

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

2
3 **10A NCAC 23A .0103 QUALITY ASSURANCE**

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

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

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

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

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

21
22 *History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 431, Subpart P; 431.800;*
23 *Eff. September 1, 1984;*
24 *Amended Eff. August 1, 1990;*
25 *Transferred from 10A NCAC 21A .0501 Eff. May 1, 2012; 2012-*
26 *Readopted Eff. **June 1, 2019.***
27

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**

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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;~~[108A-70.37.] on an~~
8 ~~individual's eligibility for Medicaid shall be made within 45 calendar days from the date of~~
9 ~~application for Medicaid except for applications in which a disability determination has already been~~
10 ~~made or is needed. For those applications, a decision on an individual's eligibility shall be made~~
11 ~~within 90 days from the date of application. These timeframes shall apply in accordance with 42~~
12 ~~CFR 435.912-435.911.~~
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 a defined in 10A
22 NCAC 23A .0102 ~~[.0201,] deductible~~ has been met or disability established; and 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. ~~services~~ ~~County Department of Social~~
27 ~~Services.~~ If the county department of social services has all of the information needed to process
28 the application, no additional information is needed, the application shall ~~must~~ be processed within
29 five additional business working days. If additional information is needed pursuant to the final
30 decision, the county shall make such requests in accordance with this Rule. ~~rule. rules for all~~
31 ~~applications.~~ The first request for the additional information shall be made within five business
32 working days of receipt of the final appeal decision. The application shall be processed within five
33 business working days of receipt of the 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 (1) Any element requiring medical verification. This includes verification of disability, ~~pregnancy,~~
2 incapacity, emergency dates for aliens referenced in the Medicaid State Plan, 10A NCAC 23E
3 ~~.0102(e)~~, incompetence, and approval of institutional care;
- 4 (2) Proof a deductible has been met;
- 5 (3) Legal alien status;
- 6 (4) Proof of the rebuttal value for resources and of the rebuttal of intent to transfer resources to become
7 eligible for Medicaid. When a client ~~an applicant or recipient~~ disagrees with the determination of
8 the county department of social services on the value of an asset, then the client ~~applicant/recipient~~
9 must provide proof of what the value of the asset is;
- 10 (5) Proof of designation of liquid assets for burial;
- 11 (6) Proof of legally binding agreement limiting resource availability;
- 12 (7) Proof of valid social security number or application for a social security number;
- 13 (8) Proof of reserve reduction when resources exceed the allowable reserve limit for Medicaid;
- 14 (9) Proof of earned and unearned income, including deductions, exclusions, and operational expenses
15 when the applicant or caseworker ~~Income Maintenance Caseworker~~ has or can obtain the
16 verification; and
- 17 (10) Any other information for which the applicant does not know or cannot give an estimate.
- 18 (c) The county department of social services shall be responsible for verifying or obtaining ~~verify or obtain~~ an item
19 of information when:
- 20 (1) A fee must be paid to obtain the verification;
- 21 (2) It is available within the agency;
- 22 (3) The county department of social services is required by federal law to assist or to use interagency
23 or intra-agency verification aids;
- 24 (4) The applicant requests assistance; or
- 25 (5) A representative [does not accept responsibility for obtaining] has not agreed to obtain the
26 information and the applicant is:
- 27 (A) The applicant is physically, mentally, or otherwise ~~physically or mentally~~ incapable of
28 obtaining the information; ~~information, or is~~
- 29 (B) unable to speak English or read and write in English; ~~write, or is~~
- 30 (C) housebound, hospitalized, or institutionalized. ~~institutionalized, and a representative does~~
31 ~~not accept responsibility for obtaining the information.~~
- 32
- 33 *History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-70.37; 42 C.F.R. 435.911; 42 C.F.R. 435.912; 42
34 C.F.R. 435.952; *Alexander v. Flaherty, V.S.D.C., W.D.N.C., File No. C-C-74-183, Consent Order*
35 *Filed 15 December 1989; Alexander v. Flaherty Consent Order filed February 14, 1992; Alexander*
36 *v. Bruton Consent Order dismissed Effective February 1, 2002;*
37 *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. June 1, ~~May 1,~~ 2019.*
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1 10A NCAC 23E .0103 is readopted with changes 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 NC ~~[N.C.]~~ within 40 miles of the resident
7 state's border shall retain residence in Georgia. ~~[the prior state.]~~ Residents of NC ~~N.C.~~ who enter a long term care
8 facility in Georgia within 40 miles of the NC ~~N.C.~~ border retain NC ~~N.C.~~ residency.

