

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0102

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

***NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

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

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

*In (1), line 6, insert a comma after "DSS-5123"*

*And are the requirements of the form what are listed in this Item?*

*On line 8, what do you mean by "at a minimum"?*

*In (1)(a), consider fully incorporating 42 USC 673 by reference so that you don't need to continue incorporating other parts throughout the Rule. Alternatively, consider deleting the existing incorporation language ("and any subsequent amendments") throughout the Rule and insert a Paragraph (b) to fully incorporate the standard by reference. And please remember that incorporation includes setting forth the cost and a location to access the standard. I am assuming you can state "available at no cost at [www.gpo.gov](http://www.gpo.gov)" or something of the sort.*

*In (1)(b), line 12, replace "of which" with "where"*

*In (1)(d), line 16, what is a "vendor payment"? Is this what is addressed in Rule .0401?*

*In (1)(e), line 18, consider changing "effective" to "in effect."*

*In (2), line 19, if you do not make the incorporation by reference change suggested above, please include information on how the document can be accessed and at what price. Please note the same for (3), lines 2 and 315, and (5), Page 2, line 23.*

*In (3), lines 23-24, what is this "North Carolina Department of Health and Human Services for the Special Needs Adoptions Incentive Fund assistance"?*

*On line 25, do not use "should" in a Rule. Could you just state, "A child shall not be returned..."? If you need to state "cannot and..." then I suggest you replace "should" with "may"*

*On line 32, delete "specific"*

*In (3)(b), how is this determined?*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021

*In (3)(d), Page 2, lines 2-3, this is not how the language was published in the NC Register. It should read, "... or conditions in Sub-Items (a), (b), (e), (f), (g), or (h) of this Item;" Use the language as published in the Register.*

*In (3)(e), line 4, replace "which" with "that"*

*Also on line 4, define "substantially limits"*

*And what is a "major" life activity?*

*In (5)(f), line 7, and elsewhere this term is used, what do you mean by "who is qualified to make the diagnosis"? Who will determine this, and based upon what?*

*On line 8, replace "which" with "that"*

*In (5)(g), lines 11 and 12, define "inappropriate behavior" "deviates substantially" "behavior appropriate to the child's age" and "significantly interferes" Are these clinical standards?*

*On line 11, replace "which" with "that"*

*On line 13, insert a comma after "social"*

*In (5)(h), line 16, what do you mean by "opined"? And who is a "qualified medical professional"?*

*In (7), are the required contents of this form what is listed in (7)(a) and (b)?*

*On line 29, insert a comma after "DSS-5212"*

*On line 30, what do you mean by "at a minimum" here?*

*In the History Note, why are you citing to 45 CFR 1356.41?*

*And what part of G.S. 143B-153 are you relying upon for this Rule? It is subsection 6?*

*And isn't G.S. 108A-49 applicable here?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0102 is adopted as published in 35:20 NCR 2183-2184 as follows:

2  
3 **10A NCAC 70M .0102 DEFINITIONS**

4 The following definitions shall apply to the rules in this Subchapter:

5 (1) “Adoption assistance agreement” means a signed written agreement that is developed by the Department  
6 (“North Carolina Adoption Assistance Agreement” Form DSS-5123 which can be found at  
7 <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective  
8 adoptive parents of a minor child and, at a minimum, the agreement shall:

9 (a) specify payments that meet the requirements in 42 USC 673(a)(3), and any subsequent  
10 amendments, and specifies the nature and amount of any payments, services, and  
11 assistance to be provided under the agreement;

12 (b) stipulates that the agreement shall remain in effect regardless of the state of which the  
13 adoptive parents are residents of at any given time;

14 (c) require each adoptive parent to inform the public adoption agency of any circumstances  
15 that would make the parent ineligible for the payments or eligible for a different amount;

16 (d) if applicable, require the adoptive parents to provide receipt of vendor payments; and

17 (e) contain provisions for the protection of the interests of the child in cases where the  
18 adoptive parents and child move to another state while the agreement is effective.

19 (2) “Applicable child” means a child who meets the requirements in 42 U.S.C. 673(e) which is incorporated  
20 herein by reference along with any subsequent amendments.

