

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: All rules submitted

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, please state "DHHS/ Division of Health Benefits" or "Secretary of DHHS/ Division of Health Benefits" since it is the Secretary who has rulemaking authority through the Division. This will also match how you published these Rules in the Register.*

*In Box 9A, check "Agency" as the agency decided to readopt the rules through the existing rule review. Please do not check the "Legislation enacted by the General Assembly"*

*Also, please fix the spacing in Box 2 so that the form can be on one page.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23A .0103

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), since the terms defined in 42 CFR 431.804 are actually "active case" and "negative case" why not rewrite this sentence to reflect that? In addition, there is no need to say on line 4, "adopted and" And I suggest replacing "are" with "shall" on line 6.*

*Consider stating, "County DSS eligibility actions on active and negative cases, as defined by 42 CFR 432.804, which is incorporated by reference including subsequent amendments and editions, and available free of charge at [www.ecfr.gov](http://www.ecfr.gov), shall be subject to review ..."*

*On line 7, what are these control procedures at a federal and State level? Do you believe the State procedures are exempt from rulemaking pursuant to G.S. 150B-2(8a)(g)?*

*In (d), lines 17-18, does your regulated public know what these codes mean?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

10A NCAC 23A .0103 is readopted as published in 33:13 NCR 1381-1392 as follows:

**10A NCAC 23A .0103 QUALITY ASSURANCE**

(a) Active and negative eligibility case actions, as defined by 42 C.F.R. 431.804, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>. ~~Case actions~~ taken by the county department of social services are subject to review under by State ~~state~~ and federal quality control (QC) procedures by the Division's Office of Compliance and Program Integrity (OCPI). ~~procedures.~~ A statistical sample is shall be selected from both active and negative case actions.

(b) The purpose of the QC review is to identify client eligibility errors and erroneous payments resulting from:

- (1) Ineligibility;
- (2) Recipient liability understated or overstated by the client or county; ~~overstated;~~
- (3) Third-party liability; and
- (4) Claims processing errors.

(c) A report of an error discovered in a QC case shall be sent to the ~~appropriate~~ county agency for corrective action.

(d) If the county agency has verification, as defined by Rule .0102 of this Subchapter, ~~verification~~ that disputes a QC finding of error, it may submit the verification to OCPI ~~the Recipient Services Section~~ for review. ~~The Recipient Services Section cannot overturn a listed error, but~~ OCPI shall determine whether the error shall be coded client-responsible, county-responsible, ~~agency-responsible,~~ or State-responsible, ~~state-responsible.~~ Upon its review, OCPI ~~the Recipient Services Section~~ shall notify the county agency of its decision regarding responsibility for the error.

*History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 431, Subpart P; ~~431.800~~;  
Eff. September 1, 1984;  
Amended Eff. August 1, 1990;  
Transferred from 10A NCAC 21A .0501 Eff. May 1, 2012; ~~2012~~.  
Readopted Eff. May 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23C .0201

### **DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1), lines 11-12, why do you need this sentence, given the timeframes in G.S. 108A-70.37?*

*In (a)(6), line 21, please remove the errant highlighting from the "s" in "as"*

*On line 22, do you mean to cite to Rule .0102?*

*In (a)(7), line 26, please insert a period after "services."*

*On line 30, please capitalize "Rule" As it was published correctly in the Register, you do not need to show this as a change – simply do it.*

*In (b)(4), Page 2, line 6, what is "rebuttal value" and "rebuttal of intent"? Does your regulated public know?*

*In (b)(6), will your regulated public know how to determine what is "legally binding"?*

*In (c)(5), line 25, please remove the underlining from the struck language and bracket it. Thus: "A representative ~~[does not accept responsibility for obtaining]~~ has not agreed to obtain the information ..."*

*In (c)(5)(A), line 28, delete the "or"*

*In the History Note, line 33, there is no need to cite to G.S. 108A-70.37 as rulemaking authority.*

*Also in the History Note, please give the full citation for each CFR you are citing to, such as "42 CFR 435.912"*

*On Page 3, line 5, please state "May 1, 2019."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23C .0201 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – APPLICATION PROCESSING, MONITORING AND CORRECTIVE ACTION**

4  
5 **10A NCAC 23C .0201 APPLICATION PROCESSING STANDARDS**

6 (a) The county department of social services shall comply with the following standards in processing applications:

- 7 (1) A decision ~~shall be made within the timeframes set out in G.S. 108A-70.37. on an individual's~~  
8 ~~eligibility for Medicaid shall be made within 45 calendar days from the date of application for~~  
9 ~~Medicaid except for applications in which a disability determination has already been made or is~~  
10 ~~needed. For those applications, a decision on an individual's eligibility shall be made within 90 days~~  
11 ~~from the date of application. These timeframes shall apply in accordance with 42 CFR 435.912.~~  
12 ~~435.911.~~  
13 (2) Only require information or verification ~~necessary~~ to establish eligibility for assistance;  
14 (3) Make a minimum of at least two requests for all ~~necessary~~ information from the applicant or third  
15 party;  
16 (4) Allow a minimum of at least 12 calendar days between the initial request and a follow-up request  
17 and at least 12 calendar days between the follow-up request and denial of the application;  
18 (5) Inform the client in writing ~~writing, and verbally when possible~~, of the right to request help in  
19 obtaining information requested from the client. The county department of social services shall not  
20 discourage any client from requesting such help;  
21 (6) An application may pend up to six months for verification that the deductible, as defined in 10A  
22 NCAC 23A .0201, deductible has been met or disability established.  
23 (7) When a hearing decision reverses the decision of the county department of social services ~~County~~  
24 ~~Department of Social Services~~ on an application, pursuant to 10A NCAC 21A .0303, the application  
25 shall be reopened within five business working days from the date the final appeal decision is  
26 received by the county department of social services ~~County Department of Social Services~~. If the  
27 county department of social services has all of the information needed to process the application, no  
28 additional information is needed, the application ~~shall~~ must be processed within five additional  
29 business working days. If additional information is needed pursuant to the final decision, the county  
30 shall make such requests in accordance with this rule. ~~rules for all applications~~. The first request  
31 for the additional information shall be made within five business working days of receipt of the final  
32 appeal decision. The application shall be processed within five business working days of receipt of the  
33 last piece of required information.

34 (b) The county department of social services shall obtain verification, as defined by 10A NCAC 23A .0102,  
35 ~~verification~~ other than the applicant's statement for the following:

- (1) Any element requiring medical verification. This includes verification of disability, ~~pregnancy,~~ incapacity, emergency dates for aliens referenced in the Medicaid State Plan, 10A NCAC 23E .0102(e), incompetence, and approval of institutional care;
  - (2) Proof a deductible has been met;
  - (3) Legal alien status;
  - (4) Proof of the rebuttal value for resources and of the rebuttal of intent to transfer resources to become eligible for Medicaid. When a client ~~an applicant or recipient~~ disagrees with the determination of the county department of social services on the value of an asset, then the client ~~applicant/recipient~~ must provide proof of what the value of the asset is;
  - (5) Proof of designation of liquid assets for burial;
  - (6) Proof of legally binding agreement limiting resource availability;
  - (7) Proof of valid social security number or application for a social security number;
  - (8) Proof of reserve reduction when resources exceed the allowable reserve limit for Medicaid;
  - (9) Proof of earned and unearned income, including deductions, exclusions, and operational expenses when the applicant or caseworker ~~Income Maintenance Caseworker~~ has or can obtain the verification; and
  - (10) Any other information for which the applicant does not know or cannot give an estimate.
- (c) The county department of social services shall be responsible for verifying or obtaining ~~verify or obtain~~ an item of information when:
- (1) A fee must be paid to obtain the verification;
  - (2) It is available within the agency;
  - (3) The county department of social services is required by federal law to assist or to use interagency or intra-agency verification aids;
  - (4) The applicant requests assistance; or
  - (5) A representative does not accept responsibility for obtaining has not agreed to obtain the information and the applicant is:
    - (A) ~~The applicant is physically, mentally, or otherwise physically or mentally incapable of obtaining the information; information, or is~~
    - (B) unable to speak English or read and write in English; ~~write, or is~~
    - (C) housebound, hospitalized, or institutionalized. ~~institutionalized, and a representative does not accept responsibility for obtaining the information.~~
- History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-70.37; 42 C.F.R. 435.911; 435.912; 435.952; Alexander v. Flaherty, V.S.D.C., W.D.N.C., File No. C-C-74-183, Consent Order Filed 15 December 1989; Alexander v. Flaherty Consent Order filed February 14, 1992; Alexander v. Bruton Consent Order dismissed Effective February 1, 2002; Eff. September 1, 1984;*

1                   *Amended Eff. April 1, 1993; August 1, 1990;*  
2                   *Temporary Amendment Eff. March 1, 2003;*  
3                   *Amended Eff. August 1, 2004;*  
4                   *Transferred from 10A NCAC 21B .0203 Eff. May 1, 2012; ~~2012~~.*  
5                   *Readopted Eff. May 2019.*

1 10A NCAC 23D .0101 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SUBCHAPTER 23D – MEDICAID ELIGIBILITY GROUPS AND CLASSIFICATION**

4  
5 **SECTION .0100 – COVERAGE GROUPS**

6  
7 **10A NCAC 23D .0101 MANDATORY GROUPS**

8  
9 *History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a(a)(10); 42 U.S.C. 1396a(e)(4); 42 U.S.C. 1396a(f); 42*  
10 *C.F.R. 435.110; 42 C.F.R. 435.112; 42 C.F.R. 435.113; 42 C.F.R. 435.114; 42 C.F.R. 435.115; 42*  
11 *C.F.R. 435.116; 42 C.F.R. 435.117; 42 C.F.R. 435.118; 42 C.F.R. 435.121; 42 C.F.R. 435.131; 42*  
12 *C.F.R. 435.132; 42 C.F.R. 435.133;*  
13 *Eff. September 1, 1984;*  
14 *Amended Eff. January 1, 1995; March 1, 1993; January 4, 1993; April 1, 1992;*  
15 *Temporary Amendment September 13, 1999;*  
16 *Temporary Amendment Expired June 27, 2000;*  
17 *Temporary Amendment September 12, 2000;*  
18 *Amended Eff. August 1, 2002;*  
19 *Transferred from 10A NCAC 21B .0101 Eff. May 1, 2012; ~~2012~~.*  
20 *Repealed Eff. May 1, 2019.*  
21  
22



1 10A NCAC 23D .0102 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23D .0102 OPTIONAL GROUPS**

4  
5 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.210; 42 C.F.R. 435.222; 42 C.F.R. 435.230; 42 C.F.R.*  
6 *435.301; 42 C.F.R. 435.308; 42 C.F.R. 435.322; 42 C.F.R. 435.330; 42 U.S.C. 1396(a)(10)(A)(ii);*  
7 *42 U.S.C. 1396a(a)(10)(C); S.L. 1983, c. 1034, s. 62.2; S.L. 1987, c. 738, s. 69 and 70; S.L. 1989,*  
8 *c. 752, s. 133;*  
9 *Eff. September 1, 1984;*  
10 *Amended Eff. February 1, 1992; July 1, 1991; August 1, 1990;*  
11 *Temporary Amendment Eff. September 12, 1994, for a period of 180 days or until the permanent*  
12 *rule becomes effective, whichever is sooner;*  
13 *Temporary Amendment Eff. October 1, 1994, for a period of 180 days or until the permanent rule*  
14 *becomes effective, whichever is sooner;*  
15 *Amended Eff. January 1, 1995;*  
16 *Temporary Amendment Eff. February 23, 1999;*  
17 *Amended Eff. August 1, 2000;*  
18 *Temporary Amendment Eff. January 1, 2002;*  
19 *Amended Eff. April 1, 2003;*  
20 *Transferred from 10A NCAC 21B .0102 Eff. May 1, 2012; ~~2012~~.*  
21 *Repealed Eff. May 1, 2019.*  
22  
23

1 10A NCAC 23D .0201 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 - CLASSIFICATION**

4  
5 **10A NCAC 23D .0201 CLASSIFICATION**

6  
7 *History Note: Filed as a Temporary Amendment Eff. October 1, 1994, for a period of 180 days or until the*  
8 *permanent rule becomes effective, whichever is sooner;*

9 *Filed as a Temporary Amendment Eff. September 12, 1994, for a period of 180 days or until the*  
10 *permanent rule becomes effective, whichever is sooner;*

11 *Authority G.S. 108A-54; 42 C.F.R. 435.2; 42 C.F.R. 435.4;*

12 *Eff. September 1, 1984;*

13 *Amended Eff. January 1, 1995; August 1, 1990;*

14 *Temporary Amendment Eff. September 13, 1999;*

15 *Temporary Amendment Expired June 27, 2000;*

16 *Temporary Amendment Eff. September 12, 2000;*

17 *Amended Eff. August 1, 2002;*

18 *Transferred from 10A NCAC 21B .0408 Eff. May 1, 2012; ~~2012~~.*

19 *Repealed Eff. May 1, 2019.*  
20  
21

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E, Section .0100

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule Form for each rule in this Section, you checked that this is part of a combined analysis and no fiscal note required. However, in the NC Register, you stated that Rules 23E .0101 - .0108 affected State funds. Either the publication was incorrect or one or more forms in this Section need to be corrected. Please let me know which is true, and if necessary, fix the forms.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0101 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SUBCHAPTER 23E – MEDICAID ELIGIBILITY REQUIREMENTS**

4  
5 **SECTION .0100 – NON-FINANCIAL REQUIREMENTS**

6  
7 **10A NCAC 23E .0101 AGE**

8  
9 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.520; Alexander v. Flaherty Consent Order filed*  
10 *February 14, 1992;*  
11 *Eff. September 1, 1984;*  
12 *Amended Eff. April 1, 1993; August 1, 1990;*  
13 *Transferred from 10A NCAC 21B .0301 Eff. May 1, 2012; ~~2012~~.*  
14 *Repealed Eff. May 1, 2019.*

1 10A NCAC 23E .0102 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows::

2  
3 **10A NCAC 23E .0102 UNITED STATES CITIZEN**

4  
5 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.402; 8 U.S.C. 1161; 8 U.S.C. 1255a; 42 U.S.C. 1396b(v);*  
6 *Eff. September 1, 1984;*  
7 *Amended Eff. August 1, 2000; December 1, 1991; August 1, 1990;*  
8 *Transferred from 10A NCAC 21B .0302 Eff. May 1, 2012; ~~2012~~.*  
9 *Repealed Eff. May 1, 2019.*  
10  
11  
12

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0103

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 7, should "prior state" be replaced with "Georgia" given the language on line 8?*

*In (c), line 9, should this state "ineligible for NC Medicaid" given the language on line 11?*

*In (e)(3), lines 16-17, what do the terms "boarding home and confinement center" mean? Does your regulated public know?*

*On line 17, replace "in which" with "where"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0103 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0103 RESIDENCE**

4 (a) The requirements stated in 42 CFR 435.403 shall apply to determine residence in the State ~~state~~ except for  
5 provisions in Paragraph (b) of this Rule.

6 (b) Residents of the state of Georgia who enter a long term care facility in N.C. within 40 miles of the resident state's  
7 border shall retain residence in the prior state. Residents of N.C. who enter a long term care facility in Georgia within  
8 40 miles of the N.C. border retain N.C. residency.

