the ~~state~~ State payment amount for an individual child.~~

~~(f) ~~Child care services~~ Subsidized Child Care Assistance funds shall not be used to pay for services provided by the Department of Health and Human Services, Division of Public Health or the Department of Public Instruction, Division of Exceptional Children's ~~Services~~ Services, Services for that portion of the service delivery costs ~~which~~ that are reimbursed by the Division of Public Health or Department of Public Instruction.~~

*History Note: Authority G.S. 143B-153(8)a; 143B-153(2a);*

*Eff. January 1, 1987;*

*Amended Eff. March 1, 2012; April 1, 2001; February 1, 1996; December 1, 1992; July 1, ~~1990.~~*

*1990;*

*Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .0301 is repealed as published in 33:08 NCR 808 as follows:

2  
3 SECTION .0300 - ~~REQUIREMENTS FOR SUBSIDIZED CHILD CARE~~ ASSISTANCE PROGRAM  
4 REQUIREMENTS SERVICE FUNDS  
5

6 10A NCAC 10 .0301 DEFINITION OF FUND  
7

8 *History Note: Authority G.S. 143B-153(2a); S.L. 1985, c. 479, s. 95-97;*  
9 *Eff. October 26, 1979;*  
10 *Temporary Amendment Eff. July 1, 1982, for a period of 120 days to expire on October 28, 1982;*  
11 *Legislative Objection Lodged Eff. July 20, 1982;*  
12 *Amended Eff. April 1, 2001; February 1, 1996; February 1, 1986; August 1, 1982;*  
13 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*  
14 *~~2016~~ 2016;*  
15 *Repealed Eff. March 1, 2019.*

1    **10A NCAC 10 .0306 is repealed through readoption as published in 33:08 NCR 808 as follows:**

2

3    **10A NCAC 10 .0306       ALLOCATION**

4

5    *History Note:*     *Authority G.S. 143B-153(2a);*

6                       *Eff. October 26, 1979;*

7                       *Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, 1985. 1985;*

8                       *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0307 is readopted with changes as published in 33:08 NCAC 808-809 as follows:

2  
3 **10A NCAC 10 .0307 REIMBURSEMENT PAYMENT**

4 ~~Local purchasing agencies shall key information regarding expenditures for subsidized child care services into the~~  
5 ~~Division's Subsidized Child Care Reimbursement System on a monthly basis in order for the services to be reimbursed.~~

6 Operators shall enter accurate [attendance,] attendance information, as defined in 10A NCAC 10 .0602(b), into the  
7 NC FAST Provider Portal no later than the fifth day of the month for the preceding month's attendance in order to  
8 receive payment for services [provided,] provided by the operator.

9  
10 *History Note: Authority G.S. 143B-153(2a);*

11 *Eff. October 26, 1979;*

12 *Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, ~~1985~~; 1985;*

13 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .0310 is readopted with changes as published in 33:08 NCR 809 as follows:

**10A NCAC 10 .0310      REQUIREMENTS FOR THE ADMINISTRATION OF THE SUBSIDIZED  
CHILD CARE ASSISTANCE PROGRAM**

(a) ~~Any agency that administers child care services funding through the state's subsidized child care program shall maintain records of administration of the program for a period of three years, following the final report issued to the funding agency, or until all audits begun within the retention period are complete, whichever is longer. Each Local Purchasing Agency shall maintain records of program [administration] administration, including recipient records documenting eligibility and ongoing service, and provider records related to investigations of fraudulent misrepresentation, sanctions, and noncompliance with program requirements. These records shall be retained in accordance with most recent Records Retention and Disposition Schedule Spreadsheet issued by the Office of the Controller, North Carolina Department of Health and Human Services or until all audits begun within the retention period are complete, whichever is longer. The Records Retention and Disposition Schedule Spreadsheet is incorporated by reference, including subsequent amendments and editions, and is available free of charge at <https://www2.ncdhhs.gov/control/retention/retention.htm>.~~

(b) ~~Any Each Local Purchasing Agency agency that administers funding for the State's state's subsidized child care program Subsidized Child Care Assistance Program shall provide records of administration of the program administration upon request for review by local, state, State, or federal agency representatives.~~

(c) ~~The Division shall require the Local Purchasing Agency to repay funds not spent in accordance with applicable [state] State or federal regulations. Upon review of agency records of administration of the subsidized child care program the Division determines if it is found child care services funding was not spent in accordance with applicable state or federal regulations, the Division shall require the agency to pay back funds improperly spent.~~

(d) ~~Any agency Each Local Purchasing Agency that both administers the State's state's subsidized child care program Subsidized Child Care Assistance Program and also owns and operates a child care facility receiving Subsidized Child Care Assistance Program funds and is a provider of subsidized child care services shall develop and implement a conflict of interest policy that shall include provision provisions for:~~

- (1) parental choice of child care facility for recipients of subsidized child care; and
- (2) separate management of the Subsidized Child Care Assistance Program and the child care facility owned or operated by the agency.

(e) ~~Operators enrolled in the Subsidized Child Care Assistance Program shall maintain all records and forms for a period of [at least] three years or until all audits continued beyond the three-year period are completed by local, [state,] State, or federal officials. Program records and forms shall be maintained at the location of the child care facility and shall be made available for review upon request by local, [state,] State, or federal officials. Operators shall make available for review a record of payments received from other sources and each schedule of parent payments due if requested. For the purposes of this Paragraph, program records and forms shall include:~~

- (1) all enrollment and attendance records, including those [contained in] required by 10A NCAC 10 .0602;

- 1           (2)     private paying parent rates;  
2           (3)     receipts; and  
3           (4)     other fiscal records related to the operator's participation in the Subsidized Child Care Assistance  
4                    Program, including records related to a child care facility's operating budget.  
5

6     *History Note:*     *Authority G.S. 143B-153(2a);*  
7                         *Eff. April 1, 2001;*  
8                         *Amended Eff. December 1, ~~2011~~. 2011;*  
9                         *Readopted Eff. March 1, 2019.*

1    **10A NCAC 10 .0311 is repealed through readoption as published in 33:08 NCR 809 as follows:**

2

3    **10A NCAC 10 .0311        PROVIDER APPEAL TO LOCAL PURCHASING AGENCY**

4

5    *History Note:*        *Authority G.S. 143B-153;*

6                            *Eff. December 1, ~~2011~~ 2011;*

7                            *Repealed Eff. March 1, 2019.*

**1 10A NCAC 10 .0312 is repealed through readoption as published in 33:08 NCR 809 as follows:**

2

3     **10A NCAC 10 .0312     APPEAL TO DIVISION OF CHILD DEVELOPMENT AND EARLY**  
4     **EDUCATION SUBSIDY SERVICES REVIEW PANEL**