21 (3) “Child with special needs” or “children with special needs” means a child who meets the requirements in  
22 42 USC 673(c) which is incorporated herein by reference along with any subsequent amendments. The  
23 public adoption agency, or the North Carolina Department of Health and Human Services for the Special  
24 Needs Adoptions Incentive Fund assistance, shall make the specified determinations for the state in 42 USC  
25 673(c) and any subsequent amendment. A child cannot or should not be returned to the home of the child’s  
26 parent if there is a court order terminating parental rights, a relinquishment to a public or private child-  
27 placing agency, a consent for adoption by the parent, a finding from the court in an adoption proceeding  
28 that a parent’s consent is not required, or verification of the death of a parent. For a child to meet the  
29 requirement in 42 USC 673(c)(2)(B)(ii), the child must have a letter from the Social Security  
30 Administration that approves the child for Social Security Insurance benefits. For purposes of 42 USC  
31 673(c)(1)(B) and 42 USC 673(c)(2)(B)(i), and any subsequent amendments, the child shall present one or  
32 more of the following specific factors or conditions:

33 (a) six years of age or older;

34 (b) two years of age or older and a member of a minority race or ethnic group;

35 (c) a member of a sibling group of three or more children who will all be placed in the same  
36 adoptive home;

1 (d) a member of a sibling group of two children who will be placed in the same adoptive  
2 home and the child's sibling meets one of the factors or conditions in (a), (b), (c), (f), (g)  
3 or (h) of this definition;

4 (e) a medically diagnosed disability which substantially limits one or more major life  
5 activities, requires professional treatment, requires assistance in self-care, or requires the  
6 purchase of special equipment;

7 (f) diagnosed by a medical professional, who is qualified to make the diagnosis, as having a  
8 psychiatric condition which impairs the child's mental, intellectual, or social functioning,  
9 and for which the child requires professional services;

10 (g) diagnosed by a medical professional, who is qualified to make the diagnosis, as having a  
11 behavioral or emotional disorder characterized by inappropriate behavior which deviates  
12 substantially from behavior appropriate to the child's age or significantly interferes with  
13 child's intellectual, social and personal functioning; or

14 (h) diagnosed by a medical professional, who is qualified to make the diagnosis, as being  
15 intellectually or developmentally disabled;

16 (i) at risk, as opined by a qualified medical professional, for one of the factors or conditions  
17 in (c) through (h) of this definition due to:

18 (i) prenatal exposure to toxins;

19 (ii) a history of abuse or serious neglect; or

20 (iii) genetic history.

21 (4) "Department" means the North Carolina Department of Health and Human Services.

22 (5) "Nonrecurring adoption expense" means the same as "nonrecurring adoption expenses" found in 42 U.S.C.  
23 673(a)(6)(A) along with any subsequent amendments of the phrase.

24 (6) "Public adoption agency" means any county department of social services, consolidated human services, or  
25 regional department of social services in North Carolina that is authorized by law to place children for  
26 adoption or that provides adoption services.

27 (7) "Supplemental Agreement" means a signed written agreement that is developed by the Department ("North  
28 Carolina Special Children Adoption Incentive Fund Supplemental Adoption Assistance Agreement" Form  
29 DSS-5212 which can be found at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public  
30 adoption agency and the prospective adoptive parents of a minor child and at a minimum:

31 (a) specifies the nature and amount of any Special Children's Adoption Incentive Fund payment;  
32 and

33 (b) includes an acknowledgement by the prospective adoptive parents that the payments are not an  
34 entitlement and are limited to available funds in the Special Children's Adoption Incentive Fund.

36 *History Note: Authority G.S. 143B-153; 42 U.S.C. 673; 45 C.F.R. 1356.41(i);*  
37 *Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0201

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In Paragraph (a), line 6, I suggest replacing "requirements" with "provisions"*

*On lines 6 and 10, consider replacing "must" with "shall"*

*In the History Note, why are you citing to G.S. 48-1-109? If you want to retain it, please be sure to remove the period after the citation.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0201 is readopted as published in 35:20 NCR 2185 as follows:

2  
3 **SECTION .0200 - ORGANIZATION AND ADMINISTRATION**

4  
5 **10A NCAC 70M .0201 PUBLIC ADOPTION AGENCIES**

6 (a) Except for the requirements relating to an executive director, public adoption agencies must comply with 10A  
7 NCAC 70H .0401 ~~governs the policies for public agencies providing adoption services~~ in determining the  
8 qualifications and job responsibilities for ~~personnel and in the recruitment, retention, and effective performance of~~  
9 ~~qualified personnel.~~

10 (b) Public adoption agencies must comply with 10A NCAC 70F .0207 ~~governs the policies for public agencies~~ in the  
11 hiring of ~~staff, use of clerical staff,~~ staff and use of volunteers.