9 (c) An individual visiting ~~in the state~~ without intent to reside ~~remain in the State~~ shall be ineligible for NC ~~[N.C.]~~
10 Medicaid.

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

13 (e) County residence:

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

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

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

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

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

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

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

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

7
8 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-55.3; ~~G.S. 150B-14(e)~~; 42 C.F.R. 435.403;*
9 *Eff. September 1, 1984;*
10 *Amended Eff. August 1, 1990;*
11 *Transferred from 10A NCAC 21B .0303 Eff. May 1, 2012; 2012.*
12 *Readopted Eff. June 1, 2019.*
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1 10A NCAC 23E .0105 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

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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 editions and available free of charge at <https://www.ecfr.gov/>, employment, and such
9 impairment ~~can be expected to result in death, or has lasted or can be expected to last [twelve]~~ 12 months or longer.

10 ~~appears reasonably 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 evaluated found disabled ~~under the definition of disability and procedures established for evaluation of vocational and~~
13 ~~medical factors~~ under the supplemental security income program criteria.

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. The social history shall provide information to identify and
17 contact the claimant; contact information of anyone assisting the claimant in providing the social history; nature and
18 onset of the impairment with the date it became disabling; date claimant stopped work or if still working, provide
19 name of employer with contact information, how many hours worked and earnings; claimant's description of
20 impairment; work history and educational background; contact information for all medical sources during the last 12
21 months with condition treated, dates seen, and whether treatment is still ongoing; Vocational Rehabilitation office,
22 counselor's contact information, and last seen date; in cases where mental impairment is alleged or there is evidence
23 of drug or alcohol abuse or homelessness, provide name, address, and phone number of a third party contact; signature,
24 title, and phone number of caseworker.

25 (d) ~~Except for [clients] client's receiving social security or supplemental security income on the basis of disability,~~
26 ~~the decision on disability is made by~~ The the Disability Determination Services Section shall determine disability for
27 all individuals, except for those receiving social security or supplemental security income on the basis of a disability.
28 ~~Section of the Division of Social Services.~~

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

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

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

1
2 *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;
3 Alexander v. Flaherty Consent Order filed February 14, 1992;
4 Eff. September 1, 1984;
5 Amended Eff. April 1, 1993; August 1, 1990;
6 Transferred from 10A NCAC 21B .0305 Eff. May 1, 2012; ~~2012~~.
7 Readopted Eff. June 1, 2019.
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1 10A NCAC 23E .0106 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

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

15 (b) For clients applying for Medicaid since January 1, ~~1974, 1974~~ that do not meet the criteria in 20 CFR 404, Subpart
16 P, blindness shall be determined by one of the following ~~[methods]~~ methods pursuant to 42 CFR 435.530 and 435.531:

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

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

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

28
29 *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.*
30 *435.531;*
31 *Eff. September 1, 1984;*
32 *Amended Eff. August 1, 1990;*
33 *Transferred from 10A NCAC 21B .0306 Eff. May 1, 2012; 2012-*
34 *Readopted Eff. June 1, [May 1], 2019.*
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1 10A NCAC 23E .0201 is readopted **with changes** as published in 33:13 NCR 1381-1392 as follows:

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

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

6 (a) Clients shall **follow all processes and procedures set forth by any financial institution or agency** ~~take all necessary~~
7 ~~steps~~ to obtain any annuities, pensions, retirement and disability benefits to which they are entitled, pursuant to 42
8 CFR 435.608, which is ~~adopted and~~ incorporated by reference **including** ~~with~~ subsequent ~~changes or~~ amendments
9 **and editions** and available free of charge at <https://www.ecfr.gov/>, unless they have good cause for not doing so as
10 determined by the county department of social services. ~~so.~~ ~~(b)~~ For purposes of this **Rule**, ~~rule~~, good ~~Good~~ cause
11 ~~shall be~~ is limited to physical or mental incapability to make such effort.
12 ~~(b) (e)~~ If a client fails to comply with Paragraph (a) and does not show good cause, ~~The amount of any verifiable~~
13 ~~benefits is counted as income to the client if the amount can be determined. If the amount cannot be determined, but~~
14 ~~the availability is verified, the client's eligibility benefits case shall be terminated. denied or terminated for client's~~
15 ~~failure to cooperate.~~