9 (c) An individual visiting ~~in the state~~ without intent to ~~reside~~ ~~remain in the State~~ shall be ineligible for Medicaid.

10 (d) An individual who moves to another state and intends to ~~reside~~ ~~remain living~~ in that state shall not be eligible for  
11 N.C. Medicaid.

12 (e) County residence:

13 (1) Any client who moves from one county to another North Carolina county shall continue to receive  
14 assistance so long as eligibility continues. ~~if eligible.~~

15 (2) An individual ~~ordinarily~~ has residence in the county in which he or she resides. However, if he or  
16 she is in a hospital, mental institution, intermediate care facility, skilled nursing home, boarding  
17 home, confinement ~~center,~~ ~~center~~ or similar facility, the county in which the facility is located shall  
18 not be his or her legal residence. Except for (e)(3) in this Rule, the county of legal residence shall  
19 be the county where ~~in which~~ the individual lived in a private living arrangement prior to entering  
20 a facility.

21 (3) If an individual who became disabled prior to age 18 has remained in a facility, he or she remains a  
22 resident of the county and state where ~~in which~~ his or her parent(s) had residence immediately prior  
23 to his or her reaching age 18. If, as an adult, he or she is applying for assistance and it is not possible  
24 for the individual to trace his or her county of residence as a minor, he or she shall establish residence  
25 based on where he or she intends ~~his intent~~ to ~~reside,~~ ~~remain~~ regardless of his or her parent's current  
26 legal residence.

27 (f) ~~The client's statement shall be accepted as verification unless there is reason to doubt it. If there is doubt, evaluation~~  
28 ~~of the statement shall be substantiated for:~~

29 (1) ~~Temporary absence by determination of the reason for absence, expected duration of the absence,~~  
30 ~~and continued maintenance of home in county of residence;~~

31 (2) ~~Entering the state for employment purposes by verified employment, contacts with prospective~~  
32 ~~employers, health department records, Employment Security Commission or Rural Manpower~~  
33 ~~office registration, home in another state with lease or other legal agreement for rental or purchase,~~  
34 ~~or documents proving separation from dependents in another state;~~

35 (3) ~~Intent to remain by documents proving disposition of home in prior state, auto registration and~~  
36 ~~drivers license changed to N.C. within 30 days, change in address with former post office or other~~  
37 ~~sources from which income is received and change in voter registration, tax listing;~~

1       ~~(4) — Incapability of stating intent by verification of representative payee for benefit payments, receipt of~~  
2       ~~benefits on basis of mental illness or retardation, care is provided in a mental retardation facility or~~  
3       ~~power of attorney or guardian has been appointed for him.~~  
4

5       *History Note:     Authority G.S. 108A-54; 108A-54.1B; 108A-55.3; ~~G.S. 150B-14(e)~~; 42 C.F.R. 435.403;*  
6       *Eff. September 1, 1984;*  
7       *Amended Eff. August 1, 1990;*  
8       *Transferred from 10A NCAC 21B .0303 Eff. May 1, 2012; ~~2012~~.*  
9       *Readopted Eff. May 1, 2019.*  
10



1 10A NCAC 23E .0104 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0104 DEPRIVATION**

4  
5 *History Note: Authority G.S. 108A-28; 108A-54; 42 C.F.R. 435.510; 89 CVS 922;*  
6 *Eff. September 1, 1984;*  
7 *Amended Eff. October 1, 1991; August 1, 1990;*  
8 *Temporary Amendment Eff. August 5, 1999;*  
9 *Amended Eff. March 19, 2001;*  
10 *Transferred from 10A NCAC 21B .0304 Eff. May 1, 2012; ~~2012~~.*  
11 *Repealed Eff. May 1, 2019.*  
12  
13

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0105

### **DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*What is the purpose of Paragraph (a)? Is this to remind individuals of the State Plan, or are you setting an eligibility category? If it is the latter, then the Division has no authority to do so in light of G.S. 108-54(f).*

*On line 7, delete "adopted and"*

*On line 8, replace "changes and amendments" with "amendments and editions"*

*On lines 8-9, who expects this?*

*On line 9, replace "twelve" with "12" (See Rule 26 NCAC 02C .0108(9)(b))*

*In (c), line 14, what are the contents of this form? Contents of forms must be set forth in a law or Rule. Is there another law or rule that establishes these contents?*

*On line 14, capitalize "State" assuming you mean NC.*

*In (d), consider writing this in active voice: "The Disability Determination Services Section shall determine disability for all individuals, except for those receiving social security or supplemental security income on the basis of a disability."*

*In (e), line 21, should "adopted" be "followed" or the federal term, "binding"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0105 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0105 DISABILITY**

4 (a) ~~As set out in the Medicaid State Plan,~~ individuals ~~Individuals~~ eligible for Medicaid in December 1973 as disabled  
5 individuals and who meet conditions required by 42 CFR 435.133 shall be permanently and totally disabled based on  
6 a physical or mental impairment ~~that which substantially~~ precludes him or her from ~~obtaining~~ engaging in substantial  
7 gainful activity, as defined at 20 CFR 404.1510, which is adopted and incorporated by reference with subsequent  
8 changes or amendments and available free of charge at <https://www.ecfr.gov/>, employment, and such impairment can  
9 be expected to result in death, or has lasted or can be expected to last twelve months or longer. appears reasonably  
10 certain to continue without substantial improvement throughout his life time.

11 (b) Any client who has applied for Medicaid since January 1, 1974 on the basis of disability is required to ~~shall~~ be  
12 found disabled ~~under the definition of disability and procedures established for evaluation of vocational and medical~~  
13 ~~factors~~ under the supplemental security income program.

14 (c) A social history on a form prescribed by the state shall be completed by the caseworker ~~Income Maintenance~~  
15 ~~Caseworker~~ and submitted to the Division of Vocational Rehabilitation Services, Disability Determination Services  
16 Section with the request for disability determination.

17 (d) Except for clients ~~client's~~ receiving social security or supplemental security income on the basis of disability, the  
18 decision on disability is made by the Disability Determination Services Section. ~~Section of the Division of Social~~  
19 ~~Services.~~

20 (e) Social Security Administration (SSA) decisions made for social security disability or supplemental security  
21 income shall be adopted for persons applying for Medicaid.

22 (f) Disability determination shall be verified from the client's award letter, SDX, BENDEX, Disability Determination  
23 Services Section approval, Administrative Law Judge decision, ~~decision~~ or other documentary evidence. SDX and  
24 BENDEX are defined in 10A NCAC 23A .0102.

25 (g) Disability for purposes of Medicaid eligibility shall cease when the client is determined by the Social Security  
26 Administration or the Disability Determination Services Section to be capable of engaging in substantial gainful  
27 activity. The client may appeal the termination of Medicaid, pursuant to G.S. 108A-70.9A. ~~Medicaid based on his~~  
28 ~~disability cessation.~~

29  
30 *History Note: Authority G.S. 108A-54; 108A-54.1B; 20 C.F.R. 404.1505; 42 C.F.R. 435.540; 42 C.F.R. 435.541;*  
31 *Alexander v. Flaherty Consent Order filed February 14, 1992;*  
32 *Eff. September 1, 1984;*  
33 *Amended Eff. April 1, 1993; August 1, 1990;*  
34 *Transferred from 10A NCAC 21B .0305 Eff. May 1, 2012; ~~2012~~.*  
35 *Readopted Eff. May 1, 2019.*  
36  
37

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0106

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1), line 6, replace "receiving" with "receipt of"*

*On line 7, what are "gaps"? Are you using this term to define "continuously" on line 4?*

*In (b), is this the method for determining eligibility for (a)(2) applicants?*

*In (d), line 25, capitalize "Rule"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0106 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0106 BLINDNESS**

4 (a) To qualify for Medicaid under the category of Aid to the Blind, the client shall meet one of the following  
5 conditions:

- 6 (1) ~~Was~~ receiving Medicaid on the basis of blindness in December 1973, ~~has been~~ continuously eligible  
7 for Medicaid with no gaps since that ~~date, date~~ and ~~has been~~ determined by the Disability  
8 Determination Services Section State disability determination unit to have visual acuity of 20/100  
9 in the better eye with correction or visual field limitation in the better eye of 30 percent or less; or  
10 (2) ~~Has~~ applied for Medicaid since January 1, 1974 and meets the definition of blindness, vocational,  
11 vocational and medical factors applied under the Supplemental Security Income program, pursuant  
12 to 20 CFR 404, Subpart P, Program.

13 (b) For clients applying for Medicaid since January 1, 1974, ~~1974~~ blindness shall be determined by one of the  
14 following methods:

- 15 (1) Documentary evidence including SDX, BENDEX, or an award letter that social security benefits,  
16 supplemental security ~~income~~ income, or veterans benefits have been awarded on the basis of  
17 blindness; or  
18 (2) A written decision from the physician consultant of the Division of Services for the Blind based on  
19 review of a medical eye examination report.

20 (c) Blindness shall be reverified for clients determined eligible under Paragraph (b) of this Rule at each review of the  
21 client's eligibility or when reexamination is recommended by the physician consultant in his or her professional  
22 opinion. ~~consultant.~~

23 (d) The client shall cease to qualify for Medicaid as a blind individual when evidence is received from any of the  
24 sources described in Paragraphs (a)(1) or (b) of this Rule that the client no longer meets the conditions of blindness  
25 set out in this rule and the Medicaid State Plan. ~~definition of blindness.~~

26  
27 *History Note: Authority G.S. 108A-54; 108A-54.1B; 20 C.F.R. 404, Subpart P; 42 C.F.R. 435.530; 42 C.F.R.*  
28 *435.531;*  
29 *Eff. September 1, 1984;*  
30 *Amended Eff. August 1, 1990;*  
31 *Transferred from 10A NCAC 21B .0306 Eff. May 1, 2012; ~~2012.~~*  
32 *Readopted Eff. May 1, 2019.*  
33  
34

1 10A NCAC 23E .0107 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0107 CARETAKER RELATIVE**  
4

5 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.310;*

6 *Eff. September 1, 1984;*

7 *Amended Eff. April 1, 1993; August 1, 1990;*

8 *Transferred from 10A NCAC 21B .0307 Eff. May 1 ~~2012; 2012.~~*

9 *Repealed Eff. May 1, 2019.*  
10  
11

1 10A NCAC 23E .0108 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0108 INMATE OF PUBLIC INSTITUTION OR PRIVATE PSYCHIATRIC HOSPITAL**

4  
5 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.1008; 42 C.F.R. 435.1009; S.L. 1987, c. 758, s. 69;*  
6 *Eff. September 1, 1984;*  
7 *Amended Eff. August 1, 1990;*  
8 *Transferred from 10A NCAC 21B .0308 Eff. May 1, 2012; ~~2012~~.*  
9 *Repealed Eff. May 1, 2019.*  
10

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0201

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 6, I realize that "all necessary steps" is the term used in 42 CFR 435.608. But what does it mean? What are these steps? Who determines what those are?*

*Consider making Paragraph (b) part of Paragraph (a).*

*On line 10, capitalize "Rule"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019



1 10A NCAC 23E .0201 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – FINANCIAL REQUIREMENTS**  
4

5 **10A NCAC 23E .0201 APPLYING FOR ALL BENEFITS AND ANNUITIES**

6 (a) Clients shall take all necessary steps to obtain any annuities, pensions, retirement and disability benefits to which  
7 they are entitled, pursuant to 42 CFR 435.608, which is adopted and incorporated by reference with subsequent  
8 changes or amendments and available free of charge at <https://www.ecfr.gov/>, unless they have good cause for not  
9 doing so as determined by the county department of social services. ~~so.~~

10 (b) For purposes of this rule, good ~~Good~~ cause shall be ~~is~~ limited to physical or mental incapability to make such  
11 effort.

12 (c) If a client fails to comply with Paragraph (a) and does not show good cause, ~~The amount of any verifiable benefits~~  
13 ~~is counted as income to the client if the amount can be determined. If the amount cannot be determined, but the~~  
14 ~~availability is verified, the client's eligibility benefits case shall be terminated, denied or terminated for client's failure~~  
15 ~~to cooperate.~~

16  
17 *History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 435.608; ~~435.603~~;*  
18 *Eff. September 1, 1984;*  
19 *Amended Eff. August 1, 1990;*  
20 *Transferred from 10A NCAC 21B .0309 Eff. May 1, 2012; ~~2012~~.*  
21 *Readopted Eff. May 1, 2019.*  
22  
23

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0202

### **DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, consider moving "except as specified in Paragraphs (j) and (k)" to line 5 and start the sentence, "Except as specified in Paragraphs (j) and (k) of this Rule, the resources that are counted..."*

*On line 9, please be sure to insert the underlining under url.*

*On line 11, what do you mean by "can be made available"? By whom? The applicant?*

*In (b), line 14, what do you mean by "actually" available? Available for immediate use?*

*On line 15, what is "necessary" action?*

*In (d), line 24, what is a "reasonable amount of time"? Reasonable to whom?*

*In (e), end (e)(1) and (2) with semicolons, not commas.*

*In (e)(2), line 32, who determines if the individual "may have a legal interest" here?*

*Bring the language on lines 34 through Page 2, line 8, the left margin, as it appears that this language applies to all of (e), not just (e)(3).*

*On Page 2, line 1, what is a "reasonable amount of time" here? Who decides this?*

*On line 7, replace "such" with "the"*

*Also on line 7, what do you mean by "indicates"? Do you mean "shows" or "states" instead?*

*In (f), line 12, what is the purpose of the reference to G.S. 1?*

*In (g), line 16, remove the quotation marks from "competent evidence," as you are not defining the term here. You will leave them in (h).*

*On line 16, add "as" before "defined"*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

*On line 17, I suggest deleting “such”*

*On line 18, I suggest replacing “specified” with “defined” since I think that’s what you mean here.*

*In (i)(2), line 37, insert a space between “11:59” and “pm” As you published this correctly in the Register, you do not need to show this as a change.*

*In Paragraphs (j) and (k), what authority are you relying upon to set these resource standards? Is it G.S. 108A-54B(a):*

- (a) The Department is expressly authorized to adopt temporary and permanent rules to implement or define the federal laws and regulations, the North Carolina State Plan of Medical Assistance, and the North Carolina State Plan of the Health Insurance Program for Children, the terms and conditions of eligibility for applicants and recipients of the Medical Assistance Program and the Health Insurance Program for Children

*In (k)(3), line 16, I suggest replacing “is not” with “shall not be” to be consistent with (k)(3).*

*Why do you need (k)(4) in light of the language in (i)(2)?*

*In (l)(4), Page 4, line 12, please underline “The” as it is new language.*

*In (l)(7)(B), line 18, please insert a comma after “trailers”*

*In (l), line 3, and (o), line 24, you state “medically needy Family and Children’s cases” but in (m), line 22, and (n), line 23, you state “Family and Children’s medically needy cases” If these are the same thing, shouldn’t the phrase be the same everywhere?*

*In (p), line 26, should “family” and “children’s” be capitalized as it is elsewhere in the Rule?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 23E .0202 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0202 WHAT RESOURCES ARE COUNTED ~~RESERVE~~**

4 (a) North Carolina has contracted with the Social Security Administration under Section 1634 of the Social Security  
5 Act to provide Medicaid to all SSI recipients. ~~Resource eligibility~~ The resources that are counted for Medicaid  
6 eligibility for individuals under any aged, blind, and disabled Aged, Blind, and Disabled coverage group shall be  
7 determined based on standards and methodologies in Title XVI of the Social Security Act, which is adopted and  
8 incorporated by reference with subsequent changes or amendments and available free of charge at  
9 http://uscode.house.gov/, ~~Act~~ except as specified in Paragraphs ~~(j)(4)~~ and ~~(k)(4)~~ of this Rule. Applicants for and  
10 recipients of Medicaid shall use their own resources to meet their needs for living costs and medical care to the extent  
11 that such resources can be made available.