12 (c) The caseload size of social workers providing adoption services shall be in compliance with requirements set forth  
13 in 10A NCAC 70H .0401.

14  
15 *History Note: Authority G.S. ~~48-1-101~~; 48-1-109.; 143B-153;*  
16 *Eff. February 1, 1976;*  
17 *Readopted Eff. October 31, 1977;*  
18 *Amended Eff. October 1, 2008; September 1, ~~1986-1986~~;*  
19 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0301

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (1), line 7, and elsewhere the term is used, what is "casework"? Does your regulated public know?*

*Also on line 7 and elsewhere the term is used, what are "other supportive services"?*

*Is Item (3) the reason you are citing to G.S. 48-3-303 in the History Note?*

*In (7), line 14, define "complete" case records.*

*In (8), line 15, please delete "but not limited to"*

*In (9), line 18, where does the Subchapter require this?*

*In (12), line 24, what is "current" here?*

*In (13), what is this Act? Please provide a citation and incorporate it by reference if necessary. Is this why G.S. 48-3-204 is cited in the History Note?*

*In the History Note, strike "48-1 et seq."*

*Also in the History Note, put the citations in numerical order.*

*Why are you proposing to cite to G.S. 48-2-502, 48-3-203, 48-3-204, and 48-3-303? While those confer rulemaking authority to the Commission, this Rule doesn't actually set those requirements addressed by those statutes.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0301 is readopted as published in 35:20 NCR 2185 as follows:

2  
3 **SECTION .0300 - FUNCTIONS OF AN A PUBLIC ADOPTION AGENCY**

4  
5 **10A NCAC 70M .0301 GENERAL**

6 Public ~~child placing~~ adoption agencies shall perform the following functions:

- 7 (1) provision of casework and other supportive services to biological parents considering adoption;
- 8 (2) provision of casework and other supportive services to the child considered for adoption;
- 9 (3) provision of casework and other supportive services to adoptive applicants through pre-placement  
10 studies;
- 11 (4) selection of home and placement process;
- 12 (5) supervision after placement;
- 13 (6) fulfillment of social and legal responsibilities;
- 14 (7) compilation and preservation of complete case records;
- 15 (8) provision of post-adoption consultation services, including, but not limited to, coordination  
16 and referrals for educational enrollment for children seven to sixteen years of age, and for  
17 therapeutic and physical health needs;
- 18 (9) when this Subchapter requires, determine whether eligibility requirements have been met for  
19 adoption assistance in this Subchapter that is available for children with special needs who are in  
20 custody of the public adoption agency or who have been placed by a private child-placing agency  
21 in an adoptive home within its jurisdiction;
- 22 (10) administer adoption assistance agreements for which it entered into pursuant to this Subchapter;
- 23 (11) notify adoptive parents of tax credits that may be available for adoptive parents;
- 24 (12) make current information available for prospective adoptive families that describes the kinds of  
25 children needing placement, the availability of adoption assistance, and procedures for referring  
26 families they are unable to serve to other child placing agencies; and
- 27 (13) recruit potential foster and adoptive families in accordance with the Multiethnic Placement Act  
28 (MEPA) of 1994 as amended by the Interethnic Adoption Provisions of 1996 requirements.

29  
30 *History Note: Authority G.S. 48-1 et seq.; 143B-153; 48-2-502; 48-3-203; 48-3-204; 48-3-303;*  
31 *Eff. February 1, 1976;*  
32 *Readopted Eff. October 31, 1977;*  
33 *Amended Eff. June 1, 1990; September 1, ~~1986~~ 1986;*  
34 *Readopted Eff. August 1, 2021.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0302

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*On line 4, consider replacing "must" with "shall"*

*On line 7, please insert a comma after "process"*

*In the History Note, why are you citing to G.S. 131D-10.5?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0302 is readopted as published in 35:20 NCR 2185 as follows:

2

3 **10A NCAC 70M .0302 SERVICES TO ADOPTIVE APPLICANTS**

4 ~~(a) Public adoption agencies must comply with 10A NCAC 70H .0404, .0405, .0406, .0407, 0408 and .0409 shall~~  
5 ~~govern the policies for public agencies providing adoption services~~ in determining the procedures ~~for,~~ for the  
6 application process, preplacement assessment, notification to adoptive applicants of acceptance or denial of  
7 application, services to adoptive applicants and families, legal process and record retention.