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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. **June 1, 2019**, ~~May 1, 2019~~.*
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1 10A NCAC 23E .0202 is readopted with changes as published in 33:13 NCR 1381-1392 as follows:

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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~~ Except as specified in Paragraphs (j) and (k) of this
6 Rule, the [The]resources that are counted for Medicaid eligibility for individuals under any aged, blind, and disabled
7 Aged, Blind, and Disabled coverage group shall be determined based on standards and methodologies in Title XVI of
8 the Social Security Act, which is ~~[adopted and]~~ incorporated by reference including all [with] subsequent [changes or]
9 amendments and editions. This CFR may be accessed ~~[available free of charge]~~ at <http://uscode.house.gov/> at no cost.
10 ~~Act except as specified in Paragraphs (j)(k) and (k)(l) of this Rule.~~ Applicants for and recipients of Medicaid shall
11 use their own resources to meet their needs for living costs and medical care to the extent that such resources can be
12 made available.

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

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

- 19 (1) A guardian of the estate, a general ~~guardian~~ guardian or an interim guardian has been ~~lawfully~~
20 appointed in accordance with the law and is able to act on behalf of his or her ward in North Carolina
21 and in any state ~~in which~~ where such resources are located; or
22 (2) A durable power of attorney, valid in North Carolina and in any state ~~in which~~ where such resource
23 is located, has been granted to a person who is authorized and able to exercise such power.

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

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

- 32 (1) is alleged to be mentally ~~incompetent, incompetent,~~
33 (2) has or may have a legal interest in a resource that affects the individual's eligibility; and eligibility,
34 ~~[and;] and~~
35 (3) does not have a representative with legal authority to use or dispose of the individual's resources

36 the individual's representative or family member shall be instructed by the county department of social services to file
37 within 30 calendar days a judicial proceeding under G.S. 35A to declare the individual incompetent and appoint a

guardian. If the representative or family member either fails to file such a proceeding within 30 calendar days or fails to obtain a ruling on the filed proceeding within the deadlines set by the Clerk of Court in the county where the proceeding will be heard or causes it to be dismissed, timely conclude the [proceeding within a reasonable amount of time,] proceeding, a referral shall be made to the protective services unit of the county department of social services for guardianship services. If the allegation of incompetence that has lasted, or is expected to last 30 consecutive days or more, or until the individual's death, is supported by competent evidence, as specified in Paragraph (h) of this Rule, If an allegation of incompetence is supported by competent evidence as defined in Paragraph (h) of this Rule, and the incompetence has lasted, or is expected to last, at least 30 consecutive days or until the individual's death, the resources shall be excluded beginning with the date that the such evidence shows indicates that he or she became incompetent, except as provided in Paragraphs (f) or (g) of this Rule.

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

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

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

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

(1) for Family and Children's related categorically and medically needy cases, three thousand dollars (\$3,000.00) per budget unit;

(2) for aged, blind, and disabled cases, two thousand dollars (\$2000.00) for a budget unit of one and three thousand dollars (\$3000.00) for a budget unit of two.

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

(1) For Family and Children's medically needy related cases and aged, blind, blind or disabled cases protected by grandfathered provisions, and medically needy cases not protected by grandfathered provision, eligibility shall begin on the day countable resources are reduced to allowable limits or excess income is spent down, whichever occurs later;