5

6 *History Note:* Authority G.S. 143B-153;

7 *Eff. December 1, ~~2011~~. 2011;*

8 Repealed Eff. March 1, 2019.

1 10A NCAC 10 .0501 is repealed as published in 33:08 NCR 809 as follows:

2  
3 SECTION .0500 - REQUIREMENTS FOR CONTRACTS WITH PRIVATE AGENCIES

4  
5 10A NCAC 10 .0501 SCOPE

6  
7 *History Note: Authority G.S. 143B-153(2a);*

8 *Eff. July 1, 1992;*

9 *Amended Eff. April 1, 2001;*

10 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*

11 *~~2016- 2016:~~*

12 *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0502 - .0506 are repealed through readoption as published in 33:08 NCR 809 as follows:

2  
3 10A NCAC 10 .0502 APPROVAL

4 10A NCAC 10 .0503 LENGTH OF CONTRACT

5 10A NCAC 10 .0504 ADMINISTRATION OF FUNDS

6 10A NCAC 10 .0505 ADMINISTRATION OF PROGRAM

7 10A NCAC 10 .0506 RECORDS

8  
9 *History Note: Authority G.S. 143B-153(2); 143B-153(2a);*

10 *Eff. July 1, 1992;*

11 *Amended Eff. December 1, 2011; April 1, ~~2001~~, 2001;*

12 *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0601 is readopted with changes as published in 33:08 NCR 809-810 as follows:

2  
3 **SECTION .0600 - REQUIREMENTS FOR LICENSED CHILD CARE CENTERS FACILITIES**

4  
5 **10A NCAC 10 .0601 STANDARDS FOR ~~CENTERS~~ FACILITIES PARTICIPATING IN THE**  
6 **SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM**

7 (a) ~~Any center which~~ An operator that wishes to participate in the state Subsidized Child Care Assistance Program as  
8 defined in 10A NCAC 10 .0102 shall satisfy all applicable ~~state~~ State child care ~~requirements~~ requirements, as codified  
9 in G.S. 110-85, *et seq.* and 10A NCAC 09, and ~~must be approved by the local purchasing agency for participation and~~  
10 ~~payment.~~ shall enroll in the Subsidized Child Care Assistance Program as set forth in 10A NCAC 10 .0602(a).

11 (b) ~~Any center not required by G.S. 110 to be licensed, except for religious-sponsored centers operating in accordance~~  
12 ~~with G.S. 110-106, shall be licensed in order to participate in the state's Subsidized Child Care Program. An operator~~  
13 that wishes to participate in the Subsidized Child Care Assistance Program, with the exception of religious-sponsored  
14 facilities operating in accordance with G.S. 110-106 and Department of Defense facilities operating in accordance  
15 with G.S. 110-106.2, shall hold a North Carolina child care license.

16 (c) ~~[Out of state]~~ Out-of-State operators wishing to participate in the Subsidized Child Care Assistance Program shall  
17 hold a license to operate a child care facility in the state where they are located.

18 ~~(e) (d)~~ The operator of ~~any center~~ a facility participating in the Subsidized Child Care Assistance Program shall ~~assure~~  
19 ensure that the ~~center~~ facility complies with all applicable provisions of the Civil Rights Act of 1964. ~~1964 and all~~  
20 ~~requirements imposed thereunder.~~

21 (d) ~~Each child care center shall submit appropriate information to enable the local purchasing agency to establish a~~  
22 ~~payment rate for the center in accordance with the rate setting policies in the annual appropriations act and codified~~  
23 ~~in Section .0200.~~

24  
25 *History Note: Authority G.S. 143B-153(2a);*

26 *Eff. February 1, 1986;*

27 *Amended Eff. April 1, 2001; March 1, 1996; July 1, 1990. 1990;*

28 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .0701 is repealed through readoption as published in 33:08 NCR 810 as follows:

**SECTION .0700 - REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

**10A NCAC 10 .0701      STANDARDS FOR FAMILY CHILD CARE HOMES PARTICIPATING IN THE  
SUBSIDIZED CHILD CARE PROGRAM**

*History Note:      Authority G.S. 143B-153;  
Eff. January 1, 1985;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, ~~1990~~ 1990;  
Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0901 is repealed as published in 33:08 NCR 810 as follows:

2  
3 SECTION .0900 - GENERAL POLICIES FOR PROVISION OF SUBSIDIZED CHILD CARE SERVICES  
4 ASSISTANCE

5  
6 10A NCAC 10 .0901 SCOPE

7  
8 *History Note: Authority G.S. 143B-153;*

9 *Eff. July 1, 1983;*

10 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990;*

11 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*  
12 *~~2016~~ 2016;*

13 *Repealed Eff. March 1, 2019.*

1    **10A NCAC 10 .0902-.0903 are repealed through readoption as published in 33:08 NCR 810 as follows:**

2

3    **10A NCAC 10 .0902        METHODS OF SERVICE PROVISION**

4    **10A NCAC 10 .0903        DEFINITION OF SERVICE**

5

6    *History Note:    Authority G.S. 143B-153;*

7                    *Eff. July 1, 1983;*

8                    *Amended Eff. April 1, 2001; February 1, ~~1996~~, 1996;*

9                    *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0904 is readopted as published in 33:08 NCR 810 as follows:

2  
3 10A NCAC 10 .0904 ~~OPTIONAL PROVISION OF SERVICES~~ AVAILABILITY OF FUNDING

4 ~~(a) Notwithstanding other rules in this Chapter, child day care services may be provided to children in counties~~  
5 ~~receiving Smart Start funds authorized by G.S. 143B, Part 10B of Article 3, provided that the child care services are~~  
6 ~~included in the local partnership's approved Smart Start plan.~~

7 ~~(b) When~~ If the availability of funding is less than the amount needed to serve all eligible children, ~~the local agency~~  
8 ~~responsible for determining child eligibility for subsidized child care services may~~ each Local Purchasing Agency  
9 shall establish the priority for serving families. The order of priority shall be stated in ~~writing~~ writing, approved by  
10 the Division in accordance with annual appropriations act and federal law, and made available the Local Purchasing  
11 Agency shall provide a copy of the written order of priority to applicants for child care assistance.