12 (b) The value of resources currently available to any ~~budget unit~~ member of a budget unit, as defined in 10A NCAC  
13 23A .0102, shall be considered in determining financial eligibility. A resource shall be considered available when it  
14 is actually available and when the budget unit member has a legal interest in the resource and he or she, or someone  
15 acting in his or her behalf, can take any necessary action to make it available.

16 (c) Resources shall be excluded in determining financial eligibility when the budget unit member with having a legal  
17 interest in the resources is declared incompetent, ~~incompetent~~ unless:

18 (1) A guardian of the estate, a general guardian, ~~guardian~~ or an interim guardian has been ~~lawfully~~  
19 appointed in accordance with the law and is able to act on behalf of his or her ward in North Carolina  
20 and in any state ~~in which~~ where such resources are located; or

21 (2) A durable power of attorney, valid in North Carolina and in any state ~~in which~~ where such resource  
22 is located, has been granted to a person who is authorized and able to exercise such power.

23 (d) When there is a guardian, an interim guardian, or a person holding a valid, durable power of attorney for a budget  
24 unit member, but such person is unable, fails, or refuses to act within a reasonable amount of time ~~promptly~~ to make  
25 the resources ~~actually~~ available to meet the needs of the budget unit member, a referral shall be made to the services  
26 unit of the county department of social services for a determination of whether the guardian or attorney in fact is acting  
27 in the best interests of the member and if not, the county department of social services shall contact the clerk of court  
28 for intervention. The resources shall be excluded in determining financial eligibility pending action by the clerk of  
29 court.

30 (e) When a Medicaid application is filed on behalf of an individual who:

31 (1) is alleged to be mentally incompetent,

32 (2) has or may have a legal interest in a resource that affects the individual's eligibility, and

33 (3) does not have a representative with legal authority to use or dispose of the individual's resources,  
34 the individual's representative or family member shall be instructed by the county department of  
35 social services to file within 30 calendar days a judicial proceeding under G.S. 35A to declare the  
36 individual incompetent and appoint a guardian. If the representative or family member either fails  
37 to file such a proceeding within 30 calendar days or fails to ~~timely~~ conclude the proceeding within

1 ~~a reasonable amount of time, proceeding,~~ a referral shall be made to the protective services unit of  
2 the county department of social services for guardianship services. ~~If the allegation of incompetence~~  
3 ~~that has lasted, or is expected to last 30 consecutive days or more, or until the individual's death, is~~  
4 ~~supported by competent evidence, as specified in Paragraph (h) of this Rule, If an allegation of~~  
5 ~~incompetence is supported by competent evidence as defined in Paragraph (h) of this Rule, and the~~  
6 ~~incompetence has lasted, or is expected to last, at least 30 consecutive days or until the individual's~~  
7 ~~death,~~ the resources shall be excluded beginning with the date that such evidence indicates that he  
8 ~~or she~~ became incompetent, except as provided in Paragraphs (f) or (g) of this Rule.

9 (f) The budget unit member's resources shall be counted in determining his or her eligibility for Medicaid beginning  
10 the first day of the month following the month a guardian of the estate, general guardian, ~~guardian~~ or interim guardian  
11 is appointed, provided that after the appointment, property that cannot be disposed of or used except by order of the  
12 court shall continue to be excluded until completion of the applicable procedures for disposition specified in G.S. 1 or  
13 G.S. 35A.

14 (g) When the court rules that the budget unit member is competent or no ruling is made because of the death or  
15 recovery from incompetence of the member, his or her resources shall be counted except for periods of time for which  
16 it can be established by ~~competent evidence~~ "competent evidence" ~~specified~~ defined in Paragraph (h) of this Rule,  
17 that the member was in fact incompetent for at least 30 consecutive days, or until his or her death. Any such showing  
18 of incompetence is subject to rebuttal by competent evidence as specified in Paragraph (h) of this Rule.

19 (h) For purposes of this Rule, ~~competent evidence~~ "competent evidence" is ~~limited to~~ defined as the written statement  
20 or testimony at a competency hearing of a physician, psychologist, nurse, or social worker with knowledge of the  
21 physical and mental condition of the individual, that contains information on the individual's condition, the basis of  
22 that information, individual, the basis of that knowledge, the beginning date of incompetence, the reason the individual  
23 is incompetent, and, and if no longer incompetent, when the individual recovered competence.

24 (i) ~~The limitation of resources held for reserve for the budget unit shall be as follows:~~

- 25 (1) ~~for Family and Children's related categorically and medically needy cases, three thousand dollars~~  
26 ~~(\$3,000.00) per budget unit;~~  
27 (2) ~~for aged, blind, and disabled cases, two thousand dollars (\$2000.00) for a budget unit of one and~~  
28 ~~three thousand dollars (\$3000.00) for a budget unit of two.~~

29 (i)(j) If the value of countable resources of the budget unit exceeds the reserve allowance for the unit as set out in the  
30 Medicaid State Plan, unit, the case shall be ~~ineligible;~~ ineligible unless one of the following is met:

- 31 (1) For Family and Children's medically needy ~~related~~ cases and aged, blind, ~~blind~~ or disabled cases  
32 protected by grandfathered provisions, and medically needy cases not protected by grandfathered  
33 provision, eligibility shall begin on the day countable resources are reduced to allowable limits or  
34 excess income is spent down, whichever occurs later;  
35 (2) For categorically needy aged, blind, ~~blind~~ or disabled cases not protected by grandfathered  
36 provisions, eligibility shall begin no earlier than the month countable resources are reduced to  
37 allowable limits as of 11:59pm on the first moment of the first last day of the previous month.

1 ~~(j)(4)~~ Resources counted in the determination of financial eligibility for categorically needy aged, blind, ~~blind~~ and  
2 disabled cases, and Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, Qualifying  
3 Individual and Qualified Disabled Working Individual cases shall be based on resource standards and methodologies  
4 in Title XVI of the Social Security Act except for the following methodologies:

- 5 (1) The value of personal effects and household goods shall be not counted.
- 6 (2) The value ~~Value~~ of tenancy in common interest in real property shall be not counted.
- 7 (3) The value ~~Value~~ of life estate interest in real property shall be not counted.
- 8 (4) The value ~~Value~~ of burial plots shall be not counted.
- 9 (5) The cash value of life insurance when the total face value of all cash value bearing life insurance  
10 policies does not exceed ten thousand dollars (\$10,000.00) shall be not counted.

11 ~~(k)(4)~~ Resources counted in the determination of financial eligibility for medically needy aged, blind, ~~blind~~ and  
12 disabled cases ~~is~~ shall be based on resource standards and methodologies in Title XVI of the Social Security Act  
13 except for the following methodologies:

- 14 (1) The value of personal effects and household goods shall be not counted.
- 15 (2) The value ~~Value~~ of tenancy in common interest in real property shall be not counted.
- 16 (3) The value ~~Value~~ of life estate interest in real property is not counted.
- 17 (4) Individuals with resources in excess of the resource limit at 11:59pm on the last day of the previous  
18 month, the first moment of the month may become eligible during the current month at the point  
19 that resources are reduced to the allowable limit.
- 20 (5) The value ~~Value~~ of burial plots shall be not counted.
- 21 (6) The cash value of life insurance when the total face value of all cash value bearing life insurance  
22 polities does not exceed ten thousand dollars (\$10,000.00) shall be not counted.

23 ~~(m) Resources counted in the determination of financial eligibility for categorically needy Family and Children's~~  
24 ~~related cases shall be:~~

- 25 ~~(1) Cash on hand;~~
- 26 ~~(2) The balance of savings accounts, including savings of a student saving his earnings for school~~  
27 ~~expenses;~~
- 28 ~~(3) The balance of checking accounts less the current monthly income that had been deposited to meet~~  
29 ~~the budget unit's monthly needs when reserve was verified;~~
- 30 ~~(4) The portion of lump sum payments remaining after the month of receipt;~~
- 31 ~~(5) Cash value of life insurance policies owned by the budget unit;~~
- 32 ~~(6) Stocks, bonds, mutual fund shares, certificates of deposit and other liquid assets;~~
- 33 ~~(7) Patient accounts in long term care facilities;~~
- 34 ~~(8) Equity in non-essential personal property limited to:~~
  - 35 ~~(A) Mobile homes not used as home;~~
  - 36 ~~(B) Boats, boat trailers and boat motors;~~
  - 37 ~~(C) Campers;~~

- (D) ~~— Farm and business equipment;~~
- (E) ~~— Equity in vehicles in excess of one motor vehicle per adult;~~
- ~~(l)(n)~~ Resources counted in the determination of financial eligibility for medically needy Family and Children's related cases are:
- (1) Cash on hand;
  - (2) The balance of savings accounts, including savings of a student saving his or her earnings for school expenses;
  - (3) The balance of checking accounts, ~~accounts~~ less the current monthly income at this time, ~~that had been~~ deposited to meet the budget unit's monthly needs when reserve was verified by the county department of social services or lump sum income from self-employment deposited to pay annual expenses;
  - (4) The cash ~~Cash~~ value of life insurance policies when the total face value of all policies that accrue cash value exceeds one thousand five hundred dollars (\$1,500.00);
  - (5) Stocks, bonds, mutual fund shares, certificates of deposit, ~~deposit~~ and other liquid assets;
  - (6) Assets held in patient ~~Patient~~ accounts in long term care facilities;
  - (7) Equity in ~~non-essential~~, non-income producing personal property limited to:
    - (A) Mobile home not used as ~~home~~, home;
    - (B) Boats, boat trailers and boat ~~motors~~, motors;
    - (C) ~~Campers~~, Campers;
    - (D) Farm and business ~~equipment~~, equipment; and
    - (E) Equity in motor vehicles in excess of one vehicle per adult if not income-producing.
- (m) Real property shall be excluded from countable resources for Family and Children's medically needy cases.
- (n) One motor vehicle per adult shall be excluded for Family and Children's medically needy cases.
- (o) For medically needy Family and Children's cases, income-producing vehicles and personal property shall be excluded from countable resources.
- (p) For family and children's medically needy cases, the value of non-excluded motor vehicles is the Current Market Value as determined by the assessed county tax value, less encumbrances. If the client disagrees with the assigned value, he or she has the right to rebut the value by producing independent evidence of value.
- (q) There is no resource test for Family and Children's categorically needy cases pursuant to 42 C.F.R. 435.603.

*History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-55; 108A-58; 42 U.S.C. 703; 42 U.S.C. 704; 703, 704 42 U.S.C. 1396; 42 C.F.R. 435.121; 42 C.F.R. 435.210; 42 C.F.R. 435.603; 42 C.F.R. 435.711; 42 C.F.R. 435.712; 42 C.F.R. 435.734; 42 C.F.R. 435.823; 42 C.F.R. 435.840; 42 C.F.R. 435.841; 42 C.F.R. 435.843; 42 C.F.R. 435.845; 435-845; 42 C.F.R. 445.850; 42 C.F.R. 435.851; 45 C.F.R. 233.20; 45 C.F.R. 233.51; S.L. 2002-126; Eff. September 1, 1984;*

1           *Temporary Amendment Eff. September 1, 1985, for a period of 92 days to expire on December 1,*  
2           *1985;*  
3           *Amended Eff. January 1, 1995; November 1, 1994; September 1, 1993; March 1, 1993;*  
4           *Temporary Amendment Eff. September 13, 1999;*  
5           *Temporary Amendment Expired June 27, 2000;*  
6           *Temporary Amendment Eff. September 12, 2000;*  
7           *Amended Eff. March 19, 2001;*  
8           *Temporary Amendment Eff. April 16, 2001;*  
9           *Amended Eff. August 1, 2002;*  
10           *Temporary Amendment Eff. March 1, 2003;*  
11           *Amended Eff. August 1, 2004;*  
12           *Transferred from 10A NCAC 21B .0310 Eff. May 1, 2012; ~~2012~~.*  
13           *Readopted Eff. May 1, 2019.*  
14  
15



## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0203

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1)(F), it appears from the DES website that these payments in NC are called "Unemployment Insurance benefits"*

*In (a)(1)(P), line 23, and (Q), line 24, why is "benefits" capitalized?*

*In (a)(1)(U), is "M-AF" the term as defined in Rule 23A .0102?*

*In (a)(1)(X), line 34, why is "income" capitalized?*

*In (a)(1)(Z), what does this mean? Deemed by whom?*

*In (a)(2)(B), Page 2, line 2, why is "income" capitalized?*

*How is (a)(2)(E) different from (a)(2)(D)?*

*In (a)(2)(G), line 8, do you mean any state or NC? If you mean NC, please capitalize the term.*

*In (b), line 15, should "Family" and "Children's" be capitalized to be consistent with the rest of the Rule?*

*In (b)(5), line 26, do you mean any state or NC? If you mean NC, please capitalize the term.*

*In (b)(6), line 28, consider replacing "i.e." with "such as"*

*In (b)(17), lines 12-13, why are you saying, "For Family and Children's cases"? You already said this in (b), Page 2, line 15. Note the same query for (b)(18), line 14, "in Family and Children's cases"*

*In (b)(28), please either replace "Public Law" with "P.L." to be consistent with (b)(20 and (21), or replace "P.L." in those Subparagraphs with "Public Law" in order to be consistent.*

*In (b)(37), Page 4, line 8, and (d)(3), line 19, please bracket "67" and remove the underlining from it. Thus: "Article 6F[67] of the..."*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

*In (d)(1), lines 12-13, there is no need to repeat the language “as defined in 10A NCAC 23A .0102,” as you already said this in (a)(1)(A).*

*In (e), what are “income levels” here? They are not the same as “income thresholds” that are reserved to the authority of the General Assembly in G.S. 108A-54(f), are they?*

*In (e)(1), line 25, please replace “nineteen” with “19” (See Rule 26 NCAC 02C .0108(9))*

*In (e)(2), line 27, please hyphenate “long-term” to be consistent with the rest of the Rule.*

*In (e)(3), lines 32 and 33, do you have concerns regarding this language based upon Texas v. the US (340 F.Supp.3d 579), in which these portions of 42 USC 1396 were found unconstitutional as not severable?*

*In (f), what is your authority to state this? What is “income” here?*

*On line 35, I suggest replacing “is” with “shall be”*

*In the History Note on Page 5, 42 USC 1383c(b) and 1383c(d), as well as PL 99-272 all apply to widowers’ pensions. What part of this Rule addresses this?*

*Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0203 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0203 COUNTABLE INCOME**

4 (a) For ~~Family and Children's~~ family and children's medically needy cases, income from the following sources shall  
5 be counted in the calculation of financial eligibility:

6 (1) Unearned.