- (2) For categorically needy aged, blind, ~~blind~~ or disabled cases not protected by grandfathered provisions, eligibility shall begin no earlier than the month countable resources are reduced to allowable limits as of 11:59 pm on the first moment of the first last day of the previous month.
- ~~(j)(4)~~ Resources counted in the determination of financial eligibility for categorically needy aged, blind, ~~blind~~ and disabled cases, and Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, Qualifying Individual and Qualified Disabled Working Individual cases shall be based on resource standards and methodologies in Title XVI of the Social Security Act except for the following methodologies:
- (1) The value of personal effects and household goods shall be not counted.
 - (2) ~~The value~~ Value of tenancy in common interest in real property shall be not counted.
 - (3) ~~The value~~ Value of life estate interest in real property shall be not counted.
 - (4) ~~The value~~ Value of burial plots shall be not counted.
 - (5) The cash value of life insurance when the total face value of all cash value bearing life insurance policies does not exceed ten thousand dollars (\$10,000.00) shall be not counted.
- ~~(k)(4)~~ Resources counted in the determination of financial eligibility for medically needy aged, blind, ~~blind~~ and disabled cases ~~is shall be~~ based on resource standards and methodologies in Title XVI of the Social Security Act except for the following methodologies:
- (1) The value of personal effects and household goods shall be not counted.
 - (2) ~~The value~~ Value of tenancy in common interest in real property shall be not counted.
 - (3) ~~The value~~ Value of life estate interest in real property ~~shall not be~~ is not counted.
 - ~~(4)~~ Individuals with resources in excess of the resource limit at 11:59 pm on the last day of the previous month, the first moment of the month may become eligible during the current month at the point that resources are reduced to the allowable limit.
 - ~~(4)(5)~~ (5) ~~The value~~ Value of burial plots shall be not counted.
 - ~~(5)(6)~~ (6) The cash value of life insurance when the total face value of all cash value bearing life insurance polities does not exceed ten thousand dollars (\$10,000.00) shall be not counted.
- ~~(m)~~ Resources counted in the determination of financial eligibility for categorically needy Family and Children's related cases shall be:
- ~~(1)~~ Cash on hand;
 - ~~(2)~~ The balance of savings accounts, including savings of a student saving his earnings for school expenses;
 - ~~(3)~~ The balance of checking accounts less the current monthly income that had been deposited to meet the budget unit's monthly needs when reserve was verified;
 - ~~(4)~~ The portion of lump sum payments remaining after the month of receipt;
 - ~~(5)~~ Cash value of life insurance policies owned by the budget unit;
 - ~~(6)~~ Stocks, bonds, mutual fund shares, certificates of deposit and other liquid assets;
 - ~~(7)~~ Patient accounts in long term care facilities;
 - ~~(8)~~ Equity in non essential personal property limited to:

- (A) ~~Mobile homes not used as home;~~
- (B) ~~Boats, boat trailers and boat motors;~~
- (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 ~~medically needy~~ 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; and
- (7) Equity in ~~non-essential~~, non-income producing personal property limited to:
 - (A) Mobile home not used as ~~home~~, home;
 - (B) Boats, boat trailers, ~~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 ~~medically needy~~ cases, income-producing vehicles and personal property shall be excluded from countable resources.

(p) For ~~Family~~ ~~family~~ and ~~Children's~~ ~~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

1 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.
2 233.20; 45 C.F.R. 233.51; S.L. 2002-126;
3 Eff. September 1, 1984;
4 Temporary Amendment Eff. September 1, 1985, for a period of 92 days to expire on December 1,
5 1985;
6 Amended Eff. January 1, 1995; November 1, 1994; September 1, 1993; March 1, 1993;
7 Temporary Amendment Eff. September 13, 1999;
8 Temporary Amendment Expired June 27, 2000;
9 Temporary Amendment Eff. September 12, 2000;
10 Amended Eff. March 19, 2001;
11 Temporary Amendment Eff. April 16, 2001;
12 Amended Eff. August 1, 2002;
13 Temporary Amendment Eff. March 1, 2003;
14 Amended Eff. August 1, 2004;
15 Transferred from 10A NCAC 21B .0310 Eff. May 1, 2012; 2012-
16 Readopted Eff. June 1, [May 1], 2019.
17
18
19