8 ~~(b) A county department of social services shall prepare or contract for the preparation of a preplacement assessment~~  
9 ~~for an adoptive applicant who has identified a prospective adoptive child and has been unable to obtain a preplacement~~  
10 ~~assessment. An applicant is deemed unable to obtain a preplacement assessment if the applicant is unable to obtain~~  
11 ~~an assessment at the fee the county department of social services is permitted to charge under 10A NCAC 70M .0303.~~  
12 ~~Except as provided in this Subchapter, no county department of social services is required to conduct a preplacement~~  
13 ~~assessment unless it agrees to do so.~~

14

15 *History Note: Authority G.S. 48-1-100; 48-1-101; 48-1-102; 48-1-103; 48-1-106; 48-1-109; 48-2-205; 48-2-301;*  
16 *48-2-302; 48-2-304; 48-2-305; 48-2-501; 48-2-502; 48-2-503; 48-2-504; 48-2-601; 48-2-602; 48-*  
17 *2-603; 48-2-604; 48-2-605; 48-2-606; 48-2-607; 48-3-100; 48-3-201; 48-3-202; 48-3-203; 48-3-*  
18 *204; 48-3-205; 48-3-301; 48-3-302; 48-3-303; 48-3-304; 48-3-305; 48-3-306; 48-3-307; 48-3-308;*  
19 *48-3-30; 48-3-501; 48-4-100; 48-4-101; 48-4-102; 48-4-103; 48-5-100; 48-5-101; 48-6-100; 48-*  
20 *6-102; 48-9-101; 48-9-102; 48-10-104; 48-10-105; 131D-10.5; 143B-153;*  
21 *Eff. February 1, 1976;*  
22 *Readopted Eff. October 31, 1977;*  
23 *Amended Eff. October 1, 2008; July 17, 2000; September 1, 1986; 1986;*  
24 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0304

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In this Rule, you refer to "foster" children, but none of the laws cited in the History Note appear to address foster children. And this Subchapter is "Adoption Standards." Why are you addressing foster children here? Is this to address fostering to adopt?*

*In (a), line 12, please capitalize "State" assuming you mean NC.*

*And what is this diversity? How does the public adoption agency know?*

*In (c), line 15, what do you mean by delay?*

*In (d), what is this statute? Please provide the citation.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0304 is readopted as published in 35:20 NCR 2185-2186 as follows:

2

3 **10A NCAC 70M .0304 MULTIETHNIC PLACEMENT ACT REQUIREMENTS FOR ADOPTIVE HOME**  
4 **RECRUITMENT**

5 The agency shall have a written plan for on-going recruitment of adoptive homes for the children it places or plans to  
6 place for adoption. The plan shall adhere to the provisions of the Multiethnic Placement Act of 1994 as amended by  
7 the Interethnic Adoption Provisions of 1996 and shall be submitted to the Division of Social Services, Adoption Unit,  
8 to ensure compliance with the Act. If the plan is found to be out of compliance, it shall be returned to the agency for  
9 corrections. A copy of the Multiethnic Placement Act of 1994 as amended may be obtained from the U. S. Department  
10 of Health and Human Services, Children's Bureau, 300 C Street SW, Washington, D.C. 20447.

11 (a) Public adoption agencies shall recruit potential adoptive and foster families that reflect the ethnic and racial  
12 diversity of children in the state.

13 (b) Public adoption agencies shall not deny any person the opportunity to become an adoptive or a foster parent  
14 on the basis of the race, color, or national origin of the person or of the child involved.

15 (c) Public adoption agencies shall not delay or deny the placement of a child for adoption or foster care, on the  
16 basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

17 (d) Public adoption agencies shall not violate provisions of the Multiethnic Placement Act of 1994 as amended  
18 by the Interethnic Adoption Provisions of 1996 that apply to state or local agencies.

19

20 *History Note: Authority G.S. 48-3-204; 131D-10.5; 143B-153;*  
21 *Eff. October 1, 2008. 2008;*  
22 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0401

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (a), are these the payments addressed by Rule .0102(1)(a)? If so, why isn't the phrase, "regular monthly cash assistance payment" used there?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0401 is readopted as published in 35:20 NCR 2186 as follows:

2  
3 **SECTION .0400 – REGULAR MONTHLY CASH ADOPTION ASSISTANCE: GENERAL ASSISTANCE**  
4 **AND VENDOR PAYMENTS**

5  
6 **10A NCAC 70M .0401 REGULAR MONTHLY CASH ADOPTION ASSISTANCE DEFINED—AND**  
7 **VENDOR PAYMENTS**

8 (a) Regular monthly cash assistance payments are monthly payments made based on ~~means the~~ graduated rates set  
9 by the General Assembly ~~Assembly and reflected in the executed adoption assistance agreement. The payments may~~  
10 ~~be made to children who meet the requirements set out in Rule .0402 of this Section.~~

11 (b) Vendor payments are made directly to ~~the~~ a child's provider, including which may include the adoptive parents,  
12 for ~~medical~~ medical, therapeutic, psychological, and remedial services not covered by ~~Medicaid; Medicaid~~ therapeutic,  
13 psychological, and remedial services for children who meet the eligibility criteria set out in Rule .0402 of this Section.  
14 or another source if the requirements in this Subchapter are met.