- 7 (A) ~~RSDI~~ RSDI, as defined in 10A NCAC 23A .0102;  
8 (B) Veteran's ~~Administration~~, Administration;  
9 (C) Railroad ~~Retirement~~, Retirement;  
10 (D) Pensions or retirement ~~benefits~~, benefits;  
11 (E) ~~Workmen's~~ Worker's Compensation, Compensation;  
12 (F) Unemployment ~~Compensation~~, Compensation;  
13 (G) All support payments, including child and spousal support; Support Payments;  
14 (H) ~~Contributions~~, Contributions;  
15 (I) Dividends or interest from stocks, bonds, and other ~~investments~~, investments;  
16 (J) Trust fund ~~income~~, income;  
17 (K) Private disability or employment ~~compensation~~, compensation;  
18 (L) ~~That~~ The portion of educational loans, grants, and scholarships for ~~maintenance~~,  
19 maintenance;  
20 (M) Work ~~release~~, release;  
21 (N) Lump sum ~~payments~~, payments;  
22 (O) Military ~~allotments~~, allotments;  
23 (P) Brown Lung ~~Benefits~~, Benefits;  
24 (Q) Black Lung ~~Benefits~~, Benefits;  
25 (R) Trade Adjustment ~~benefits~~, benefits;  
26 (S) SSI when the client is in ~~long-term care~~, long-term care;  
27 (T) VA Aid and Attendance when the client is in ~~long-term care~~, long-term care;  
28 (U) Foster Care Board payments in excess of State ~~state~~ maximum rates for M-AF clients who  
29 serve as foster ~~parents~~, parents;  
30 (V) Income allocated from an institutionalized spouse to the client who is the community  
31 spouse as stated in 42 U.S.C. ~~1396r-5(d)~~, 1396r-5(d);  
32 (W) Income allowed from an institutionalized spouse to the client who is a dependent family  
33 member as stated in 42 U.S.C. ~~1396r-5(d)~~, 1396r-5(d);  
34 (X) Sheltered Workshop ~~Income~~, Income;  
35 (Y) ~~Loans~~ Loans, if repayment of a loan and not counted in ~~reserve~~, reserve; and  
36 (Z) Income deemed to Family and Children's clients.

37 (2) Earned Income.

- (A) Income from wages, salaries, and ~~commissions~~, commissions;
- (B) Farm ~~income~~, Income;
- (C) Small business income including ~~self-employment~~, self-employment;
- (D) Rental ~~income~~, income;
- (E) Income from roomers and ~~boarders~~, boarders;
- (F) Earned income of a child client who is a part-time student and a full-time ~~employee~~, employee;
- (G) Supplemental payments in excess of state maximum rates for Foster Care Board payments paid by the county to Family and Children's clients who serve as foster ~~parents~~, parents; and
- (H) VA Aid and Attendance paid to a budget unit member who provides the aid and attendance.
- (3) Additional sources of income not listed in Subparagraphs (a)(1) or (2) of this Rule shall be considered available unless specifically excluded by Paragraph (b) of this Rule, or by State or federal regulation or statute.
- (b) For family and children's medically needy cases, income from the following sources shall not be counted in the calculation of financial eligibility:
- (1) Earned income of a child who is a part-time student but is not a full-time employee;
  - (2) Earned income of a child who is a full-time student;
  - (3) Incentive payments and training allowances made to Work Incentives Network (WIN) ~~WIN~~ training participants;
  - (4) Payments for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as VISTA volunteers, foster grandparents, senior health aides, senior companions, Service Corps of Retired Executives, Active Corps of Executives, Retired Senior Volunteer Programs, Action Cooperative Volunteer Program, University Year for Action Program, and other programs under Titles I, II, and III of Public Law 93-113;
  - (5) Foster Care Board payments equal to or below the state maximum rates for Family and Children's clients who serve as foster parents;
  - (6) Income that is unpredictable, i.e., unplanned and arising only from time to time. Examples include occasional yard work and sporadic babysitting;
  - (7) Relocation payments;
  - (8) Value of the coupon allotment under the Food and Nutrition Program (FNS); ~~Food Stamp Program~~;
  - (9) Food (vegetables, dairy products, and meat) grown by or given to a member of the household. The amount received from the sale of home grown produce is earned income;
  - (10) Benefits received from the Nutrition Program for the Elderly;
  - (11) Food Assistance under the Child Nutrition Act and National School Lunch Act;
  - (12) Assistance provided in cash or in kind under any governmental, civic, or charitable organization whose purpose is to provide social services or vocational rehabilitation. This includes V.R.

- incentive payments for training, education, ~~education~~ and allowance for dependents, grants for tuition, chore services under Title XX of the Social Security Act, and VA aid and attendance or aid to the home bound if the individual is in a private living arrangement;
- (13) Loans or grants such as the GI Bill, civic, honorary and fraternal club scholarships, loans, or scholarships granted from private donations to the college, ~~etc.~~, except for any portion used or designated for maintenance;
- (14) Loans, grants, or scholarships to undergraduates for educational purposes made or insured under any program administered by the U.S. Department of Education;
- (15) Benefits received under Title VII of the Older Americans Act of 1965;
- (16) Payments received under the Housing Choice Voucher (HCV) Program, formerly known as the Experimental Housing Allowance Program (EHAP);
- (17) In-kind shelter and utility contributions paid directly to the supplier. For Family and Children's cases, shelter, utilities, or household furnishings made available to the client at no cost;
- (18) Food/clothing contributions in Family and Children's cases (except for food allowance for persons temporarily absent in medical facilities up to 12 months);
- (19) Income of a child under 21 in the budget unit who is participating in the Job Training Partnership Act JTPA and is receiving Medicaid as a child;
- (20) Housing Improvement Grants approved by the N.C. Commission of Indian Affairs or funds distributed per capital or held in trust for Indian tribe members under P.L. 92-254, P.L. 93-134 or P.L. 94-540;
- (21) Payments to Indian tribe members as permitted under P.L. 94-114;
- (22) Payments made by Medicare to a home renal dialysis patient as medical benefits;
- (23) ~~SSI~~ SSI, except for individuals in ~~long-term~~ long-term care;
- (24) HUD Section 8 benefits when paid directly to the supplier or jointly to the supplier and client;
- (25) Benefits received by a client who is a representative payee for another individual who is incompetent or incapable of handling his or her affairs. Such benefits ~~must~~ shall be accounted for by the county department of social services separate from the payee's own income and resources;
- (26) Special one time payments such as energy, weatherization assistance, or disaster assistance that is not designated as medical;
- (27) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
- (28) Payments under the Alaska Native Claims Settlement Act, Public Law 92-203;
- (29) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (30) HUD Community Development Block Grant funds received to finance the renovation of a privately owned residence;
- (31) Reimbursement for transportation expenses incurred as a result of participation in the Community Work Experience Program or for use of client's own vehicle to obtain medical care or treatment;

- (32) Adoption assistance;
- (33) Incentive payments made to a client participating in a vocational rehabilitation program;
- (34) Title XX funds received to pay for services rendered by another individual or agency;
- (35) Any amount received as a refund of taxes paid;
- (36) The first fifty-dollars (\$50) of each child support/spousal obligation or military allotment paid monthly to the budget unit in a private living ~~arrangement.~~ arrangement; and
- (37) Income from an Achieving a Better Life Experience (ABLE) program account, pursuant to Chapter 147, Article 6F 67 of the North Carolina General Statutes.
- (c) For aged, blind, and disabled cases, income counted in the determination of financial eligibility ~~is~~ shall be based on standards and methodologies in Title XVI of the Social Security Act.
- (d) For aged, blind, and disabled cases, income from the following sources shall not be counted:
- (1) Any Cost of Living Allowance (COLA) increase or receipt of RSDI benefit, as defined in 10A NCAC 23A .0102, ~~benefit which that~~ resulted in the loss of SSI for those qualified disabled and working individuals described at 42 U.S.C. 1396d(s); ~~individuals described in 10A NCAC 23D .0101(17).~~
- (2) Earnings for those individuals who have a plan for achieving self-support (PASS) that is approved by the Social Security ~~Administration; and Administration.~~
- (3) Income from an Achieving a Better Life Experience (ABLE) program account, pursuant to Chapter 147, Article 6F 67 of the North Carolina General Statutes.
- (e) Income levels for purposes of establishing eligibility are those amounts approved by the N.C. General Assembly and stated in the Appropriations Act for categorically needy and medically needy classifications, except for the following:
- (1) The income level shall be reduced by one-third when an aged, ~~blind, blind~~ or disabled individual lives in the household of another person and does not pay his or her proportionate share of household expenses. The one-third reduction shall not apply to children under nineteen years of age who live in the home of their parents;
- (2) An individual living in a long term care facility or other medical institution shall be allowed as income level deduction for personal needs described under the Medicaid State Plan; Rule .0204 (Personal Needs Allowance) of this Section; and
- ~~(3) The categorically needy income level for an aged, blind, and disabled individual or couple is 100% of the Federal Poverty Level;~~
- ~~(3)(4)~~ (4) The income level to be applied for Qualified Medicare Beneficiaries described in 42 U.S.C. 1396d and individuals described in 42 U.S.C. 1396e is based on the income level for one; or two for a married couple who live together and both receive Medicare.
- (f) Income for Family and Children's categorically needy cases is determined pursuant to 42 C.F.R. 435.603.

1 *History Note:* *Filed as a Temporary Rule Effective July 1, 1987, for a period of 120 days to expire on October 31,*  
2 *1987;*  
3 *Authority G.S. 108A-25(b); 108A-54; 108A-54.1B; ~~108A-61~~; 42 C.F.R. 435.135; 42 C.F.R. 435.603;*  
4 *~~42 C.F.R. 435.731~~; ~~42 C.F.R. 435.732~~; 42 C.F.R. 435.733; 42 C.F.R. 435.811; ~~42 C.F.R. 435.812~~;*  
5 *42 C.F.R. 435.831; 42 C.F.R. 435.832; 42 C.F.R. 435.1007; 45 C.F.R. 233.20; 42 U.S.C 1383c(b);*  
6 *42 U.S.C 1383c(d); P.L. 99-272, ~~99-272~~; Section 12202; Alexander v. Flaherty Consent Order filed*  
7 *February 14, 1992;*  
8 *Eff. September 1, 1984;*  
9 *Amended Eff. January 1, 1996; January 1, 1995; September 1, 1994; September 1, 1993;*  
10 *Temporary Amendment Eff. February 23, 1999;*  
11 *Amended Eff. August 1, 2000;*  
12 *Transferred from 10A NCAC 21B .0312 Eff. May 1, 2012; ~~2012~~.*  
13 *Readopted Eff. May 1, 2019.*

1 10A NCAC 23E .0204 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0204 PERSONAL NEEDS ALLOWANCE**

4  
5 *History Note: Authority G.S. 108A-25(b); 42 C.F.R. 435.135; 42 C.F.R. 435.731; 42 C.F.R. 435.732; 42 C.F.R.*  
6 *435.733; 42 C.F.R. 435.831; 42 U.S.C. 1383c(b); 42 U.S.C. 1383c(d);*  
7 *Eff. September 1, 1994;*  
8 *Transferred from 10A NCAC 21B .0313 Eff. May 1, 2012; ~~2012~~.*  
9 *Repealed Eff. May 1, 2019.*  
10  
11



## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0205

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 4, I take it "budget unit" is the term as defined in Rule 23A .0102?*

*On line 5, if by "state" you mean NC, please capitalize the term.*

*On line 6, I suggest replacing "is" with "shall be"*

*On line 7, delete "adopted and" and replace "changes or amendments" with "amendments or editions"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0205 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0205 BUDGET UNIT MEMBERSHIP**

4 In aged, blind, and disabled cases and medically needy cases, the budget unit shall include individuals ~~Individuals~~  
5 who are required by federal and state law to be financially responsible for the support of each other or other  
6 dependents. dependents shall be included in the budget unit. In all other categorically needy cases, the budget unit is  
7 determined pursuant to 42 C.F.R. 435.603, which is adopted and incorporated by reference with subsequent changes  
8 or amendments and available free of charge at <https://www.ecfr.gov/>.  
9

10 *History Note: Authority G.S. 108A-54; 108A-54.1B; ~~108A-80~~; 42 C.F.R. 435.602; 42 C.F.R. 435.603; 45 C.F.R.*  
11 *233.51;*  
12 *Eff. September 1, 1984;*  
13 *Amended Eff. August 1, 1990;*  
14 *Transferred from 10A NCAC 21B .0401 Eff. May 1, 2012; ~~2012~~.*  
15 *Readopted Eff. May 1, 2019.*  
16  
17

1 10A NCAC 23E .0206 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0206 FINANCIAL RESPONSIBILITY AND DEEMING**  
4

5 *History Note: Authority G.S. 108A-54; 143-127.1; S.L. 1983, c. 761, s. 60(6); S.L. 1983, c. 1034; S.L. 1983, c.*  
6 *1116; 42 C.F.R. 435.602; 42 C.F.R. 435.712; 42 C.F.R. 435.734; 42 C.F.R. 435.821; 42 C.F.R.*  
7 *435.823;*  
8 *Eff. September 1, 1984;*  
9 *Temporary Amendment Eff. April 1, 1990 for a period of 180 days to expire on September 30, 1990;*  
10 *Amended Eff. January 1, 1995; September 1, 1992; October 1, 1990; August 1, 1990;*  
11 *Temporary Amendment Eff. January 1, 2003;*  
12 *Temporary Amendment Expired October 12, 2003;*  
13 *Transferred from 10A NCAC 21B .0402 Eff. May 1, 2012; ~~2012~~.*  
14 *Repealed Eff. May 1, 2019.*  
15  
16

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0207

### **DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, what is "countable reserve"? Does your regulated public know?*

*Please insert an "and" or "or" at the end of (b)(2). Alternatively, end (b)(1) and (2) with periods.*

*In (c), line 22, what is a "legally binding order" here? Is this as opposed to a non-legally binding order?*

*On line 23, insert "Paragraphs" before "(a) and (b)"*

*In (d), line 25, as you do not have authority to set resource limits and you deleted that from Rule .0202, please delete it here.*

*In (f)(1), lines 15-16, you are treating personal, non-marital property as a resource? What specific authority are you relying upon to do this?*

*In (g), Page 2, line 23, please replace "are" with "shall be"*

*In (g)(1), line 26, cannot be located by whom?*

*In the History Note, line 33, 42 CFR 435.724 is reserved. Do you mean 725?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0207 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0207 WHOSE RESOURCES ARE COUNTED RESERVE**

4 (a) The value of resources held by the client or by a financially responsible person shall be considered by the county  
5 department of social services to be available to the client in determining countable reserve for the budget unit.