12  
13 *History Note:* Authority G.S. 143B-153; 45 CFR 98.46;

14 *Eff. July 1, 1983;*

15 *Amended Eff. April 1, 2001; March 1, 1996; February 1, 1994; July 1, 1990; 1990;*

16 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .0905 is readopted with changes as published in 33:08 NCR 810-811 as follows:

10A NCAC 10 .0905      ~~SUPPORT TO EMPLOYMENT:~~ FOR EMPLOYMENT AND TRAINING FOR  
EMPLOYMENT

~~(a) Child care services shall be provided to support employment of the recipient.~~

~~(b) Child care services shall be provided to support training leading to employment of the recipient.~~

(a) The Subsidized Child Care Assistance Program shall pay for child care services provided to support:

(1) employment of the recipient; and

(2) training leading to employment of the recipient.

~~(e)(b) Where a recipient remains in the home and is capable of providing care for the child, child care services shall not be provided as a support for employment or training. Where the local purchasing agency determines the recipient is incapable of providing care for the child, and child care services shall be provided for the needs of the child and to maintain family stability. The Subsidized Child Care Assistance Program shall pay for child care services for recipients the Local Purchasing Agency determines are unable to work or to participate in training leading to employment, and who are also incapable of providing care for the child. The Local Purchasing Agency shall document the reasons for this determination shall be documented in the client's record and recipient's record, which may include the following:~~

(1) illness;

(2) disability;

(3) complications related to pregnancy;

(4) hospitalization;

(5) substance abuse treatment; or

(6) that the recipient is ~~elderly~~, elderly and incapable of caring for the child.

~~(d) Child care services may be provided when recipient is engaged in gainful employment on either a full time or part time basis.~~

~~(e)(c) Where the~~ If a recipient is already receiving child care services funded through the Subsidized Child Care Assistance Program and is temporarily absent from employment, training, or an educational program with arrangements to continue the same employment, training, or educational program, child care services shall continue for at least up to 90 days. Where If an absence from work, training, or an educational program extends beyond 90 days, the local purchasing agency Local Purchasing Agency shall determine on the basis of individual circumstances whether child care services shall continue beyond that time period. Where child care is continued beyond 90 days, The Local Purchasing Agency shall document the reasons for such extension shall be documented in the client's record and recipient's record, which may include the following:

(1) the recipient is on maternity leave and intends to return to work;

(2) the recipient has been temporarily laid off and the employer has indicated that employment will resume within a month; or

(3) the recipient works in a ~~high demand~~ high-demand field and is likely to find new employment within a month.

~~(f)(d) Where~~ If a recipient is already receiving child care services funded through the Subsidized Child Care Assistance Program and becomes unemployed but is seeking employment, funding for child care services shall be provided for at least 90 days. ~~days if the recipient is already receiving subsidized child care services. Continuation of the Funding for services~~ service may be extended if the agency Local Purchasing Agency determines such extension is warranted, provided the reason for the extension is documented in the client's recipient's record and may include be based upon the following:

(1) the likelihood of obtaining employment based upon prior job search activities;

(2) the recipient has a job interview ~~scheduled in the near future;~~ scheduled; or

(3) the recipient is waiting to hear the results of a ~~recent~~ job interview.

~~(g)(e) Where~~ [When] If a recipient is already receiving child care services funded through the Subsidized Child Care Assistance Program and no longer attends a training or educational program, child care services shall continue to be provided for at least 90 days after the recipient stops attending the training or educational program. ~~program to permit the recipient to seek employment or resume attendance at a training or educational program if the recipient is already receiving subsidized child care services. Continuation of the service~~ funding for services may be extended if the agency Local Purchasing Agency determines such extension as warranted, provided the reason for the extension is documented in the client's recipient's record and may include the following: be based on:

(1) recommendations from teaching staff at educational institutions;

(2) the individual needs and abilities of the recipient;

(3) whether the recipient has developed career goals; or

(4) whether the recipient has developed a personal plan for completing training.

~~(h)(f)~~ For purposes of this Rule, training leading to employment shall include: the following:

(1) continuation of high school; ~~school within the school system;~~

(2) basic education or a high school education or its equivalent in community colleges or technical institutes; and

(3) ~~post-secondary~~ post-secondary education or skills training, up to a maximum of 20 months ~~two years~~ enrollment. ~~enrollment, but shall not include assistance when the recipient is participating in graduate or post-graduate studies.~~

*History Note: Authority G.S. 143B-153; 45 CFR 98.21;*

*Eff. July 1, 1983;*

*Amended Eff. June 1, 2016; April 1, 2001; March 1, 1996; July 1, 1990; 1990;*

*Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .0906 is readopted with changes as published in 33:08 NCR 811 as follows:

2  
3 10A NCAC 10 .0906 SUPPORT FOR CHILD PROTECTIVE AND CHILD WELFARE SERVICES

4 (a) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance  
5 ~~when needed~~ to enable a child to remain in his or her own home ~~when~~ while receiving child protective services.  
6 ~~services for children.~~ The child shall not receive assistance unless he or she is ~~must be~~ receiving protective services  
7 through the local department of social services pursuant to G.S. 7B.

8 (b) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance to  
9 children ~~who need child care as a support to~~ receiving Child Welfare Services. Child Welfare Services means shall  
10 mean the protection of a child from abuse, neglect, or ~~dependency; or support to the~~ dependency or; or the provision  
11 of a safe permanent home for a child as described in G.S. 7B-101; G.S. 7B-300; G.S. 48-1-101; G.S. 108A-14 (11)  
12 and (12); G.S. 108A-48; 10A NCAC 70A; and or 10A NCAC 70B.

13 (c) The provisions of this Rule shall not apply to children living in a foster care arrangement.  
14

15 *History Note: Authority G.S. 143B-153;*

16 *Eff. July 1, 1983;*

17 *Amended Eff. April 1, ~~2001~~, 2001;*

18 *Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .0907 is readopted with changes as published in 33:08 NCR 811 as follows:

2  
3 10A NCAC 10 .0907 **PROMOTE CHILD'S DEVELOPMENT SUPPORT FOR CHILDREN WITH OR**  
4 **AT RISK FOR DEVELOPMENTAL DELAYS**

5 (a) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance to  
6 a child who does not meet any eligibility criteria in this Section [and] whose if the child's emotional, cognitive, ~~social~~  
7 ~~social,~~ or physical development is delayed or is at risk of being ~~delayed.~~ delayed, in accordance with this Rule.

