



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:	
2. Rule citation & name:	
3. Action: <input type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: b. Proposed Temporary Rule published on the OAH website: c. Public Hearing date: d. Comment Period: e. Notice pursuant to G.S. 150B-21.1(a3)(2): f. Adoption by agency on: g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: Explain:	

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

This rule is adopted in accordance with N.C.G.S. 150B-21.1A. Adherence to notice and hearing requirements is contrary to the public interest due to COVID-19. Immediate adoption is necessary due to serious and unforeseen threat posed by COVID-19. Adherence to administrative steps places Medicaid beneficiaries at risk of not timely receiving food and health benefits to which they may have been entitled by delaying adjudication of an appeal of a denied application. A timely appeal decision is needed to commence receiving the benefits to which they may be entitled even more urgently during this period of unforeseen public health emergency and the ensuing potential for economic fragility for beneficiaries. The risk of disease spread to beneficiaries, county staff and state staff by conducting face to face appeal hearings at Department of Social Services offices (many of which are closing) must be contained while preserving the right to a timely appeal decision.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No**9. Rule-making Coordinator:**

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Agency contact, if any:**Phone:****E-Mail:****10. Signature of Agency Head*:**

DocuSigned by:

Dave Richard

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*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name:

Dave Richard

Title:

Deputy Secretary, NC Medicaid

E-Mail: dave.richard@dhhs.nc.gov**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 10A NCAC 21A .0304 is ~~proposed as a temporary rule~~ adopted under temporary procedures as follows:

2
3 **10A NCAC 21A .0304 CONDUCTING DEPARTMENT IN-COUNTY APPEAL HEARINGS BY**
4 **TELEPHONE OR ELECTRONIC MEANS**

5 For public assistance and social services de novo appeals appeals, including appeals of cases involving disability filed
6 pursuant to G.S. 108A-79 (i):

7 (1) The Department ~~may shall~~ require conducting in county such conduct the appeal hearings by
8 telephone or ~~feasible~~ electronic means feasible to the appellant and Department during a public
9 health emergency declared under section 319 of the Public Health Service Act, Pub. L. 98-49, or a
10 state of emergency declared pursuant to G.S. 166A-19.20.

11 (2) The Department shall notify the appellant when ~~in county such~~ the hearings are required to be
12 conducted in this manner by First Class U.S. Mail and make hearing arrangements considering the
13 technology medium available to the appellant.

14 (3) The Department shall continue such appeal hearings as necessary to fulfill procedural rights of the
15 appellant as defined by 42 C.F.R. 431.242, which is incorporated by reference including subsequent
16 amendments and editions, and available free of charge at <https://www.ecfr.gov>.

17 *History note:* Authority G.S. 108A-54;108A-79; 42 C.F.R. 431.205; 42 C.F.R. 431.240; 42 C.F.R. 431.242.

18 Emergency Adoption Eff. May 4, 2020;

19 Temporary Adoption Eff. June 26, 2020.