6 (b) Jointly owned resources shall be counted as follows:

7 (1) The value of resources owned jointly with a person who is not a member of the client's budget unit  
8 ~~non-financially responsible person~~ who is a recipient of another public assistance budget unit shall  
9 be divided in parts of equal value equally between the budget units;

10 (2) The value of liquid assets and personal property owned jointly with a person who is not a member  
11 of the client's budget unit ~~non-financially responsible person~~ who is also not a client of another  
12 public assistance budget unit shall be available to the client budget-unit member if he or she can  
13 dispose of the resource without the consent and participation of the joint-owner or the joint-owner  
14 ~~other owner or the other owner~~ consents to and, if necessary, participates in the disposal of the  
15 resource;

16 (3) The client's share of the value of real property owned jointly with a person who is not a member of  
17 the client's budget unit ~~non-financially responsible person~~ who is also not a member of another  
18 public assistance budget unit shall be available to the client budget-unit member if he or she can  
19 dispose of his or her share of the resource without the consent and participation of the joint-owner  
20 or the joint-owner ~~other owner or the other owner~~ consents to and, if necessary, participates in the  
21 disposal of the resource.

22 (c) The terms of a separation agreement, divorce decree, will, deed or other legally binding agreement or legally  
23 binding order shall take precedence over ownership of resources as stated in (a) and (b) of this Rule, except as provided  
24 in Paragraph ~~(4)~~ (g) of this Rule.

25 (d) For all aged, blind, and disabled cases, the resource limit, financial responsibility, and countable and non-countable  
26 assets ~~are shall be~~ based on standards and methodology in Title XVI of the Social Security Act except as specified in  
27 ~~Items (4) and (5) in~~ Rule .0202 of this Section.

28 (e) Countable resources for Family and Children's medically needy ~~related~~ cases shall be determined as follows:

29 (1) The resources of a spouse, who is not a stepparent, shall be counted in the budget unit's reserve  
30 allowance if: ~~if~~

31 (A) the spouses live together; ~~together~~ or

32 (B) one spouse is temporarily absent for twelve months or less in long-term ~~long-term~~ care and  
33 the spouse is not a member of another public assistance budget unit;

34 (2) The resources of a client and a financially responsible parent or parents shall be counted in the  
35 budget unit's reserve limit if: ~~if~~

36 (A) the parents live together; ~~together~~ or

(B) one parent is temporarily absent for twelve months or less in long-term ~~long-term~~ care and the parent is not a member of another public assistance budget unit;

(3) The resources of the parent or parents shall not be considered if a child under age 21 requires care and treatment in a medical institution and his or her physician certifies that the care and treatment are expected to exceed 12 months.

~~(f) Real property shall be excluded from countable resources for Family and Children's related cases.~~

~~(g) One motor vehicle per adult shall be excluded for Family and Children's related cases.~~

~~(h) For medically needy family and children's related cases, income-producing vehicles and personal property shall be excluded from countable resources.~~

~~(i) For family and children's related cases the value of non-excluded motor vehicles is the Current Market Value, less encumbrances. If the applicant/recipient disagrees with the assigned value, he has the right to rebut the value.~~

~~(f)(j)~~ For a married individual:

(1) Resources available to the individual are available to his or her spouse who is a noninstitutionalized applicant or recipient and who is either living with the individual or temporarily absent for twelve months or less from the home, irrespective of the terms of any will, deed, contract, antenuptial agreement, or other agreement, and irrespective of whether or not the individual actually contributed the resources to the applicant or recipient. All resources available to an applicant or recipient under the rules of this Section must be considered by the county department of social services when determining his or her countable reserve.

(2) For an institutionalized spouse as defined in 42 U.S.C. 1396r-5(h), available resources shall be determined in accordance with 42 U.S.C. 1396r-5(c), except as specified in Paragraph (g) ~~(m)~~ of this Rule.

~~(g)(k)~~ For an institutionalized individual, the availability of resources are determined in accordance with 42 U.S.C. 1396r-5. Resources of the community spouse ~~are~~ shall not be counted for the institutionalized spouse when:

(1) Resources of the community spouse cannot be determined or cannot be made available to the institutionalized spouse because the community spouse cannot be located; or

(2) The couple has been continuously separated for 12 months at the time the institutionalized spouse enters the institution.

*History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-55; ~~S.L. 1983, c. 1116~~; 42 U.S.C. 1396r-5; 42 U.S.C. 1396a(a)(17); 42 U.S.C. 1396a(a)(51); 42 C.F.R. 435.602; ~~42 C.F.R. 435.711~~; ~~42 C.F.R. 435.712~~; ~~42 C.F.R. 435.723~~; ~~42 C.F.R. 435.734~~; ~~42 C.F.R. 435.821~~; ~~42 C.F.R. 435.822~~; ~~42 C.F.R. 435.823~~; ~~42 C.F.R. 435.724~~; ~~42 C.F.R. 435.726~~; ~~42 C.F.R. 435.733~~; ~~42 C.F.R. 435.735~~; ~~42 C.F.R. 435.840~~; ~~42 C.F.R. 435.832~~; 42 C.F.R. 435.845; 45 C.F.R. 233.20; 45 C.F.R. 233.51; ~~Deficit Reduction Act of 1984 (P.L. 98-369), Section 2373~~; ~~Correll v. DSS/DMA/DHR, 418 S.E.2d 232 (1992)~~; ~~No. 406PA91 (North Carolina Supreme Court)~~; ~~Schweiker v. Gray Panthers, 453 U.S. 34, 101 S.Ct. 2633, 69 L. Ed.2d 460 (1981)~~;*

1           *Eff. September 1, 1984;*

2           *Amended Eff. January 1, 1995; November 1, 1994; September 1, 1993; April 1, 1993;*

3           *Temporary Amendment Eff. September 13, 1999;*

4           *Temporary Amendment Expired June 27, 2000;*

5           *Temporary Amendment Eff. September 12, 2000;*

6           *Amended Eff. August 1, 2002;*

7           *Transferred from 10A NCAC 21B .0403 Eff. May 1, 2012; ~~2012~~.*

8           *Readopted Eff. May 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0208

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, an (b), line 6, what do you mean by "actually" available? Available for immediate use?*

*In (b), line 6, what will this prediction be based upon?*

*So that I'm clear - (c) and (d) are not setting income thresholds, but instead, deductions from income?*

*In (d), line 11, consider replacing "are" with "shall be"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019



1 10A NCAC 23E .0208 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0208 CALCULATING INCOME**

4 (a) Income that is actually available and ~~that which~~ the client or someone acting in his or her behalf has the legal  
5 authority to ~~can legally~~ make available for support and maintenance shall be counted as income.

6 (b) Only income actually available or predicted by the county department of social services to be available to the  
7 budget unit for the certification period, as defined in 10A NCAC 23A .0102, ~~period~~ for which eligibility is being  
8 determined shall be counted as income.

9 (c) For aged, blind, and disabled cases allowable disregards from income ~~are~~ shall be based on Title XVI of the Social  
10 Security Act.

11 (d) Deductions subtracted after allowable disregards are:

12 (1) Incapacitated adult care not to exceed one hundred and seventy-five dollars (\$175.00) per adult for  
13 Family and Children's medically needy cases.

14 (2) Child or incapacitated adult care not to exceed one hundred and seventy-five dollars (\$175.00) per  
15 child over two years of age or adult or two hundred dollars (\$200.00) per child under two years of  
16 age for Family and Children's medically needy related cases.

17 (3)(2) A standard deduction of ninety dollars (\$90.00) from the total earned income of each budget unit  
18 member for Family and Children's medically needy related cases.

19 (4)(3) For aged, blind, and disabled cases allowable deductions from income are based on Title XVI of the  
20 Social Security Act.

21 (e) Except for M-PW, as defined in 10A NCAC 23A .0102, ~~M-PW~~ the monthly amount of wages, income, and  
22 deductions wage deductions and work related expenses shall be calculated by converting the average amount received  
23 by frequency per pay period into a monthly amount as follows: amount:

24 (1) If received paid weekly, multiply by 4.3.

25 (2) If received paid bi-weekly, multiply by 2.15.

26 (3) If received paid semi-monthly, multiply by 2.

27 (4) If received paid monthly, use the monthly gross.

28 (5) If salaried, and contract renewed annually, divide annual income etc. by 12.

29 (f) For M-PW cases, the budget unit's actual income for the calendar month of eligibility shall be verified by the  
30 county department of social services. ~~verified.~~

31  
32 *History Note: Authority G.S. 108A-25(b); 108A-54; 108.54.1B; 42 C.F.R. 435.121; 42 C.F.R. 435.401; 42 C.F.R.*  
33 *435.603; 42 C.F.R. 435.731; 42 C.F.R. 435.732; 42 C.F.R. 435.734; 42 C.F.R. 435.812; 42 C.F.R.*  
34 *435.831; 45 C.F.R. 435.845; 45 C.F.R. 435.851; 45 C.F.R. 233.20; 45 C.F.R. 233.51;*  
35 *Eff. September 1, 1984;*  
36 *Amended Eff. January 1, 1995; August 1, 1990; March 1, 1986;*  
37 *Temporary Amendment Eff. August 22, 1996;*

1                   *Amended Eff. August 1, 1998;*  
2                   *Transferred from 10A NCAC 21B .0404 Eff. May 1, 2012; ~~2012~~.*  
3                   *Readopted Eff. May 1, 2019.*  
4  
5

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0209

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(3)(C), line 12, what is "documented prior approval"? Does your regulated public know?*

*In (a)(3)(D), line 14, what is "newly-certified"?*

*In (b), line 22, should this read "county department of social services" to be consistent with the rest of the Rule?*

*In (d)(1), line 33, what is "entirely"?*

*Also on line 33, do you mean any state or NC? If it's the latter, please capitalize the term.*

*In (d)(2), line 35, replace "such" with "the"*

*In (d)(3), line 36, what are "certified cases"?*

*In (e), Page 2, line 2, why is "Medical" capitalized here?*

*In (e)(1)(B), line 9, replace "Subparagraph" with "Part"*

*In (f)1), line 18, delete the "and" at the end of the line.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0209 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0209 DEDUCTIBLE**

4 (a) ~~A Deductible~~ deductible shall apply to a client in the following arrangements:

- 5 (1) In ~~the community, in~~ private living quarters in the community; ~~quarters; or~~  
6 (2) In a residential group facility; or  
7 (3) In a long-term ~~long term~~ care living arrangement when the client:  
8 (A) Has enough income monthly to pay the Medicaid reimbursement rate for 31 days, but does  
9 not have enough income to pay the private rate plus all other anticipated medical costs; ~~or~~  
10 (B) Is under a sanction due to a transfer of resources as specified in the Medicaid State Plan;  
11 ~~10A NCAC 21B .0311; or~~  
12 (C) Does not yet have documented prior approval for Medicaid payment of nursing home care;  
13 ~~or~~  
14 (D) Resided in a newly-certified ~~newly-certified~~ facility in the facility's month of certification;  
15 ~~or~~  
16 (E) Chooses to remain in a decertified facility beyond the last date of Medicaid payment; or  
17 (F) Is under a Veterans Administration (VA) contract for payment of cost of care in the nursing  
18 home.

19 (b) The client or his or her representative shall be responsible for providing bills, receipts, insurance benefit  
20 ~~statements, statements~~ or Medicare EOBs ~~EOB~~ to establish incurred medical expenses and his or her responsibility  
21 for payment. If the client has no representative and he or she is physically or mentally incapable of accepting this  
22 responsibility, the county shall assist him or her in obtaining verification. ~~him.~~

23 (c) Expenses shall be applied to the deductible when they meet the following criteria:

- 24 (1) ~~They~~ The expenses are for medical care or service recognized under State ~~state~~ or federal tax law;  
25 (2) ~~They~~ They are incurred by a budget unit member; and  
26 (3) They are incurred:  
27 (A) During the certification period for which eligibility is being determined and the  
28 requirements of Paragraph (d) of this Rule are met; or  
29 (B) Prior to the certification period and the requirements of Paragraph (e) of this Rule are met.

30 (d) Medical expenses incurred during the certification period shall be applied to the deductible if the requirements in  
31 Paragraph (c) of this Rule are met and:

- 32 (1) The expenses are not subject to payment by any third party including insurance, government agency  
33 or program, ~~program~~ except when such ~~the~~ program is entirely funded by state or local government  
34 funds, or private source; ~~or~~  
35 (2) The private insurance has not paid such expenses by the end of the application time standard; ~~or~~  
36 (3) For certified cases, the insurance has not paid by the time that incurred expenses equal the deductible  
37 amount; or

- 1 (4) The third party has paid and the client is responsible for a portion of the charges.
- 2 (e) The unpaid balance of a Medical expense incurred prior to the certification period shall be applied to the deductible
- 3 if the requirements in Paragraph (c) of this Rule are met and:
- 4 (1) The medical expense was:
- 5 (A) Incurred within 24 months immediately prior to:
- 6 (i) The month of application for prospective or retroactive certification period or
- 7 both; or
- 8 (ii) The first month of any subsequent certification period; or
- 9 (B) Incurred prior to the period described in Subparagraph (e)(1)(A) of this ~~Rule, Rule;~~ and a
- 10 payment was made on the bill during that period; and
- 11 (2) The medical expense:
- 12 (A) Is a current liability;
- 13 (B) Has not been applied to a previously met deductible; and
- 14 (C) Insurance has paid any amount of the expense covered by the insurance.
- 15 (f) ~~The county department of social services shall apply incurred~~ Incurred medical expenses shall be applied to the
- 16 deductible in chronological order of charges except that:
- 17 (1) If medical expenses for Medicaid covered services and non-covered services occur on the same date,
- 18 apply charges for non-covered services first; and
- 19 (2) If both hospital and other covered medical services are incurred on the same date, apply hospital
- 20 charges first; and
- 21 (3) If a portion of charges is still owed after insurance payment has been made for lump sum charges,
- 22 compute incurred daily expense to be applied to the deductible as follows:
- 23 (A) Determine the average daily charge, calculated by adding the charges and dividing by the
- 24 number of days, charge excluding discharge date from hospitals; ~~and~~
- 25 (B) Determine the average daily insurance payment, calculated by adding the insurance
- 26 payments and dividing by the number of days, payment for the same number of days; and
- 27 (C) Subtract average daily insurance payment from the average daily charge to establish client's
- 28 daily responsibility.
- 29 (g) Eligibility shall begin on the day that incurred medical expenses reduce the deductible to \$0, except that the client
- 30 is financially liable for the portion of medical expenses incurred on the first day of eligibility that were applied to
- 31 reduce the deductible to \$0. If hospital charges were incurred on the first day of eligibility, notice of the amount of
- 32 those charges applied to meet the deductible shall be sent to the hospital for deduction on the hospital's bill to Medicaid.
- 33 (h) The receipt of proof of medical expenses and other verification shall be documented by the county department of
- 34 social services in the case record.
- 35

1    *History Note:*    *Authority G.S. 108A-54; 108A-54.1B; ~~42 C.F.R. 435.732~~; 42 C.F.R. 435.831; Alexander v.*  
2                            *Flaherty, U.S.D.C., W.D.N.C., File Number C-C-74-483; Alexander v. Flaherty Consent Order filed*  
3                            *February 14, 1992;*  
4                            *Eff. September 1, 1984;*  
5                            *Amended Eff. June 1, 1994; September 1, 1993; April 1, 1993; August 1, 1990;*  
6                            *Transferred from 10A NCAC 21B .0406 Eff. May 1, 2012; ~~2012~~.*  
7                            *Readopted Eff. May 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0210

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (e)(1), line 33, insert the "and" after "month;" So, retain the existing "month;" and just insert an "and" after it; thus: "... month; and"*

*In (f)(1)(B), line 4, please make "federal" lowercase to be consistent with other rules in this Subchapter.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0210 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0210 PATIENT LIABILITY**

4 (a) Patient liability shall apply to clients who live in facilities for skilled nursing, intermediate nursing, intermediate  
5 ~~care facility for individuals with an intellectual disability, nursing for mental retardation~~ or other medical institutions.