8 (b) ~~This service may be provided by any approved center or home which meets the child's need for developmental~~  
9 ~~care.~~ The Local Purchasing Agency shall document the type of developmental delay or the risk of delay in writing in  
10 the recipient's record. Information regarding the delay or risk of delay shall be provided by the child's parent, child  
11 care director, teacher, social worker, doctor, or other medical professional; however, medical or psychological reports  
12 shall not be required for a determination of eligibility.

13 (c) In making a determination of eligibility, the Local Purchasing Agency shall consider factors that include whether  
14 the child:

- 15 (1) has a severe disability or special needs;  
16 (2) lives in a situation [which] that inhibits his or her ability to develop normally, including living with  
17 elderly or adults with disabilities; and  
18 (3) would benefit from early intervention in a child care setting [which] that may prevent the child from  
19 experiencing serious, ongoing problems later in life.

20  
21 *History Note: Authority G.S. 143B-153;*  
22 *Eff. July 1, 1983;*  
23 *Amended Eff. April 1, 2001; July 1, 1990. 1990;*  
24 *Readopted Eff. March 1, 2019.*

1    **10A NCAC 10 .0908 is repealed through readoption as published in 33:08 NCR 811 as follows:**

2

3    **10A NCAC 10 .0908       LIMITATIONS**

4

5    *History Note:*     *Authority G.S. 143B-153;*

6                     *Eff. July 1, 1983;*

7                     *Amended Eff. April 1, 2001; February 1, 1996; July 1, ~~1990~~, 1990;*

8                     *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .0909 is readopted with changes as published in 33:08 NCR 811-812 as follows:

2  
3 **10A NCAC 10 .0909 PARENTAL FREEDOM OF RECIPIENT CHOICE**

4 (a) ~~Parents receiving assistance for their children through the subsidized child care program~~ Recipients shall choose  
5 ~~any a child care provider, facility~~ approved for participation in the ~~subsidized child care assistance program under~~  
6 ~~Sections .0600, .0700, or .0800 Subsidized Child Care Assistance Program~~ ~~[under]~~ pursuant to Section .0600 of these  
7 Rules to provide child care services for ~~their~~ the recipient's eligible children. ~~The parent's choice of provider shall be~~  
8 ~~accepted when~~ The Local Purchasing Agency shall accept the recipient's choice of facility if there is space available  
9 in the facility and the child's enrollment will not violate the ~~provider's facility's~~ licensed capacity. ~~capacity as set forth~~  
10 ~~in G.S. 110-91(6).~~

11 (b) ~~During the eligibility determination, Local Purchasing Agencies~~ Purchasing agencies administering funds through  
12 ~~the subsidized child care program~~ shall notify recipients parents applying for participation in the program of their right  
13 to choose ~~the any~~ approved child care facility. ~~provider which will provide child care services to their eligible children.~~

14  
15 *History Note:* Authority *G.S. 143B-153; 45 CFR 98.30; 45 CFR 98.31;*

16 *Eff. July 1, 1991;*

17 *Amended Eff. April 1, 2001; 2001;*

18 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .0910 is readopted as published in 33:08 NCR 812 as follows:

**10A NCAC 10 .0910      DEFINITION OF SPECIAL NEEDS CHILD CHILDREN WITH SPECIAL NEEDS**

(a) ~~As used in this Chapter a special needs child is one who qualifies under one or more of the criteria listed in this Paragraph:~~

(1) ~~a child who is determined by the Division of Public Health, Children's Developmental Services Agency, to be developmentally delayed or have an established condition pursuant to 10A NCAC 43G .0110; including subsequent amendments; or~~

(2) ~~a child who is determined by the local educational agency (LEA) to have a disability as defined in G.S. 115C-106.3.~~

~~A copy of 10A NCAC 43G .0110 may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina, 27699-6714, (919) 431-3000.~~

(b) ~~The Local Purchasing Agency agency determining eligibility for the services shall have on file an Individualized Education Program (IEP) as defined in G.S. 115C-106.3, an Individualized Family Service Plan (IFSP) as defined in 10A NCAC 27G .0903, a Section 504 Plan as defined in 29 USC 794 794, or a Person-Centered Plan (PCP) as defined in 10A NCAC 70G .0402 to document the "special need" or "disability".~~ for all children with special needs who have been determined eligible for the Subsidized Child Care Assistance Program that documents the special need or disability in accordance with these Rules.

(c) ~~Eligibility for the supplemental rate is contingent upon the provider's compliance with the activities designated for the provider in the child's individualized plan.~~

*History Note: Authority G.S. 143B-153(2a);*

*Eff. December 1, 1992;*

*Amended Eff. December 1, 2011; April 1, 2001; February 1, 1996. 1996;*

*Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .1001 is readopted as published in 33:08 NCR 812 as follows:

2  
3 SECTION .1000 - ELIGIBILITY FOR SERVICES  
4

5 10A NCAC 10 .1001 BASIC ELIGIBILITY CRITERIA

6 ~~In addition to the requirements of 10A NCAC .0900, in order for an individual to be determined eligible to receive~~  
7 ~~subsidized child care services, it must be established that he or she is eligible on the basis of income eligible status~~  
8 ~~unless the service is available without regard to income as referenced in Rule .1004 of this Section.~~

9 An individual shall be eligible to receive subsidized child care services in accordance with Section .0900 of these  
10 Rules if:

- 11 (1) he or she meets the requirements in 10A NCAC 10 .1002 and .1003; or  
12 (2) the service is available without regard to income pursuant to 10A NCAC 09 .1004.  
13

14 *History Note: Authority G.S. 143B-153;*

15 *Eff. July 1, 1983;*

16 *Amended Eff. April 1, 2001; February 1, 1996; October 1, 1991; July 1, ~~1990.~~ 1990;*

17 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .1002 is readopted with changes as published in 33:08 NCR 812-814 as follows:

### 10A NCAC 10 .1002 INCOME ELIGIBLE STATUS

(a) For the purpose of ~~the rules~~ [Rules] in this Subchapter, [Chapter,] this Rule, the term "income unit" ~~shall apply to means~~ persons who reside in the same household and ~~who who, according to North Carolina law,~~ are responsible for the financial support of the individual whose eligibility for child care services is being determined. ~~Also for~~ [For] the purpose of determining eligibility for child care services, the terms "income unit" and "family" are used interchangeably ~~[shall have the same meaning]~~ in the rules [Rules] in this Subchapter. [Chapter.]