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 Insurance Benefits, 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~~, [Benefits];
- 24 (Q) Black Lung benefits ~~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~~, [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, [Income;]~~
- (C) Small business income including ~~self-employment, self-employment;~~
- (D) Rental ~~income, income~~ for use of real or personal property;
- (E) Income ~~for room and board in the household; 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 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 family~~ and ~~Children's 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 state~~-maximum rates for Family and Children's clients who serve as foster parents;
 - (6) Income that is unpredictable, ~~such as, 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~~; ~~supplier~~;
- (18) ~~For Family and Children's cases, Shelter~~, ~~shelter~~, utilities, or household furnishings made available to the client at no cost;
- (19) ~~(48)~~ Food/clothing contributions ~~in Family and Children's cases~~ (except for food allowance for persons temporarily absent in medical facilities up to 12 months);
- (20) ~~(49)~~ 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;
- (21) ~~(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;
- (22) ~~(21)~~ Payments to Indian tribe members as permitted under P.L. 94-114;
- (23) ~~(22)~~ Payments made by Medicare to a home renal dialysis patient as medical benefits;
- (24) ~~(23)~~ SSI ~~SSI~~, except for individuals in ~~long-term~~ long-term care;
- (25) ~~(24)~~ HUD Section 8 benefits when paid directly to the supplier or jointly to the supplier and client;
- (26) ~~(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;
- (27) ~~(26)~~ Special one time payments such as energy, weatherization assistance, or disaster assistance that is not designated as medical;
- (28) ~~(27)~~ The value of the U.S. Department of Agriculture donated foods (surplus commodities);
- (29) ~~(28)~~ Payments under the Alaska Native Claims Settlement Act, P.L. Public Law 92-203;
- (30) ~~(29)~~ Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (31) ~~(30)~~ HUD Community Development Block Grant funds received to finance the renovation of a privately owned residence;

- (32) (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;
- (33) (32) Adoption assistance;
- (34) (33) Incentive payments made to a client participating in a vocational rehabilitation program;
- (35) (34) Title XX funds received to pay for services rendered by another individual or agency;
- (36) (35) Any amount received as a refund of taxes paid;
- (37) (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~~
- (38) (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 19 nineteen years of age who live in the home of their parents;
 - (2) An individual living in a long-term 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) 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 shall be 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
2 *History Note:* *Filed as a Temporary Rule Effective July 1, 1987, for a period of 120 days to expire on October 31,*
3 *1987;*
4 *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;*
5 *~~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~~;*
6 *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);*
7 *42 U.S.C 1383c(d); P.L. 99-272, ~~99-272~~; Section 12202; Alexander v. Flaherty Consent Order filed*
8 *February 14, 1992;*
9 *Eff. September 1, 1984;*
10 *Amended Eff. January 1, 1996; January 1, 1995; September 1, 1994; September 1, 1993;*
11 *Temporary Amendment Eff. February 23, 1999;*
12 *Amended Eff. August 1, 2000;*
13 *Transferred from 10A NCAC 21B .0312 Eff. May 1, 2012; ~~2012~~.*
14 *Readopted Eff. June 1, 2019.*
15

1 10A NCAC 23E .0205 is readopted **with changes** 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 ~~[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
7 shall be ~~[is]~~ determined pursuant to 42 C.F.R. 435.603, which is ~~[adopted and]~~ incorporated by reference with
8 subsequent ~~[changes or]~~ amendments and editions 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. June 1, [May 1,] 2019.*
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1 10A NCAC 23E .0207 is readopted with changes 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. 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. 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 court order shall take precedence over ownership of resources as stated in Paragraphs (a) and (b) of this Rule,
24 except as provided in Paragraph ~~(k)~~ (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 shall be ~~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 by the county department of social services; 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. 435.725; ~~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

1 ~~(1992); No. 406PA91 (North Carolina Supreme Court);~~ Schweiker v. Gray Panthers, 453 U.S. 34,
2 101 S.Ct. 2633, 69 L. Ed.2d 460 (1981);
3 Eff. September 1, 1984;
4 Amended Eff. January 1, 1995; November 1, 1994; September 1, 1993; April 1, 1993;
5 Temporary Amendment Eff. September 13, 1999;
6 Temporary Amendment Expired June 27, 2000;
7 Temporary Amendment Eff. September 12, 2000;
8 Amended Eff. August 1, 2002;
9 Transferred from 10A NCAC 21B .0403 Eff. May 1, 2012; ~~2012~~.
10 Readopted Eff. June 1, May 1, 2019.
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1 10A NCAC 23E .0208 is readopted **with changes** 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 **shall be** ~~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.*
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1 10A NCAC 23E .0209 is readopted with changes 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 department of social services 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~~ The 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 ~~state~~ or local
34 government funds, or private source; ~~or~~
35 (2) The private insurance has not paid the ~~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~~ ~~Medical~~ expense incurred prior to the certification period shall be applied to the
- 3 deductible 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 ~~Part~~ ~~Subparagraph~~ (e)(1)(A) of this ~~Rule~~, ~~Rule~~;
- 10 and a 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. June 1, May 1, 2019.*
8