6 (b) The client's patient liability for cost of care shall be computed as a monthly amount after deducting the following  
7 from his or her total income:

8 (1) An amount for his or her personal needs as established under the Medicaid State Plan, Rule .0204  
9 ~~of this Section;~~

10 (2) Income given to the community spouse to provide him or her a total monthly income from all  
11 sources, equal to the "minimum monthly maintenance needs allowance" as defined in 42 U.S.C.  
12 1396r-5(d)(3)(A); 1396r-5(d)(3)(A)(i);

13 (3) Income given to family members described in 42 U.S.C. 1396r-5(d)(1), to provide each, from all  
14 sources of income, a total monthly income equal to:

15 (A) One-third of the amount established under 42 U.S.C. 1396r-5(d)(3)(A)(i); or

16 (B) Where there is no community spouse, an amount for the number of dependents, based on  
17 the income level for the corresponding budget unit number, as approved by the NC General  
18 Assembly and stated in the Appropriations Act for categorically and medically needy  
19 classifications;

20 (4) The income maintenance level provided by 42 U.S.C. 1396r-5(d)(3)(A)(i) or State statute for a  
21 single individual in a private living arrangement with no spouse or dependents at home, for whom  
22 the physician of record has provided a written statement that the required treatment is such that the  
23 patient is expected to return home within six months, shall be allowed by the county department of  
24 social services; allowed; and

25 (5) An amount for unmet medical needs as determined under Paragraph (f) of this Rule.

26 (c) Patient liability shall apply to institutional charges incurred from the date of admission or the first day of the month  
27 ~~as appropriate~~ and shall not be prorated by days if the client lives in more than one institution during the month.

28 (d) The county department of social services shall notify the client, the institution, ~~the institution~~ and the State ~~state~~  
29 of the amount of the monthly liability and any changes or adjustments.

30 (e) When the patient liability as calculated in Paragraph (b) of this Rule exceeds the Medicaid reimbursement rate for  
31 the institution for a 31-day ~~31-day~~ month:

32 (1) The patient liability shall be the institution's Medicaid reimbursement rate for a 31-day ~~31-day~~ month  
33 ~~and; month;~~

34 (2) The client shall be placed on a deductible determined in accordance with ~~Federal regulations,~~  
35 ~~regulations and~~ Rules .0208 and .0209 of this ~~Section~~ Section, and the Medicaid State Plan, 10A  
36 NCAC 23G .0101.

37 (f) The amount deducted from income for unmet medical needs shall be determined as follows:



- 1 (1) Unmet medical needs shall be the costs of:
- 2 (A) Medical care covered by the program ~~but~~ that exceeds limits on coverage of that care and
- 3 ~~that~~ is not subject to payment by a third party;
- 4 (B) Medical care recognized under State and Federal tax law that is not covered by the program
- 5 and that is not subject to payment by a third party; and
- 6 (C) Medicare and other health insurance premiums, deductibles, or coinsurance charges that
- 7 are not subject to payment by a third party.
- 8 (2) The amount of unmet medical needs deducted from the patient's monthly income shall be limited to
- 9 monthly charges for Medicare and other health insurance premiums.
- 10 (3) The actual amount of incurred costs ~~which that~~ are the patient's responsibility shall be deducted
- 11 when reported from the patient's liability for one or more months.
- 12 (4) Incurred costs shall be reported by the end of the ~~six-month~~ ~~six month~~ Medicaid certification period
- 13 following the certification period in which they were incurred.
- 14

15 *History Note: Authority G.S. 108A-54; 108A-54.1B; ~~42 C.F.R. 435.732~~; 42 C.F.R. 435.733; 42 C.F.R. 435.831;*

16 *42 C.F.R. 435.832; 42 U.S.C. 1396r-5;*

17 *Eff. September 1, 1984;*

18 *Amended Eff. September 1, 1994; March 1, 1991; August 1, 1990; March 1, 1990;*

19 *Transferred from 10A NCAC 21B .0407 Eff. May 1, 2012; ~~2012~~.*

20 *Readopted Eff. May 1, 2019.*

21

22

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23E .0211

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (c), line 12, delete "adopted and"*

*On line 13, state "subsequent amendments and editions"*

*In (d), line 18, replace "is" with "shall be" to be consistent with the rest of the Rule.*

*In (f), line 23, it appears that 23A .0102 only defines "verification" So, I suggest you state "Verification, as defined in 10A NCAC 23A .0102, by a third party shall be required for:"*

*And what is a "third party"? Is this entirely up to the county dss?*

*In the History Note, you do not cite to 108A-25(b), which allows delegation to the county dss, in other rules. Do you want to add it to those rules?*

*And why are you citing to G.S. 108A-55?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23E .0211 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23E .0211 ALIEN SPONSOR DEEMING**

4 (a) For purposes of this Rule, a “sponsored alien” ~~sponsored alien is means~~ an alien who is lawfully admitted for  
5 permanent residence sponsored by an individual who has signed an Affidavit of Support required by U.S. Citizenship  
6 and Immigration Services, the Bureau of Citizenship and Immigration Services.

7 (b) For purposes of this Rule, a “sponsor” ~~sponsor is means~~ a person who signed an Affidavit of Support on behalf  
8 of an alien as a condition of the alien's entry or admission to the United States. The sponsor is financially responsible  
9 for the ~~alien alien, so and~~ the sponsor's income ~~shall must~~ be counted by the county department of social services in  
10 determining an alien's eligibility for medical assistance.

11 (c) An indigent alien is ~~shall be~~ exempt from Paragraph (b) of this Rule if the sum of Subparagraphs (1), (2), and (3)  
12 of this Paragraph does not exceed 130 percent of the poverty income guidelines, which are adopted and incorporated  
13 by reference with subsequent changes or amendments and available free of charge at [https://aspe.hhs.gov/poverty-](https://aspe.hhs.gov/poverty-guidelines)  
14 guidelines. guidelines.

15 (1) The sum of the sponsored alien's own income;

16 (2) The cash contributions of the sponsor and others; and

17 (3) The value of any in-kind assistance the sponsor and others provide the alien.

18 (d) The countable income of a sponsor is determined in accordance with Rules .0203 and .0208 of this Section and  
19 the Medicaid State Plan. Section. Rule .0206 of this Section applies for situations in which the sponsor is the spouse  
20 or a parent.

21 (e) The countable resources of a sponsor ~~are~~ shall be determined in accordance with Rules .0202 10A NCAC 21B  
22 .0311 and Rule .0207 of this Section.

23 (f) Third party verification, as defined by 10A NCAC 23A .0102, verification of the following is required for:

24 (1) sponsorship;

25 (2) a sponsor's income; and

26 (3) a sponsor's resources.

27 The application shall be denied if verification is not received by the processing deadline set out in 42 C.F.R. 435.912.  
28 deadline.

29  
30 *History Note: Authority G.S. 108A-25(b); 108A-54; 108A-54.1B; 108A-55; P.L. 104-208, Title II; ~~104-208~~; P.L.*  
31 *105-33, Title IV; ~~105-33~~;*  
32 *Temporary Adoption Eff. July 3, 2003;*  
33 *Eff. March 1, 2004;*  
34 *Transferred from 10A NCAC 21B .0410 Eff. May 1, 2012; ~~2012~~.*  
35 *Readopted Eff. May 1, 2019.*  
36  
37

1 10A NCAC 23G .0101 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SUBCHAPTER 23G – MEDICAID CERTIFICATION, CORRECTION OF ELIGIBILITY AND**  
4 **REDETERMINATION OF ELIGIBILITY**

5  
6 **SECTION .0100 – MEDICAID CERTIFICATION**

7  
8 **10A NCAC 23G .0101 CERTIFICATION AND AUTHORIZATION**

9  
10 *History Note: Authority G.S. 108A-54; 42 C.F.R. 435.112; 42 C.F.R. 435.914;*  
11 *Eff. September 1, 1984;*  
12 *Amended Eff. March 1, 1993; August 1, 1990;*  
13 *Transferred from 10A NCAC 21B .0405 Eff. May 1, 2012; ~~2012~~.*  
14 *Repealed Eff. May 1, 2019.*  
15

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0201

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 8, delete "adopted and"*

*On lines 8-9, state "subsequent amendments and editions"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23G .0201 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – CORRECTION OF ERRONEOUS ELIGIBILITY**  
4

5 **10A NCAC 23G .0201 GENERAL**

6 (a) The county department of social services shall correct prior actions according to Rules .0202 and .0203 in this  
7 Section when the county department of social services discovers ~~it is discovered~~ that prior actions were eligibility  
8 errors, as defined by 42 CFR 431.804, which is adopted and incorporated by reference with subsequent changes or  
9 amendments and available free of charge at <https://www.ecfr.gov/>, in error, or the recipient's circumstances have  
10 changed from the last eligibility determination. ~~changed.~~

11 (b) Information leading to corrections may be reported by the recipient, medical providers, ~~State~~ state agencies, or  
12 any other source with knowledge about the recipient's circumstances that impact eligibility. ~~circumstances.~~

13  
14 *History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 431.246; 42 C.F.R. 435.916;*  
15 *Eff. September 1, 1984;*  
16 *Amended Eff. June 1, 1990;*  
17 *Transferred from 10A NCAC 21A .0601 Eff. May 1, 2012; ~~2012~~.*  
18 *Readopted Eff. May 1, 2019.*  
19  
20

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0202

### **DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(4), line 12, what is an "authorized period"? Is it the same as the "authorization period" defined in Rule 23A .0102? If so, should the term be the same?*

*In (a)(6), line 16, I take it "agency" is as defined in Rule 23A .0102?*

*In (a)(6)(A), lines 17 through 19, you already incorporated this CFR in Rule .0102. You do not need to do so again. Delete the "which is adopted... [www.efr.gov/](http://www.efr.gov/)," language altogether.*

*In (a)(7), line 26, isn't "a person was discouraged from applying for assistance" already addressed in (a)(1)? Do you need to restate it here?*

*In (a)(8), line 29, state "federal regulations or State rules" But since you say on line 30 "requirements in this Chapter" what other rules are you referring to?*

*In (b)(1), line 34, what is a "Buy-In effective date" and why is the term capitalized?*

*On line 36, what is a "valid claim"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23G .0202 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23G .0202 CORRECTIVE ACTIONS**

4 (a) Corrections in an applicant's or recipient's case shall be made by the county department of social services when:

- 5 (1) An individual was discouraged from filing an application, as described in 10A NCAC 23C .0101;  
6 ~~application; or~~
- 7 (2) An appeal or court decision overturns an earlier adverse decision; ~~or~~
- 8 (3) The certification periods of financially responsible persons need to be adjusted to coincide with the  
9 individual's certification period; ~~coincide; or~~
- 10 (4) Information received from any source ~~is verified~~ undergoes verification, as defined in 10A NCAC  
11 23A .0102, by the county department of social services and is found to change the amount of the  
12 recipient's deductible, patient liability, authorized period, ~~period~~ or otherwise affect the recipient's  
13 eligibility status; ~~or~~
- 14 (5) Additional medical bills or ~~verified~~ medical expenses that are verified by the county department of  
15 social services establish an earlier Medicaid effective date; ~~or~~
- 16 (6) The agency made an administrative error including: ~~due to:~~
- 17 (A) An eligibility error, as defined by 42 CFR 431.804, which is adopted and incorporated by  
18 reference with subsequent changes or amendments and available free of charge at  
19 <https://www.ecfr.gov/>, that resulted in assistance being incorrectly ~~Assistance was~~  
20 ~~terminated or denied; denied in error; or~~
- 21 (B) Failure to act ~~properly~~ on information received; or
- 22 (C) Incorrect determination of the authorization period, Medicaid effective date, or erroneous  
23 data entry; ~~or~~
- 24 (7) Monitoring ~~of under~~ application ~~processing~~ processing by the Division of Health Benefits  
25 (Division), as required by 42 C.F.R. 431, Subpart P, requirements determines shows an application  
26 was denied, withdrawn, ~~withdrawn~~ or a person was discouraged from applying for assistance; or  
27 ~~assistance without following the requirements in Alexander v. Burton U.S.D.C., File No. C C 74-~~  
28 ~~183-M, Consent Order dismissed effective February 1, 2002.~~
- 29 (8) The Division Medicaid Eligibility Section ~~determines~~ the county failed to follow federal or state  
30 regulations to authorize eligibility or follow requirements in this Chapter.

31 (b) Corrections in an applicant's or recipient's case shall be made by the Division ~~of Medical Assistance~~ when:

- 32 (1) Information is received from county departments of social services, medical providers, the public,  
33 clients, or Division ~~of Medical Assistance~~ staff showing that a terminated case has errors in the  
34 Medicaid eligibility segments, Medicare Buy-In effective date, eligible household ~~case~~ members,  
35 Community Alternatives Program (CAP) ~~CAP or HMO~~ indicators and effective dates, ~~dates~~ or other  
36 data that is causing valid claims to be denied; ~~or~~
- 37 (2) The county department of social services fails ~~refuses~~ to take required corrective actions; or



- 1 (3) An audit report from State auditors ~~or the Division~~ hired by the county departments of social services  
2 shows verified errors in the Medicaid eligibility history. ~~history or recipient identification number.~~

3  
4 *History Note:* *Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 431.246; 42 C.F.R. 431, Subpart P; 42 C.F.R.*  
5 *435.903; 435.904; ~~Alexander v. Bruton, U.S.D.C., File No. C C 74 183 M, Consent Order~~*  
6 *~~dismissed effective February 1, 2002;~~*  
7 *Eff. June 1, 1990;*  
8 *Temporary Amendment Eff. March 1, 2003;*  
9 *Amended Eff. August 1, 2004;*  
10 *Transferred from 10A NCAC 21A .0602 Eff. May 1, 2012; ~~2012~~.*  
11 *Readopted Eff. May 1, 2019.*  
12  
13

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0203

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, do you need to spell out "Division of Health Benefits (Division)" when you already did this in Rule .0202? Couldn't you state "Division" instead?*

*In (b), line 7, put "good cause" in quotation marks.*

*End (b)(3), line 12, with a period, not a semicolon.*

*In (c), are there times that (c)(1) through (3) will conflict with each other, such that this Rule spells out which one controls?*

*So that I'm clear – is (c)(2) saying no more than one year prior the mistake?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23G .0203 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23G .0203 TIME LIMITS FOR CORRECTIONS**

4 (a) The county department of social services and Division of ~~Health Benefits (Division) Medical Assistance~~ shall  
5 make corrections required by Rule .0202 of this Section within 30 days after discovery of the need for action unless  
6 good cause exists to extend the time limit. ~~for failure to act timely.~~

7 (b) For the purposes of this Rule, good ~~Good~~ cause is limited to:

8 (1) The need ~~of the county department of social services to obtain verification, as defined at 10A NCAC~~  
9 ~~23A .0102, of verify~~ other conditions of eligibility before authorizing eligibility; ~~or~~

10 (2) The county department of social services is unable to locate the applicant or recipient; or

11 (3) The county department of social services disagrees with a decision requiring corrective action and  
12 ~~requests~~ ~~has requested~~ administrative review by the ~~Medicaid Eligibility the Division; Section;~~

13 (c) To receive ~~State~~ state and federal financial participation in any benefits authorized retroactively by corrective  
14 actions, the effective date of the correction must correspond with the date assistance would have been effective but  
15 may be no earlier than the following dates:

16 (1) Retroactive to the date ordered by the appeal or court decision if all eligibility conditions are met,  
17 including any legal retroactive coverage period associated with the adverse action; ~~or~~

18 (2) Retroactive to the date that all requirements of eligibility are met but no earlier than the 12<sup>th</sup> month  
19 immediately preceding the month the change is reported or the administrative error was discovered;  
20 or

21 (3) Retroactive to the date required for corrective action due to errors cited from monitoring under  
22 application processing standards in 10A NCAC 23C .0202.