(b) For the purposes of the Rules in this Chapter, "income unit size" [or "family size" mean] means the number of individuals in the income unit, and "gross income of the income unit" [or "family income" mean] means the total amount of the income used to determine child care eligibility. ~~When the amount of income available to an individual is a condition of eligibility for child care services, it is necessary to determine the number of persons in the individual's income unit and the amount of the gross income available to the income unit. The number of individuals in the income unit is referred to as the "income unit size" or "family size". These terms are used interchangeably in the rules in this Subchapter. The total amount of the income used to determine child care eligibility is referred to as the "gross income of the income unit" or "family income". These terms are used interchangeably in the rules in this Subchapter.~~

(c) If an individual meets any of the criteria set forth in 10A NCAC 10 .0905 or .0907, the Local Purchasing Agency shall determine:

(1) the number of persons in the individual's income unit through the eligibility application in NC FAST or through the eligibility interview process; and

(2) the amount of gross income available to the income unit in accordance with 10A NCAC 10 .1006.

~~(e) (d) Child care services may be provided to individuals other than those described in 10A NCAC 10 .0906 and in Rule .1004 of this Section provided the gross annual income of the individual's income unit does not exceed the state's maximum income eligibility limit (as defined in Rule .1003 of this Section) for the number of persons in that income unit.~~ Individuals who meet any of the criteria set forth in 10A NCAC 10 .0905 or .0907 shall be eligible to receive Subsidized Child Care Services, provided that:

(1) for initial eligibility and annual redeterminations, the gross income of the income unit:

(A) for children ages 0 to 5 years old shall not exceed the state's maximum income eligibility limit of 200 percent of the federal poverty [level] line, as set forth in 42 USC 9902(2) and 82 FR 8831, [incorporated by reference, including subsequent amendments and editions,] for the number of persons in that income unit;

(B) for children ages 6 to 12 years old shall not exceed the state's maximum income eligibility limit of 133 percent of the federal poverty [level] line, as set forth in 42 USC 9902(2) and 82 FR [8834] 8831, for the number of persons in that income unit; or

- (C) for any child with special needs as defined 10A NCAC 10 .0910 shall not exceed the state's maximum income eligibility limit of 200 percent of the federal poverty ~~[level]~~ line, as set forth in 42 USC 9902(2) and 82 FR ~~[8834]~~ 8831, for the number of persons in that income unit.
- 42 USC 9902(2) and 82 FR 8831 are incorporated by reference including subsequent amendments and editions and are available at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap106-sec9902.pdf> and <https://www.govinfo.gov/content/pkg/FR-2017-01-31/pdf/2017-02076.pdf>.
- (2) for individuals whose income increases during the annual eligibility period, the maximum income eligibility limit for children of all ages and special needs status shall not exceed 85 percent of the state median income ~~[as set forth in 82 FR 8834]~~ for that income unit size.
- ~~(d)~~ (e) The following ~~are defined as~~ individuals living in a residence shall be separate income units for the purposes of determining eligibility ~~and client fees~~ for child care services:
- (1) ~~Biological~~ biological and adoptive parents and their minor children. A step-parent shall be included in the income unit with ~~his/her~~ his or her spouse ~~when if~~ the children in need of care include ~~the step-parent and spouse's~~ their biological or adoptive child children and step-siblings;
  - (2) ~~A~~ a minor parent and his or her children;
  - (3) ~~Each each person 18 years of age or older; adult whether related or unrelated, other than spouses;~~ and
  - (4) ~~Each each~~ child living with anyone other than their biological or adoptive parents.
- ~~(e)~~ (f) Income to be considered when computing the gross income of the income unit ~~is as follows:~~ shall include:
- (1) ~~Gross gross~~ earned wages or ~~salary~~ salary, which are defined as ~~(earnings earnings~~ received for work performed as an employee, including wages, salary, commissions, tips, piece-rate payments, and cash bonuses earned, before any deductions ~~are made such as~~ for taxes, bonds, pensions, and union ~~dues; dues, etc.);~~
  - (2) ~~Adjusted~~ gross income from taxable self-employment ~~income;~~ income after deductions made for business expenses and any other expense that is deductible for purposes of federal or state tax returns;
  - (3) Social Security benefits ~~(includes including Social Security pensions, survivors' benefits benefits,~~ and permanent disability insurance ~~payments);~~ payments;
  - (4) ~~Dividends, dividends,~~ interest ~~(on on savings or bonds);~~ bonds, income from estates or trusts, royalties, and adjusted gross rental income on houses, ~~stores~~ stores, or other property;
  - (5) ~~Pensions~~ pensions and annuities paid ~~directly~~ by an employer or union or through an insurance company;
  - (6) ~~Workers' workers'~~ compensation; compensation for injuries incurred at work; [work];
  - (7) ~~Unemployment~~ unemployment insurance benefits;

- (8) ~~Alimony~~ alimony (includes including direct and indirect payments, payments such as rent and utility payments); payments;
  - (9) ~~Child~~ child support, direct or indirect; indirect, such as health care costs, school tuition, camps, lessons, and afterschool activities;
  - (10) ~~Pensions~~ pensions paid to veterans or survivors of deceased veterans;
  - (11) On-the-Job Training (OJT) payments;
  - (12) Job Training Partnership Act (JTPA) payments made to an adult;
  - (13) AmeriCorps [~~stipend~~] stipend; ~~stipend (living allowance);~~
  - (14) the taxable amount of Armed Forces pay; (only the amounts taxable, such as base pay);
  - (15) ~~Work~~ work release payments;
  - (16) Cherokee Tribal Per Capita Income paid to adult family members;
  - (17) ~~Work-study~~ work-study payments, if the income is from a program not administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs; and
  - (18) ~~Recurring~~ recurring cash contributions paid ~~directly~~ to the ~~parent~~; parent, such as severance pay or child support not paid pursuant to a written agreement or court-ordered arrangement.
- (f) (g) The following sources of income shall not be counted when computing the gross income of the income unit:
- (1) Work First Family Assistance;
  - (2) Supplemental Security Income (SSI);
  - (3) non-recurring lump sum payments such as (e.g. Social Security benefits, workers' compensation, alimony, veteran's benefits, HUD); and housing assistance paid to or on behalf of a family member by HUD;
  - (4) ~~Foster~~ foster care assistance payments;
  - (5) Adoption Assistance payments;
  - (6) ~~Payments/trust~~ payments or trust funds under from the Indian Claims Commission;
  - (7) ~~Payments~~ payments from the Alaska Native Claims Settlement Act;
  - (8) ~~Income~~ income from sale of personal assets (~~stocks, including stocks, bonds, house, car, and insurance); insurance;~~
  - (9) ~~Bank withdrawals;~~
  - (10)(9) ~~Money~~ money borrowed;
  - (11)(10) ~~Tax refunds;~~ tax refunds, including Earned Income Tax Credits or Dependent Care Credits;
  - (12)(11) ~~Gifts or contributions;~~ gifts or contributions, including cash, monetary gifts, and charitable contributions given on a regular basis to meet the recipient's needs;
  - (13)(12) ~~Other in-kind~~ [~~other;~~] non-cash contributions from non-legally responsible ~~adults;~~ adults, such as food, clothing, furniture, or non-cash military benefits such as insurance;
  - (14)(13) Emergency Assistance, Low Income Energy Assistance Program, Crisis Intervention Program, General Assistance, or CP&L Share Program payments;
  - (15)(14) Section VIII housing subsidy;