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

10A NCAC 23E .0210 PATIENT LIABILITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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~~ Federal tax law that is not covered by
- 5 the program 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. June 1, 2019.*

21

22

23

1 10A NCAC 23E .0211 is readopted **with changes** 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 **editions,** available free of charge at
14 <https://aspe.hhs.gov/poverty-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 ~~shall be is~~ determined in accordance with Rules .0203 and .0208 of this Section
19 and the Medicaid State Plan. Section. Rule .0206 of this Section applies for situations in which the sponsor is the
20 spouse 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, [verification,]** as defined by 10A NCAC 23A .0102, by a third party ~~verification of the~~
24 **following is** shall be required for:

25 (1) sponsorship;

26 (2) a sponsor's income; and

27 (3) a sponsor's resources.

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

30
31 *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.*
32 *105-33, Title IV; 105-33;*
33 *Temporary Adoption Eff. July 3, 2003;*
34 *Eff. March 1, 2004;*
35 *Transferred from 10A NCAC 21B .0410 Eff. May 1, 2012; 2012.*
36 *Readopted Eff. June 1, [May 1], 2019.*
37

1 10A NCAC 23G .0201 is readopted **with changes** 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 editions, available free of charge at <https://www.ecfr.gov/>, ~~in error~~, or the recipient's circumstances
10 have 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
21

1 10A NCAC 23G .0202 is readopted **with changes** 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 authorization period**, ~~period~~ or otherwise affect
13 the recipient's 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 **regulations**
30 or **State state rules regulations** to authorize **eligibility eligibility**. **or follow requirements in this**
31 **Chapter.**

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

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

- 1 (2) The county department of social services ~~fails~~ ~~refuses~~ to take required corrective actions; or
2 (3) An audit report from State auditors or the Division ~~hired by the county departments of social services~~
3 shows verified errors in the Medicaid eligibility history. ~~history or recipient identification number.~~
4

5 *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.*
6 *435.903; 435.904; ~~Alexander v. Bruton, U.S.D.C., File No. C C 74 183 M, Consent Order~~*
7 *~~dismissed effective February 1, 2002;~~*
8 *Eff. June 1, 1990;*
9 *Temporary Amendment Eff. March 1, 2003;*
10 *Amended Eff. August 1, 2004;*
11 *Transferred from 10A NCAC 21A .0602 Eff. May 1, 2012; ~~2012~~.*
12 *Readopted Eff. June 1, [May 1], 2019.*
13
14
15

1 10A NCAC 23G .0203 is readopted with changes 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 cause"~~[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. ~~[the~~
13 ~~Division;]~~ ~~Section;~~

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

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

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

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

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

26
27 *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;*
28 *435.904; Alexander v. Bruton, U.S.D.C., File No. C C 74 183 M, Consent Order dismissed effective*
29 *February 1, 2002;*
30 *Eff. June 1, 1990;*
31 *Temporary Amendment Eff. March 1, 2003;*
32 *Amended Eff. August 1, 2004;*
33 *Transferred from 10A NCAC 21A .0603 Eff. May 1, 2012; 2012.*
34 *Readopted Eff. May 1, 2019.*
35
36
37

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

10A NCAC 23G .0204 RESPONSIBILITY FOR ERRORS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The amounts to be charged back **shall be determined pursuant to G. S. 108A-25.1A(c).** ~~to the county department of social services for erroneous payments of claims shall be the [State] state and federal shares of the erroneous payment, not to exceed the lesser of the amount of actual error or claims payment.~~

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. June 1, [May 1], 2019.*
5
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7

1 10A NCAC 23G .0304 is readopted with changes 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 A "change in situation" includes: 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.~~ 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 it 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. June 1, May 1, 2019.