15 (c) ~~Special Children Adoption Incentive Fund payments may be made to children who meet the requirements as set~~  
16 ~~out in Rule .0404 of this Section.~~

17  
18 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*

19 *Eff. July 1, 1982;*

20 *Amended Eff. July 18, 2002; July 1, 1991; September 1, 1986. 1986;*

21 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0402

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (a), lines 5-6, do you need the language, "based on graduated rates set by the General Assembly"? This is already stated in Rule .0401, so it appears repetitive.*

*In (a)(2), line 11, you will have already fully incorporated this standard in another Rule, so you can remove "and any subsequent amendments" and just end the sentence after the citation. Please note the same for (a)(2)(B), lines 14-15 and (a)(2)(C), line 19.*

*In (a)(2)(B), line 13, as well as (a)(2)(B), line 16, and (a)(3), line 24, please capitalize "State" as I believe you mean NC.*

*In (a)(2)(A), line 13, and (a)(2)(B), line 16, please replace "is" with "shall be" And so that I'm clear – it will be applicable when the child is an alien, as the term is used in the federal law?*

*You end (a)(1) and (3) with a semicolon, and (a)(2)(C) with a period. Please be sure to consistently end these. If you chose a semicolon, please be sure to insert and "and" or "or" at the end of (a)(2)(C), and end (a)(3) with a period.*

*In (a)(3), line 22, it seems repetitive to say "three" and then state "(i) through (iii)" I think using just one or the other would suffice.*

*In (b)(1), Page 2, line 19, what do you mean by "known and diagnosed"? Wouldn't "diagnosed" be sufficient?*

*On line 20, documented how? Are there requirements for this documentation?*

*In (c), line 27, consider replacing "must" with "shall" and just stating "The prospective adoptive parents shall." Then change the first word in (c)(3), line 32, with "Be" and (c)(4), line 34, to "Enter", and strike the "Shall" in (c)(5) through (7), Page 3.*

*In (c)(1), line 28, you say the agreement shall be entered into "at the time of or prior to the issuance of the adoption decree" and in (c)(4), you refer to "prior to the entry of the decree of adoption." I understand that issuance of an order can be different from entry, but what is the intent here?*

*In (c)(2), line 30, please capitalize "State" assuming you mean NC.*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

*Also on line 30, what “local laws” are you referring to?*

*In (c)(3), line 32, please consider stating, “Be legally responsible for the support of the child and provide support...”*

*In (c)(4), lines 35-36, I am simply asking – should this language be in Rule .0102(1)?*

*In (c)(7), Page 3, line 6, and elsewhere this is referred to, what is the “Responsible Individual’s List”? How can one find this? What does it contain?*

*Please end (c)(7), line 10, with a semicolon and “and” (assuming you are requiring all of these)*

*In (c)(8), line 11, replace “Item” with “Subparagraph”*

*Also in (c)(8), are the contents of this form what is contained in the Subparagraph? And to be clear, this form is different from the “North Carolina Adoption Assistance Agreement” Form DSS-5123, which is addressed by Rule .0102?*

*In (f), line 28, what do you mean by “change in their legal or financial responsibility”?*

*On line 29, please insert a comma after “address”*

*In (g)(3), Page 4, Parts (A), (B), and (C) should have capital letters. As this was published correctly, you will not show this as a change. Please refer to the version of this Rule that was published in the Register to format this Rule.*

*In (g)(3)(b), (g)(3)(C), and (g)(4), are the contents of these forms what is in the Rule?*

*Please end (g)(3)(b), line 7, with “and” assuming you want to require all three.*

*On lines 6 and 9, please insert a comma before “which”*

*Please begin (g)(4), line 12, with a lowercase letter to be consistent with the rest of the Paragraph.*

*Also on line 12, insert a comma after “reimbursed”*

*On line 15, insert a comma after “DSS-5115”*

*On line 18, the language, “... what the goals of the service is to accomplish,” seems confusing. Should this say, “what goals the service is intended to accomplish...”*