- ~~(16)~~(15) ~~Capital~~ capital gains;
- ~~(17)~~(16) ~~Value~~ the value of food stamp benefits allotted under the Food Stamp Act of 1977;
- ~~(18)~~(17) ~~Free~~ free and reduced lunch program;
- ~~(19)~~(18) ~~Any and all~~ food subsidy programs;
- ~~(20)~~(19) ~~Relocation/Acquisition~~ Relocation or Acquisition Act payments;
- ~~(21)~~(20) ~~Earnings~~ earnings of a dependent child under 18 years of age, unless the child is a minor parent of a child needing child care;
- ~~(22)~~(21) ~~Loans, loans, grants, scholarships, and money received to pay for job training; through training, Pell or Carl Perkins grants;~~
- ~~(23)~~(22) ~~Home~~ home produce utilized for household consumption;
- ~~(24)~~(23) Volunteers in Service to America (VISTA) earnings;
- ~~(25)~~ ~~Payments received as Earned Income Tax Credits or Dependent Care Credits;~~
- ~~(26)~~(24) All all subsidized housing and housing allotments, including military housing allotments. If rent is provided by an organization on a ~~regular~~ recurring basis, it shall be counted as income;
- ~~(27)~~(25) ~~Money~~ money received from an employer as an employee benefit for child care; and
- ~~(28)~~(26) Work-study work-study payments, if the income is from the College Work-Study Program administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs. ~~(Likewise, if the income from college work-study goes directly to the college, it is not counted as income.)~~

History Note: Authority G.S. 143B-153; 42 USC 9902; 45 CFR 98.20;

Eff. July 1, 1983;

Amended Eff. April 1, 2001; February 1, 1996; July 1, 1992; October 1, ~~1991~~; 1991;

Readopted Eff. March 1, 2019.

1    **10A NCAC 10 .1003 is repealed through readoption as published in 33:08 NCR 814 as follows:**

2

3    **10A NCAC 10 .1003       INCOME ELIGIBILITY LEVELS**

4

5    *History Note:     Authority G.S. 143B-153;*

6                   *Eff. July 1, 1983;*

7                   *Amended Eff. April 1, 2001; July 1, 1992. 1992;*

8                   *Repealed Eff. March 1, 2019.*

1 10A NCAC 10 .1004 is readopted with changes as published in 33:08 NCR 814 as follows:

2  
3 **10A NCAC 10 .1004 WITHOUT REGARD TO INCOME**

4 ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance without  
5 regard to income for:

- 6 (1) ~~[when] child care services~~ that ~~are provided in conjunction with protective services as children~~  
7 ~~described in 10A NCAC 10 .0906(a); .0906(b) who need child care services as a support for Child~~  
8 ~~Welfare Services;~~  
9 (2) children receiving foster care services who are in the custody of the county department of social  
10 services and are residing in licensed foster care homes or in the care of adults other than their parents;  
11 and  
12 (3) ~~[when] child care services~~ that ~~are provided to a child receiving Child Welfare Services as children~~  
13 ~~described in 10A NCAC 10 .0906(b); .0906(a) who need child care in conjunction with protective~~  
14 ~~services.~~

15  
16 *History Note: Authority G.S. 143B-153(2a);*  
17 *Eff. July 1, 1983;*  
18 *Amended Eff. April 1, 2001; February 1, 1996; February 1, 1986. 1986;*  
19 *Readopted Eff. March 1, 2019.*

1   **10A NCAC 10 .1005 is repealed through readoption as published in 33:08 NCR 814 as follows:**

2

3   **10A NCAC 10 .1005       RESPONSIBILITY FOR ELIGIBILITY DETERMINATION**

4

5   *History Note:     Authority G.S. 143B-153;*

6                   *Eff. July 1, 1983;*

7                   *Amended Eff. April 1, 2001; February 1, ~~1996~~, 1996;*

8                   *Repealed Eff. March 1, 2019.*

10A NCAC 10 .1006 is readopted with changes as published in 33:08 NCR 814 as follows:

**10A NCAC 10 .1006      VERIFICATION DETERMINATION OF INCOME ELIGIBILITY**

(a) An individual ~~that~~ who applies for child care services shall provide to the ~~local purchasing agency~~ Local Purchasing Agency verification of the amount and sources of his or her countable ~~income~~. income as set forth in 10A NCAC 10 .1002. The amount and source of income shall be verified by one of the following:

- (1) ~~A a~~ a copy of a source ~~document;~~ document, such as wage stubs, pay statements, and award letters;  
~~or~~
- ~~(2) A written statement by the social worker describing either the source document that was reviewed to verify the income or a telephone conversation that confirmed the required information; or~~
- ~~(3) (2) Identification~~ identification of an existing agency record confirming the required ~~information.~~  
information; or
- (3) electronic verification through Online Verification Service (OVS) within NC FAST as defined in 10A NCAC 10 .0102.

(b) If the Local Purchasing Agency cannot verify the recipient's income using the methods described in Paragraph (a) of this [Rule:] Rule, then the amount and source of income shall be verified by one of the following:

- (1) the recipient shall provide a written statement of the amount and sources of their income to the Local Purchasing Agency; or
- (2) the Local Purchasing Agency shall confirm sources of income through a telephone conversation or email communication with the source of the income.