23 (d) If the change is adverse to the recipient, it shall be effective ~~with~~ the first calendar month following expiration of  
24 the 10 ~~work~~ business day advance notice period, as defined in 10A NCAC 23A .0102. ~~period.~~

25  
26 *History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 431.246; 42 C.F.R. 431.250; 42 C.F.R. 435.903;*  
27 *435.904; Alexander v. Bruton, U.S.D.C., File No. C-C 74-183-M, Consent Order dismissed effective*  
28 *February 1, 2002;*  
29 *Eff. June 1, 1990;*  
30 *Temporary Amendment Eff. March 1, 2003;*  
31 *Amended Eff. August 1, 2004;*  
32 *Transferred from 10A NCAC 21A .0603 Eff. May 1, 2012; ~~2012~~.*  
33 *Readopted Eff. May 1, 2019.*  
34  
35

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0204

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, do you need to spell out "Division of Health Benefits (Division)" when you already did this in Rule .0202? Couldn't you state "Division" instead?*

*In (a)(2), line 12, what is the "State computer center"? Does your regulated public know?*

*In (b)(1), line 17, by "regulations" do you mean only federal regulations?*

*In (c), this recites G.S. 108A-25.1A(c). Do you need to retain it here?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23G .0204 is readopted as published in 33:13 NCR 1381-1392 as follows:

3 **10A NCAC 23G .0204 RESPONSIBILITY FOR ERRORS**

4 (a) The Division of ~~Health Benefits (Division)~~ ~~Medical Assistance~~ shall be financially responsible for costs resulting  
5 from the erroneous issuance of benefits and Medicaid claims payments when:

6 (1) Policy guidance ~~interpretations~~ given by the ~~Division of Medical Assistance~~ or its agents ~~is~~ are  
7 erroneous and the Division determines that is the sole cause of any erroneous benefits or payments;

8 ~~or~~

9 ~~(2) Information Services operations staff fail to manually remove Medicaid ID cards from outgoing~~  
10 ~~mail subsequent to the county DSS's timely authorization of a termination or reduction in benefits;~~

11 ~~or~~

12 ~~(2)(3)~~ A systems failure at the State ~~state~~ computer center occurs on the last cutoff date of the month  
13 preventing the county DSS from data entering case terminations or adverse actions; or

14 ~~(3)(4)~~ Any other failure or error the Division determines is attributable solely to the State ~~state~~ occurs.

15 (b) The county department of social services shall be financially responsible for costs resulting from the erroneous  
16 issuance of benefits and Medicaid claims payments when it:

17 (1) Authorizes retroactive eligibility outside the dates permitted by regulations or Rule .0203 of this  
18 Section; ~~or~~

19 (2) Fails to send required notices of patient liability or deductible balance to medical providers; ~~or~~

20 (3) Fails to end-date special coverage indicators such as Community Alternatives Program (CAP) ~~CAP~~,  
21 ~~or HMO~~ in the State ~~state~~ eligibility information system; ~~or~~

22 (4) Enters an authorization date in the eligibility system that is earlier than the effective ~~determined~~ date  
23 of eligibility; ~~or~~

24 (5) Fails to determine the availability of or fails to ~~data~~ enter data on third-party resource information  
25 in the State ~~state~~ eligibility information system; ~~or~~

26 (6) Terminates a case or individual after the Medicaid ID card has been issued; ~~or~~

27 ~~(7) Issues a county typed Medicaid ID card that has erroneous dates of eligibility; or~~

28 ~~(7)(8)~~ Fails to initiate application for Medicare Part B coverage for recipients who are eligible, but refuse  
29 or are unable to apply for themselves; or

30 ~~(8)(9)~~ Takes any other action that requires payment of Medicaid claims for an ineligible individual, for  
31 ineligible dates, ~~dates~~ or ~~in~~ for an amount that includes a recipient's liability and for which the State  
32 ~~state~~ cannot claim federal participation.

33 (c) The amounts to be charged back to the county department of social services for erroneous payments of claims  
34 shall be the State ~~state~~ and federal shares of the erroneous payment, not to exceed the lesser of the amount of actual  
35 error or claims payment.

36  
37 *History Note: Authority G.S. 108A-25.1A; 108A-54; 108A-54.1B; 42 C.F.R. 433.32; 42 C.F.R. 435.903; 435.904;*

1                   *Eff. June 1, 1990;*  
2                   *Amended Eff. May 1, 1992;*  
3                   *Transferred from 10A NCAC 21A .0604 Eff. May 1, 2012; ~~2012~~.*  
4                   *Readopted Eff. May 1, 2019.*  
5  
6

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0303

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 2, please state "23G .0303"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

10A NCAC 23G .0303 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

**10A NCAC 23G .0303 RECOMMENDATION**

*History Note: Authority G.S. 108A-54; 42 C.F.R. 435.919;  
Eff. September 1, 1984;  
Amended Eff. August 1, 1990;  
Transferred from 10A NCAC 21B .0503 Eff. May 1, 2012; ~~2012~~.  
Repealed Eff. May 1, 2019.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23G .0304

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 7, put "change of situation" in quotation marks.*

*Also on line 7, delete "but not limited to" and just state "includes:"*

*In (a)(5), line 12, remove the underlining from "reserve"*

*In (a)(9), what is "Program Category" and why is it capitalized?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23G .0304 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23G .0304 CHANGE IN SITUATION**

4 (a) For Medicaid applications, once the county department of social services learns from any source that there has  
5 been a change in the budget unit's situation that impacts eligibility, they shall notify the applicant within five business  
6 work days of the need to obtain verification, as defined by 10A NCAC 23A .0102, of verify the change. For the  
7 purposes of this Rule, a change in of situation includes but not limited to:

- 8 (1) Change of ~~address~~, address; ~~or~~
- 9 (2) Change in living ~~arrangement~~, arrangement; ~~or~~
- 10 (3) Adding or deleting a budget unit ~~member~~, member; ~~or~~
- 11 (4) Increase or decrease in ~~income~~, income; ~~or~~
- 12 (5) Change in ~~reserve~~, reserve; ~~or~~
- 13 (6) Cessation of disability or ~~blindness~~, blindness; ~~or~~
- 14 (7) Parent or parents are no longer incapacitated or ~~unemployed~~, unemployed; ~~or~~
- 15 (8) Change in responsible ~~relative~~, relative; or
- 16 (9) Change in Medicaid Aid-Program Category.

17 (b) For an ongoing Medicaid case, once the county department of social services learns from any source that there  
18 has been a change in the budget unit's situation, ~~situation~~ they shall review the case ~~promptly~~ and ~~appropriate~~ action  
19 shall be completed within 30 calendar days after the agency learns of the change, ~~change in situation~~.

20 (c) The Medicaid client or his or her representative shall report any change in situation that affects ~~might affect~~  
21 eligibility ~~within 10 calendar days~~ to the county department of social services within 10 calendar days of knowledge  
22 the change. services.

23  
24 *History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 435.916;*  
25 *Eff. September 1, 1984;*  
26 *Amended Eff. August 1, 1990;*  
27 *Temporary Amendment Eff. August 22, 1996;*  
28 *Amended Eff. August 1, 1998;*  
29 *Transferred from 10A NCAC 21B .0409 Eff. May 1, 2012; ~~2012~~.*  
30 *Readopted Eff. May 1, 2019.*

1 10A NCAC 23H .0106 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0106 LIABILITY OF PERSONS WITH ACCESS**

4 (a) Failure to comply with the rules in this Subchapter ~~may constitute a misdemeanor and be punishable by fine or~~  
5 ~~imprisonment as provided by~~ is unlawful pursuant to North Carolina General Statute G.S. 108A-80.

6 (b) Individuals employed by the Division and county departments of social services ~~agency~~ and governed by the State  
7 Personnel Act are subject to suspension, dismissal, ~~dismissal~~ or disciplinary action for failure to comply with these  
8 Rules.

9 (c) Individuals other than employees, ~~employees~~ but including volunteers and students who are agents of the  
10 Department of Health and Human Services and who have access to client information, ~~information~~ shall be liable in  
11 the same manner as employees.

12  
13 *History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-80; 42 C.F.R. 431, Subpart F; ~~431.304~~;  
14 Eff. September 1, 1984;  
15 Amended Eff. August 1, 1990;  
16 Transferred from 10A NCAC 21A .0406 Eff. May 1, 2012; ~~2012~~.  
17 Readopted Eff. May 1, 2019.  
18  
19

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23H .0107

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Please either end (a)(1) with a period or end (a)(2) with a semicolon and "and"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23H .0107 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0107 RIGHT OF ACCESS**

4 (a) An individual has the right to obtain ~~data~~ information about his or her own case. Upon written or verbal request,  
5 ~~request~~ the client shall be able to review or obtain without charge a copy of the information in his or her records with  
6 the following exceptions:

7 (1) Information that the agency is required to keep confidential by State ~~state~~ or federal statutes, rules,  
8 statutes or regulations;

9 (2) Confidential information originating from another agency as ~~provided set forth for~~ in Rule .0104 of  
10 this Section.

11 (3) Information that would breach another individual's right to confidentiality under State or federal  
12 statutes, rules, or regulations as determined by the Division or the county department of social  
13 services, confidentiality.

14 (b) The agency shall provide access ~~as promptly as feasible but not more than~~ within five business days. ~~working~~  
15 ~~days after receipt of the request.~~

16  
17 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80; 42 C.F.R. 431.306;*  
18 *Eff. September 1, 1984;*  
19 *Transferred from 10A NCAC 21A .0407 Eff. May 1, 2012; 2012.*  
20 *Readopted Eff. May 1, 2019.*  
21  
22

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23H .0108

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*So that I am clear – in Paragraphs (a) and (b), is this the director of the Division or the county dss?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23H .0108 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0108 WITHHOLDING INFORMATION FROM THE CLIENT**

4 (a) When the director or a delegated representative determines on the basis of the exceptions in Rule .0107 of this  
5 Section to withhold information from the client, this reason shall be documented in the client record.

6 (b) The director or delegated representative ~~must~~ shall inform the client that information is being withheld, and upon  
7 which of the exceptions specified in Rule .0107 of this Section the decision to withhold the information is based. If  
8 confidential information originating from another agency is being withheld, the client shall be referred to that agency  
9 for access to the information.

10 (c) When a delegated representative determines to withhold client information, the decision to withhold shall be  
11 reviewed by the supervisor of the person making the initial determination.

12  
13 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80;*

14 *Eff. September 1, 1984;*

15 *Amended Eff. August 1, 1990;*

16 *Transferred from 10A NCAC 21A .0408 Eff. May 1, 2012; ~~2012~~.*

17 *Readopted Eff. May 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23P .0109

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*So that I'm clear – is a client only allowed to review his or her record, and only a representative obtain a copy?*

*In (b), line 6, what is “completeness” and “relevancy”?*

*What does the sentence on lines 7- 10 mean? What happens to a deletion? Is there no such thing?*

*In (c), lines 18-19, why do you need this sentence? Is it not clear that these Rules apply otherwise?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019



1 10A NCAC 23H .0109 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0109 PROCEDURE FOR REVIEW OF RECORDS**

4 (a) The director or his or her delegated representative shall be present when the client reviews the record. The director  
5 or his or her delegated representative ~~must~~ shall document in the client record the review of the record by the client.

6 (b) A client may contest the accuracy, completeness, ~~completeness~~ or relevancy of the information in his or her record.  
7 Correction of the contested information, but not the deletion of the original information if the Division or county  
8 department of social services determines it is required by federal statute or regulation to support receipt of State state  
9 or federal participation, shall be inserted in the record when the director or his or her delegated representative concurs  
10 that such correction is justified. When the director or his or her delegated representative does not concur, the client  
11 shall be allowed to enter a statement in the record. ~~Such corrections and statements shall be made a permanent part~~  
12 ~~of the record and shall be disclosed to any recipient of the disputed information.~~ If a delegated representative decides  
13 not to correct contested information, the decision not to correct shall be reviewed by the supervisor of the person  
14 making the initial decision. All corrections and statements shall be made a permanent part of the record and shall be  
15 disclosed to any recipient of the disputed information.

16 (c) Upon written request from the client, his or her personal representative, including an attorney, may have access to  
17 review or obtain without charge, a copy of the information in his or her record. The client may permit the personal  
18 representative to have access to his or her entire record or may restrict access to certain portions of the record. Rules  
19 .0107 and .0108 of this Section shall apply.

20  
21 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80;*  
22 *Eff. September 1, 1984;*  
23 *Transferred from 10A NCAC 21A .0409 Eff. May 1, 2012; ~~2012~~.*  
24 *Readopted Eff. May 1, 2019.*  
25  
26

1 10A NCAC 23H .0110 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0110 CONSENT FOR RELEASE**

4 (a) As a part of the application process for Medicaid, the client shall be informed of the need for and give consent to  
5 release of information for verification of necessary to verify statements to establish eligibility.

6 (b) No individual shall release any client information ~~which that~~ is owned by the Division of ~~Medical Assistance~~  
7 Health Benefits or the county departments of social services, or request the release of information regarding the client  
8 from other agencies or individuals, ~~individuals~~ without obtaining a signed consent for release of information. The  
9 procedure for disclosure ~~Disclosure~~ without obtaining consent shall be in accordance with Rule .0111 of this Section.

10 (c) The consent for release of information ~~shall be on a form provided by the Division of Medical Assistance or~~ shall  
11 contain the following:

- 12 (1) The name ~~Name~~ of the provider and the recipient of the information;  
13 (2) The extent of information to be released;  
14 (3) The name and dated signature of the client;  
15 (4) A statement that the consent is subject to revocation at any time except to the extent that action has  
16 been taken in reliance on the consent; and  
17 (5) The length ~~Length~~ of time the consent is valid.

18 (d) The client may alter the form to contain other ~~information~~ information, including: ~~which may include but need~~  
19 ~~not be limited to:~~

- 20 (1) A statement specifying the date, event, ~~event~~ or condition upon which the consent may expire even  
21 if the client does not expressly revoke the consent; or  
22 (2) A specific ~~Specific~~ purpose for the release.

23 (e) The following persons may consent to the release of information:

- 24 (1) The client;  
25 (2) The legal guardian if the client has been judged incompetent; or  
26 (3) The county department of social services if the client is a minor and in the custody of the county  
27 department of social services.