1 10A NCAC 23H .0107 is readopted with changes 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; and 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
23

1 10A NCAC 23H .0109 is readopted with changes 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 if the Division or county
8 department of social services determines if correction is required by federal statute or regulation to support receipt of

9 State state or federal participation, the correction of the contested information shall be accomplished by inserting
10 inserted it in the record when the director or his or her delegated representative concurs that such correction is justified.

11 When the director or his or her delegated representative does not concur, the client shall be allowed to enter a statement
12 in the record. Deletion of the contested information is not permitted. ~~Such corrections and statements shall be made~~

13 ~~a permanent part of the record and shall be disclosed to any recipient of the disputed information. If a delegated~~
14 ~~representative decides not to correct contested information, the decision not to correct shall be reviewed by the~~

15 ~~supervisor of the person making the initial decision. All corrections and statements shall be made a permanent part of~~
16 ~~the record and shall be disclosed to any recipient of the disputed information.~~

17 (c) Upon written request from the client, his or her personal representative, including an attorney, may have access to
18 review or obtain without charge, a copy of the information in his or her record. The client may permit the personal
19 representative to have access to his or her entire record or may restrict access to certain portions of the record. Rules
20 .0107 and .0108 of this Section shall apply.

21
22 *History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-80;*

23 *Eff. September 1, 1984;*

24 *Transferred from 10A NCAC 21A .0409 Eff. May 1, 2012; ~~2012~~.*

25 *Readopted Eff. June 1, [May 1,] 2019.*

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

10A NCAC 23H .0111 DISCLOSURE WITHOUT CLIENT CONSENT

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

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

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

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

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

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

(e) When information is released without the client's consent, the client shall be informed to the extent possible, of the disclosure, disclosure in writing to explain what information was released, how it was released, and how to contact the privacy official. The writing ~~method of~~ informing the client of the disclosure shall be documented in the appropriate record.

1 *History Note:* *Authority G.S. 108A-54; 108A-54.1B; 108A-80; 42 C.F.R. 431.306;*
2 *Eff. September 1, 1984;*
3 *Transferred from 10A NCAC 21A .0411 Eff. May 1, 2012; ~~2012~~.*
4 *Readopted Eff. June 1, 2019.*
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1 10A NCAC 25A .0201 is readopted **with changes** 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 **Pursuant to the State Plan, all** ~~All~~ medical services performed shall ~~must~~ be medically necessary and may not be
7 experimental in nature. Medical necessity shall be ~~is~~ determined by generally accepted North Carolina community
8 practice standards as verified by 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. **June 1, 2019**.*
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1 10A NCAC 25H .0203 is readopted with changes 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 authority;
- 6 (2) ~~must provide services in accordance~~ comply with ~~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. [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 amendments and editions [changes or amendments] and
16 available free of charge at <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 amendments and editions [changes or
19 amendments] and available free 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 June 1, 2019.
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33

1 10A NCAC 25K .0401 is readopted **with changes** 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-amendments and editions**. A copy of 21 NCAC 46 .2504 may be downloaded from the N.C. Board of
9 Pharmacy website (<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. June 1, [May 1], 2019.*
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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 **10A NCAC 25P .0201 INPATIENT HOSPITAL SERVICES**

6 *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*
7 *C.F.R. 456.1;*
8 *Eff. February 1, 1976;*
9 *Readopted Eff. October 31, 1977;*
10 *Amended Eff. October 1, 1986; August 1, 1986; October 1, 1982;*
11 *Temporary Amendment Eff. October 15, 1999;*
12 *Temporary Amendment Expired July 28, 2000;*
13 *Temporary Amendment Eff. September 25, 2000;*
14 *Temporary Amendment Expired June 29, 2001;*
15 *Transferred from 10A NCAC 22O .0401(e) Eff. May 1, 2012; ~~2012~~.*
16 *Repealed Eff. June 1, [May 1,] 2019.*
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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 **10A NCAC 25P .0301 OUTPATIENT HOSPITAL SERVICES**

6 *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;*

7 *Eff. February 1, 1976;*

8 *Readopted Eff. October 31, 1977;*

9 *Amended Eff. October 1, 1986;*

10 *Transferred from 10A NCAC 22O .0402 Eff. May 1, 2012; ~~2012~~.*

11 *Repealed Eff. June 1, [May 1], 2019.*