*History Note: Authority G.S. 143B-153;*  
*Eff. July 1, 1983;*  
*Amended Eff. April 1, 2001- 2001;*  
*Readopted Eff. March 1, 2019.*

**10A NCAC 10 .1007 is readopted with changes as published in 33:08 NCR 814-815 as follows:**

**10A NCAC 10 .1007      REQUIREMENTS FOR DETERMINATION AND REDETERMINATION OF  
ELIGIBILITY**

(a) ~~The Division shall establish the requirements for application and eligibility determination and redetermination for child care services. Eligibility shall be determined initially in accordance with 10A NCAC 10 .0900 and .1000, and annually thereafter unless a change occurs that impacts eligibility. Recipients who are employed or in school and whose income is at or below the federal income limit of 85 percent of State Median Income shall not have these activities disrupted during the 12 month eligibility period. The Local Purchasing Agency shall determine initial [eligibility] eligibility, in accordance with Sections .0900 and .1000 of this Chapter, and shall redetermine eligibility every 12 months thereafter.~~

(b) If the Local Purchasing Agency determines that a recipient is eligible, the recipient shall remain eligible for the 12 month eligibility period unless:

- (1) the recipient ceases to be employed, in training leading to employment, or in an educational program, [program] as described in 10A NCAC 10 .0905, [.0905] for more than 90 days;
- (2) the recipient changes residency to outside the [state:] State;
- (3) the recipient's income exceeds 85 percent of the State Median Income; or
- (4) the Local Purchasing Agency or the Division issues the recipient a sanction for fraudulent misrepresentation in accordance with 10A NCAC 10 .0308.

~~(b)~~ (c) If the Local Purchasing Agency, upon redetermination, determines that the family exceeds the State's income eligibility limits, the family shall continue to receive subsidized child care services for 90 days ~~[3]~~ 12 months if their income is at or below the federal income limit of 85 percent of ~~the~~ State Median Income.

(d) Annual federal income limits ~~are~~ shall be determined in accordance with the U.S. Federal Poverty Guidelines issued by the U.S. Department of Health and Human Services, ~~is incorporated by reference and includes~~ including subsequent amendments and editions. A copy of these guidelines ~~may be found~~ are available free of charge at <http://aspe.hhs.gov/poverty/index.cfm>.

*History Note:* Authority G.S. 143B-153; 45 CFR 98.21(a)(1); 45 CFR 98.21(b)(1);  
Eff. July 1, 1983;  
Amended Eff. June 1, 2016; April 1, ~~2001~~; 2001;  
Readopted Eff. March 1, 2019.

1 10A NCAC 10 .1101 is readopted with changes as published in 33:08 NCR 815 as follows:

2  
3 SECTION .1100 - ~~CLIENT~~ RECIPIENT FEES FOR CHILD CARE SERVICES

4  
5 10A NCAC 10 .1101 GENERAL RECIPIENT FEE POLICY

6 (a) Recipient fees for child care services shall be 10 percent of the income unit's gross monthly income as set forth  
7 in 10A NCAC 10 .1002; however, no ~~No~~ fees shall be charged to a the client when recipient if child care services are  
8 provided to individuals in the following circumstances:

- 9 (1) ~~children receiving~~ if child care services are provided in conjunction with protective services as  
10 described in 10A NCAC 10 .0906(a);  
11 (2) ~~when if~~ child care services are provided ~~as a support~~ to a child receiving Child Welfare Services as  
12 described in 10A NCAC 10 .0906(b); or and  
13 (3) ~~when if~~ a child with no income is living with someone other than his or her biological or adoptive  
14 parent or is living with someone who does not have court-ordered financial responsibility.

15 (b) Except as provided ~~for~~ in Paragraph (a) of this Rule, the ~~client~~ recipient shall be assessed a fee for child care  
16 services.

17  
18 *History Note: Authority G.S. 143B-153(2a);*

19 *Eff. July 1, 1983;*

20 *Amended Eff. April 1, 2001; July 1, 1992; July 1, 1990; February 1, ~~1986~~ 1986;*

21 *Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .1102 is readopted with changes as published in 33:08 NCR 815 as follows:

2  
3 10A NCAC 10 .1102 AMOUNT AND COLLECTION OF RECIPIENT ~~CLIENT~~ FEES

4 (a) The amount of ~~the~~ fees charged to ~~a the client~~ recipient shall be in accordance with the annual appropriations act.

5 (b) ~~Fee charges to the client may be disregarded when the total amount due is less than five dollars (\$5.00) per month.~~

6 ~~(c)(b) Collection of fees assessed to the client shall be the responsibility of the child care provider. The child care~~  
7 provider shall collect recipient fees on a monthly basis.

8  
9 *History Note: Authority G.S. 143B-153;*

10 *Eff. July 1, 1983;*

11 *Amended Eff. April 1, 2001; July 1, ~~1990~~. 1990;*

12 *Readopted Eff. March 1, 2019.*

10A NCAC 10 .1103 is readopted with changes as published in 33:08 NCR 815 as follows:

**10A NCAC 10 .1103        ADJUSTMENTS IN FEES**

(a) If ~~family recipient~~ medical expenses exceed 10 percent of ~~a~~ **the** ~~family's recipient's~~ gross income ~~as set forth in~~  
10A NCAC 10 .1002 in any eligibility period, the ~~family's recipient's~~ fee shall be reassessed based on the ~~family's~~  
~~recipient's~~ adjusted income. The ~~family's recipient's~~ income shall be adjusted by deducting the amount of medical  
expenses that exceed 10 percent of the ~~family's recipient's~~ gross income.

(b) If the plan of care is for less than a full day, the recipient fee shall be assessed in accordance with the annual  
appropriations act. ~~When the approved care plan is for less than full day care, the assessed fee for the service shall be~~  
~~adjusted by the appropriate percentage relative to the approved care plan.~~

*History Note:     Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; December 1, 1992; July 1, 1992; July 1, ~~1990.~~ 1990;*

*Readopted Eff. March 1, 2019.*

1 10A NCAC 10 .1201 is adopted with changes as published in 33:08 NCR 815-816 as follows:

2  
3 SECTION .1200 – APPEALS  
4

5 10A NCAC 10 .1201 DEFINITIONS

6 In addition to the terms defined in G.S. 110-86 and in 10A NCAC 10 .0102, the following definitions shall apply to  
7 the terms used in this Section:

- 8 (1) “Administrative Review Decision” means the decision made by the State Subsidy Services Appeals  
9 Panel that is made after review and analysis of ~~all~~ documentation related to an appeal pursuant to  
10 this Section.
- 11 (2) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express  
12 mailed to the current Division Director or the Subsidy Appeals Coordinator, North Carolina  
13 Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC  
14 27699-2200.
- 15 (3) “Initial Review” means the review by the Local Purchasing Agency of the operator’s appeal.
- 16 (4) “Local Appeal Hearing” means a hearing held by a hearing officer assigned by the Local Purchasing  
17 Agency after the Initial Review.
- 18 (5) "State Subsidy Services Appeals Panel" or “Panel” means the North Carolina Division of Child  
19 Development and Early Education internal review panel. ~~The Panel shall be impartial and shall~~  
20 ~~consist of one representative and one alternate representative for each Section of the Division.~~  
21 ~~Representatives and alternates shall be chosen by the Division Director.~~