28 (f) Prior to obtaining a consent for release of information, the director or delegated representative shall explain the  
29 meaning of informed consent. The client shall be told the following:

- 30 (1) Contents to be released;  
31 (2) That the information is needed to verify eligibility; ~~there is a definite need for the information;~~  
32 (3) That the client can give or withhold the consent and the consent is voluntary; and  
33 (4) That there are statutes, ~~rules~~ rules, and regulations protecting the confidentiality of the information.

34  
35 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80; 42 C.F.R. 431.304; 42 C.F.R. 431.306;*  
36 *Eff. September 1, 1984;*  
37 *Amended Eff. August 1, 1990;*

1                    *Transferred from 10A NCAC 21A .0410 Eff. May 1, 2012; ~~2012~~.*  
2                    *Readopted Eff. May 1, 2019.*  
3  
4  
5

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23H .0111

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 15, approved by whom? The county DSS or the Division?*

*In (b)(1), line 17, what are "professional practices"? Does your regulated public know?*

*In (b)(5), what is this "assurance"? A statement to that effect?*

*In (c), lines 26 and 27, delete "is adopted" and state "subsequent amendments and editions"*

*In (e), line 31, who determines the "extent possible"?*

*If following these revisions, there is no text on Page 2, please do not submit that page.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23H .0111 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0111 DISCLOSURE WITHOUT CLIENT CONSENT**

4 (a) Client information from the Medicaid record may be disclosed without the consent of the client under the following  
5 circumstances:

- 6 (1) To other employees of the county department of social services for purpose of making referrals,  
7 supervision, consultation, ~~consultation~~ or determination of eligibility;  
8 (2) To other county departments of social services when the client moves to that county and requests  
9 Medicaid;  
10 (3) Between the county departments of social services and the Division of ~~Medical Assistance~~ Health  
11 Benefits for purposes of supervision and reporting.

12 (b) ~~Client information may be disclosed without consent to individuals requesting approval to conduct studies of~~  
13 ~~client records, provided such approval is requested in writing and the written request will specify and be approved on~~  
14 ~~the basis of:~~ Client information may be disclosed without client consent to individuals approved to conduct studies of  
15 client records. The request to conduct the study shall be in writing, and shall be approved based upon:

- 16 (1) An explanation of how the findings of the study are expected to expand ~~have potential for expanding~~  
17 knowledge and improve ~~improving~~ professional practices;  
18 (2) A description of how the study will be conducted and how the findings will be used;  
19 (3) ~~A presentation of the~~ The individual's credentials in the area of investigation;  
20 (4) A description of how the individual will safeguard the information;  
21 (5) An assurance that no report will contain the names of individuals or other information that makes  
22 individuals identifiable.

23 (c) Client information may be disclosed without consent to federal, State ~~state~~, or county employees for the purpose  
24 of monitoring, auditing, evaluating, ~~evaluation~~, or to facilitate the administration of other State ~~state~~ and federal  
25 programs, provided that the need for the disclosure of confidential information is justifiable for the purpose and that  
26 adequate safeguards, as described in 42 C.F.R. 431.300, which is adopted and incorporated by reference with  
27 subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>, ~~safeguards~~ are maintained  
28 to protect the information from re-disclosure.

29 (d) Client information may be disclosed without consent for purposes of complying with other State ~~state~~ and federal  
30 statutes, rules, statutes and regulations and court orders.

31 (e) When information is released without the client's consent, the client shall be informed to the extent possible, of  
32 the disclosure. The method of informing the client of the disclosure shall be documented in the appropriate ~~appropriate~~ record.

33  
34 *History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-80; 42 C.F.R. 431.306;  
35 *Eff. September 1, 1984;*  
36 *Transferred from 10A NCAC 21A .0411 Eff. May 1, 2012; ~~2012~~*  
37 *Readopted Eff. May 1, 2019.*

1 10A NCAC 23H .0112 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0112 DOCUMENTATION OF CONSENT OR DISCLOSURE**

4 Whenever client information is disclosed in accordance with rules of this Subchapter, the director or delegated  
5 representative shall ~~insure that documentation of the disclosure is placed in the appropriate~~ document the disclosure  
6 in the client record.

7  
8 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80;*

9 *Eff. September 1, 1984;*

10 *Transferred from 10A NCAC 21A .0412 Eff. May 1, 2012; ~~2012~~.*

11 *Readopted Eff. May 1, 2019.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 23H .0113

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*I don't think you need to cite to G.S. 108A-14 in the History Note.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 23H .0113 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 23H .0113 PERSONS DESIGNATED TO DISCLOSE INFORMATION**

4 Only directors of county departments of social services and their designated representatives may disclose client  
5 information in accordance with rules of this Subchapter. The process for delegation is set out in G.S. 108A-14(b).

6  
7 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-14(b); 108A-80;*  
8 *Eff. September 1, 1984;*  
9 *Amended Eff. August 1, 1990;*  
10 *Transferred from 10A NCAC 21A .0413 Eff. May 1, 2012; ~~2012~~.*  
11 *Readopted Eff. May 1, 2019.*  
12  
13



## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 25A .0201

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 6, what is "experimental in nature" and who will determine this, based upon what?*

*On line 7, what is "generally accepted"? By whom?*

*On line 7, what are the "community practice standards"?*

*On line 8 who are the "independent Medicaid consultants"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 25A .0201 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – MEDICAL SERVICES**  
4

5 **10A NCAC 25A .0201 MEDICAL SERVICES**

6 All medical services performed shall ~~must~~ be medically necessary and may not be experimental in nature. Medical  
7 necessity shall be ~~is~~ determined by generally accepted North Carolina community practice standards as verified by  
8 independent Medicaid consultants.  
9

10 *History Note: Authority G.S. 108A-25(b); 108A-54; 108A-54.1B; 42 C.F.R. 440.230(d);*  
11 *Eff. March 1, 1990;*  
12 *Transferred from 10A NCAC 22O .0301 Eff. May 1, 2012; ~~2012~~.*  
13 *Readopted Eff. May 1, 2019.*  
14  
15

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 25H .0203

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(1), is the "appropriate State authority" the NC Dental Board? Is there another authority?*

*In (a)(3), line 9, who determines when this is "necessary" and based upon what?*

*In (b)(1), line 14, delete "is adopted and" On line 15, state "subsequent amendments and editions"  
Please note the same for (b)(2).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 25H .0203 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 25H .0203 STANDARDS FOR PARTICIPATION**

4 (a) Dentists who provide services under the Medicaid program ~~are required to~~ shall meet the following standards:

- 5 (1) ~~must~~ be licensed by the appropriate State ~~state~~ authority;
- 6 (2) ~~must provide services in accordance~~ comply with ~~the~~ the State and federal statutes, rules, rules and
- 7 regulations of the Medicaid program; and
- 8 (3) ~~must~~ agree that the State Medicaid Agency or its designated agents may audit Medicaid dental
- 9 records as ~~necessary~~. necessary;
- 10 (4) ~~must agree that payment received from Medicaid is accepted as payment in full for covered services~~
- 11 ~~rendered. No additional charges may be made to the patient for such services, except for authorized~~
- 12 ~~co-payment.~~

13 (b) Dentists who provide services under the Medicaid program ~~All providers will~~ shall ensure all services; ~~insure:~~

- 14 (1) ~~Services~~ are offered in accordance with Title VI of the 1964 Civil Rights Act, which is adopted and
- 15 incorporated by reference with subsequent changes or amendments and available free of charge at
- 16 <http://uscode.house.gov/>; ~~Act;~~
- 17 (2) ~~Services~~ are offered in accordance with Section 504 of the Rehabilitation Act of 1973, which is
- 18 adopted and incorporated by reference with subsequent changes or amendments and available free
- 19 of charge at <http://uscode.house.gov/>; and 1973, as amended;
- 20 (3) ~~All services provided maintain a high standard of~~ are within accepted dental standards for quality
- 21 in the community and medically necessary pursuant to 10A NCAC 25A .0201. ~~shall be within the~~
- 22 reasonable limits of those which are customarily available and provided to most persons in the
- 23 community with the limitations and exclusions hereinafter specified.

24  
25 *History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-54.1B; S.L. 1985, c. 479, s. 86;  
26 Eff. February 1, 1976;  
27 Readopted Eff. October 31, 1977;  
28 Amended Eff. February 29, 1980;  
29 Transferred from 10A NCAC 22O .0202 Eff. May 1, 2012; 2012.  
30 Readopted May 1, 2019.  
31  
32

1 10A NCAC 25K .0201 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – PHARMACY SERVICES**  
4

5 **10A NCAC 25K .0201 PHARMACY SERVICES**  
6

7 *History Note: Authority G.S. 90-85.26; 108A-25(b); 108A-54; 42 C.F.R. 440.90; 42 CFR 447.331; S.L. 1985, c.*  
8 *479, s. 86; 42 U.S.C. 1396r-8(d)(1)(A); S.L 2009-451;*  
9 *Eff. September 30, 1977;*  
10 *Readopted Eff. October 31, 1977;*  
11 *Amended Eff. January 1, 1984;*  
12 *Recodified from 10 NCAC 26B .0116 Eff. October 1, 1993;*  
13 *Recodified from 10 NCAC 26B .0117 Eff. January 1, 1998;*  
14 *Amended Eff. May 1, 2010;*  
15 *Transferred from 10A NCAC 22O .0118 Eff. May 1, 2012; ~~2012~~.*  
16 *Repealed Eff. May 1, 2019.*  
17  
18

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 25K .0401

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On the Submission for Permanent Rule form, Box 3, please check that this is a readoption.*

*In (a), lines 7-8, consider stating "subsequent amendments or editions"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 25K .0401 is readopted as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0400 - PROSPECTIVE DRUG REVIEW**  
4

5 **10A NCAC 25K .0401 PATIENT COUNSELING**

6 (a) Rule 21 NCAC 46 .2504, ~~.2504~~ as adopted by the North Carolina Board of Pharmacy, shall apply to Medicaid,  
7 ~~and is hereby Pharmacy applies to Medicaid and is~~ incorporated by reference including subsequent changes or  
8 amendments. ~~A copy of 21 NCAC 46 .2504 may be downloaded from the N.C. Board of Pharmacy website~~  
9 ~~(<http://www.ncbop.org/LawsRules/rules.2500.pdf>). There is no charge.~~

10 (b) If a pharmacy fails to comply with the requirements of 21 NCAC 46 .2504, any claim for reimbursement associated  
11 with the pharmacy's non-compliance shall be denied, or if already paid, shall be recouped.  
12

13 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-68; 42 U.S.C. 1396r-8(g)(2)(A)(ii);*  
14 *Eff. June 1, 1993;*  
15 *Amended Eff. March 1, 2010;*  
16 *Transferred from 10A NCAC 22M .0201 Eff. May 1, 2012; ~~2012~~.*  
17 *Readopted Eff. May 1, 2019.*  
18  
19

1 10A NCAC 25M .0201 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – INPATIENT HOSPITAL SERVICES**

4  
5 **10A NCAC 25M .0201 INPATIENT HOSPITAL SERVICES**

6  
7 *History Note: Authority G.S. 108A-25(b); 108A-54; S.L. 1985, c. 479, s. 86; 42 C.F.R. 440.10; 42 C.F.R.*  
8 *440.230(d); 42 C.F.R.447.253; 42 C.F.R. 456.1;*  
9 *Eff. February 1, 1976;*  
10 *Readopted Eff. October 31, 1977;*  
11 *Amended Eff. October 1, 1986; August 1, 1986; October 1, 1982;*  
12 *Temporary Amendment Eff. October 15, 1999;*  
13 *Temporary Amendment Expired July 28, 2000;*  
14 *Temporary Amendment Eff. September 25, 2000;*  
15 *Temporary Amendment Expired June 29, 2001;*  
16 *Paragraphs (a)-(d) transferred from 10A NCAC 22O .0401 Eff. May 1, 2012.*  
17 *Paragraph (e) transferred from 10A NCAC 22O .0114 Eff. May 1, 2012 (Previously recodified from*  
18 *10 NCAC 26B .0112 Eff. October 1, 1993 and recodified from 10 NCAC 26B .0113 Eff. January 1,*  
19 *1998; ~~1998~~).*  
20 *Repealed Eff. May 1, 2019.*  
21



## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 25P .0201

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the Rule, please insert the Rule number and name under the Section number and name.*

*It will look like this:*

### **SECTION .0200 – INPATIENT HOSPITAL SERVICES**

**10A NCAC 25P .0201 INPATIENT HOSPITAL SERVICES**

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 25P .0201 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0200 – INPATIENT HOSPITAL SERVICES**  
4

5 *History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86; 42 C.F.R. 440.230(d); 42 C.F.R.447.253; 42*  
6 *C.F.R. 456.1;*  
7 *Eff. February 1, 1976;*  
8 *Readopted Eff. October 31, 1977;*  
9 *Amended Eff. October 1, 1986; August 1, 1986; October 1, 1982;*  
10 *Temporary Amendment Eff. October 15, 1999;*  
11 *Temporary Amendment Expired July 28, 2000;*  
12 *Temporary Amendment Eff. September 25, 2000;*  
13 *Temporary Amendment Expired June 29, 2001;*  
14 *Transferred from 10A NCAC 22O .0401(e) Eff. May 1, 2012; ~~2012~~.*  
15 *Repealed Eff. May 1, 2019.*  
16  
17

## REQUEST FOR TECHNICAL CHANGE

AGENCY: DHHS/ Division of Health Benefits

RULE CITATION: 10A NCAC 25P .0301

**DEADLINE FOR RECEIPT: Friday, May 10, 2019**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the Rule, please insert the Rule number and name under the Section number and name.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: April 29, 2019

1 10A NCAC 25P .0301 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **SECTION .0300 – OUTPATIENT HOSPITAL SERVICES**

4  
5 *History Note: Authority G.S. 108A-25(b); 42 C.F.R. 440.20; 42 C.F.R. 440.230(d); 42 C.F.R. 456.1;*  
6 *Eff. February 1, 1976;*  
7 *Readopted Eff. October 31, 1977;*  
8 *Amended Eff. October 1, 1986;*  
9 *Transferred from 10A NCAC 22O .0402 Eff. May 1, 2012; ~~2012~~.*  
10 *Repealed Eff. May 1, 2019.*  
11  
12

1 10A NCAC 25P .0402 is repealed through readoption as published in 33:13 NCR 1381-1392 as follows:

2  
3 **10A NCAC 25P .0402 CLINIC SERVICES**

4  
5 *History Note: Authority G.S. 108A-25(b); 108A-54; 42 C.F.R. 440.20;*  
6 *Eff. February 1, 1976;*  
7 *Amended Eff. September 30, 1977;*  
8 *Readopted Eff. October 31, 1977;*  
9 *Amended Eff. January 1, 1984;*  
10 *Recodified from 10 NCAC 26B .0113 Eff. October 1, 1993;*  
11 *Recodified from 10 NCAC 26B .0114 Eff. January 1, 1998;*  
12 *Transferred from 10A NCAC 22O .0115 Eff. May 1, 2012; ~~2012~~.*  
13 *Repealed Eff. May 1, 2019.*  
14  
15