22  
23 *History Note: Authority G.S. 108A-79; 143B-153;*  
24 *Eff. March 1, 2019.*

1 10A NCAC 10 .1202 is adopted with changes as published in 33:08 NCR 816 as follows:

2  
3 10A NCAC 10 .1202 NOTICE

4 Notice shall be given by one of the methods for service of process ~~under~~ pursuant to G.S. 1A-1, Rule 4(j) or Rule  
5 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal  
6 Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice  
7 shall be deemed to have been given on the delivery date appearing on the return receipt, copy of the proof of delivery  
8 provided by the United States Postal Service, or delivery receipt. If notice cannot be accomplished ~~by a method under~~  
9 pursuant to G.S. 1A-1, Rule 4(j) or Rule 4(j3), notice shall then be given in the manner provided in G.S. 1A-1, Rule  
10 4(j1).

11  
12 *History Note: Authority G.S. 143B-153;*

13 *Eff. March 1, 2019.*

1 **10A NCAC 10 .1203 is adopted with changes as published in 33:08 NCR 816 as follows:**

2  
3 **10A NCAC 10 .1203 FILING**

4 For purposes of this Chapter, the following apply:

5 (1) A document or paper shall be deemed filed as of the date it is delivered to the Division Director or  
6 the Subsidy Appeals ~~Coordinator~~, or Coordinator.

7 (2) Filings shall be denied under the following circumstances:

8 (a) the filing is not ~~filed in accordance with this Rule~~, delivered as set forth in Item (1) of  
9 this Rule; or

10 (b) the filing fails to comply with the Rules of this Section.

11  
12 *History Note: Authority G.S. 143B-153;*

13 *Eff. March 1, 2019.*

10A NCAC 10 .1204 is adopted with changes as published in 33:08 NCR 816 as follows:

**10A NCAC 10 .1204 APPEAL TO THE LOCAL PURCHASING AGENCY**

(a) Appeals by recipients from services determinations pursuant to Section .1000 of this Chapter, changes in recipient fees pursuant to Section .1100 of this Chapter, terminations of payment pursuant to 10A NCAC 10 .1007, or a sanctions issued by the Local Purchasing Agency in accordance with 10A NCAC 10 ~~.0308~~, .0308 shall be made in accordance with G.S. 108A-79.

(b) Procedures for an operator to appeal to the Local Purchasing Agency are as follows:

- (1) An operator wishing to contest an action shall contact the Local Purchasing Agency in writing to request an initial review. Requests shall be made within 30 calendar days after the date of the Local Purchasing Agency action.
- (2) The Local Purchasing Agency shall make a determination on the initial review within 10 business days of the request for an initial review. Within 30 calendar days of notice of the determination of the initial review by the Local Purchasing Agency, the operator may request a local appeal hearing by the Local Purchasing Agency.
- (3) The local appeal hearing shall be held within five business days of ~~when receipt of~~ the receipt of the request for a ~~hearing. hearing is received.~~ The Local Purchasing Agency shall grant a delay of up to 10 additional business days at the written request of the operator, but in no event shall the local appeal hearing be held more than 15 business days after the receipt of the request for a hearing.
- (4) The Local Purchasing Agency shall serve a written statement of decision within 10 business days following the local hearing. The decision shall include the facts and conclusions that support the determination by the Local Purchasing Agency.
- (5) The Local ~~purchasing agency~~ Purchasing Agency shall include with its written statement of decision instructions for appealing its decision in accordance with this Rule.
- (6) If the operator is not satisfied with the final decision of the Local Purchasing Agency, he or she may appeal to the State Subsidy Services Appeals Panel by filing a notice of appeal within 30 calendar days of receipt of the written statement of decision in accordance with this Rule.

*History Note: Authority G.S. 143B-153; G.S. 108A-79;  
Eff. March 1, 2019.*

10A NCAC 10 .1205 is adopted with changes as published in 33:08 NCR 816-817 as follows:

**10A NCAC 10 .1205 OPERATOR APPEAL TO DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

(a) The following persons may appeal a decision of a Local Purchasing Agency or the Division to the Panel within 15 calendar days after having exhausted the appeals process at the appropriate Local Purchasing Agency or within 15 calendar days after the Division takes action as described in Subparagraphs (2) and (3) of this Paragraph:

- (1) an operator to whom a Local Purchasing Agency has issued a sanction pursuant to 10A NCAC 10 .0308;
- (2) an operator whom a Local Purchasing Agency or the Division has failed to approve for participation in or has terminated participation from the Subsidized Child Care Assistance Program pursuant to Section .0600 of this Chapter; or
- (3) an operator contesting the determination of an overpayment pursuant to 10A NCAC 10 .0309.

(b) Upon notification of an appeal filed pursuant to this Section, the Local Purchasing Agency shall, within five business days of the date of notification, forward the appeal record to the Division Director or Subsidy Appeals Coordinator, with a copy to the appellant, consisting of the following:

- (1) a copy of its final decision;
- (2) the signed agreement between the Local Purchasing Agency and the operator, where applicable; and
- (3) all supplementary documentation considered during the local appeals process.

(c) The Panel shall complete its review and notify the appealing party and the Local Purchasing Agency of its decision in writing within 30 business days of the Panel's receipt of the appeal record as follows:

- (1) the decision shall include the facts and conclusions that support the determination by the Panel; or
- (2) the decision may be delayed up to an additional 15 business days if the Panel lacks sufficient information to render a decision at the initial administrative review. The Panel may request additional information from the Local Purchasing Agency or the operator.

(d) The appealing party may appeal the administrative review decision by filing a petition for a contested case hearing pursuant to G.S. 150B-23 and in accordance with G.S. 110-94. Appeals from the Panel shall be filed within ~~30~~ 60 calendar days of notice of the Panel's decision, in accordance with G.S. 150B-23(f).

(e) The administrative review decision may direct a Local Purchasing Agency to take an action or reverse an action based upon its review of the record as set forth in Paragraph (b) of this Rule.

(f) An operator may appeal a final determination pursuant to 10A NCAC 10 .0308(k) by filing a petition for a contested case hearing pursuant to G.S. 150B-23 and in accordance with G.S. 110-94.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 2019.*