*On line 19, please insert a comma after “cost”*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021



1 10A NCAC 70M .0402 is readopted as published in 35:20 NCR 2186-2188 as follows:

2  
3 **10A NCAC 70M .0402 ELIGIBILITY REQUIREMENTS FOR REGULAR MONTHLY CASH**  
4 **ASSISTANCE PAYMENTS OR VENDOR PAYMENTS**

5 (a) Adoption assistance in the form of regular monthly cash assistance payments based on graduated rates set by the  
6 General Assembly and vendor payments may be made when ~~The the child shall meet~~ meets the following eligibility  
7 criteria:

- 8 (1) ~~The child is legally clear for adoption, or~~ was legally adopted;
- 9 (2) ~~The child is, or was, the placement responsibility of a North Carolina agency authorized to place~~  
10 ~~children for adoption at the time of adoptive placement; meets at least one of the following criteria:~~  
11 (A) is not an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(i) and any  
12 subsequent amendments. The public adoption agency shall make the determination in 42  
13 USC 673(a)(2)(A)(i)(II) for the state. 42 USC 673(a)(2)(B) is applicable when appropriate;  
14 (B) is an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(ii) and any  
15 subsequent amendments. The public adoption agency shall make the determination in 42  
16 USC 673(a)(2)(A)(ii)(II) for the state. 42 USC 673(a)(2)(B) is applicable when  
17 appropriate; or  
18 (C) the requirements set forth in 42 USC 673(a)(2)(C) and any subsequent amendments.
- 19 (3) ~~The child has special needs that create a financial barrier to adoption; or the child was legally~~  
20 ~~adopted and the child's special needs, though pre-existing, were detected after the adoption has been~~  
21 ~~finalized and if known would have created a financial barrier to adoption; An applicable child is not~~  
22 ~~eligible if he or she meets the three conditions in 42 U.S.C. 673(a)(7)(A)(i) through (iii), unless 42~~  
23 ~~U.S.C. 673(a)(7)(B) is applicable and the public adoption agency makes the requisite determination~~  
24 ~~for the state;~~
- 25 (4) ~~Reasonable but unsuccessful efforts have been made to place the child for adoption without the~~  
26 ~~benefits of adoption assistance;~~
- 27 (5) ~~The child is under 18 years of age; and was adopted after reaching the age of 16 but prior to reaching~~  
28 ~~the age of 18;~~
- 29 (6) ~~The child may continue to receive adoption assistance payments after his or her 18th birthday until~~  
30 ~~his or her 21st birthday if an adoption assistance agreement was entered into on or after his or her~~  
31 ~~16th birthday and meets any of the following conditions:~~
- 32 (A) ~~Completing secondary education or a program leading to an equivalent credential;~~
- 33 (B) ~~Enrolled in an institution that provides post-secondary or vocational education;~~
- 34 (C) ~~Participating in a program or activity designed to promote or remove barriers to~~  
35 ~~employment;~~
- 36 (D) ~~Employed for at least 80 hours per month; or~~

1 ~~(E) — Is incapable of doing any of the previously described educational or employment activities~~  
2 ~~due to a medical condition or disability.~~

3 ~~(b) In order for the child to receive regular monthly cash assistance payments, the adoptive parents must have entered~~  
4 ~~into an agreement with the child's agency prior to entry of the Decree of Adoption. The agreement shall have set forth~~  
5 ~~the respective responsibilities of the agency and the adoptive parents during the time of the child's eligibility for this~~  
6 ~~assistance.~~

7 ~~(c) A child's eligibility for vendor payments shall further be determined on the basis of documentation of a known~~  
8 ~~and diagnosed medical, mental, or emotional condition that will require periodic treatment or therapy of a medical or~~  
9 ~~remedial nature.~~

10 ~~A child's eligibility for vendor payments may be determined by the agency administering adoption assistance benefits~~  
11 ~~at any time during the child's minority if the medical, mental, or emotional condition, congenital problem, birth injury,~~  
12 ~~or other documented problem is determined to have been pre-existing at the time of his or her placement into an~~  
13 ~~adoptive home. Prior to the child's receipt of vendor payments, the adoptive parents must enter into an agreement with~~  
14 ~~the child's agency to indicate the extent to which they desire the child to participate in this component of the program.~~

15 ~~(d) North Carolina residency of the child and adoptive parents is not a requirement for the child to be eligible to~~  
16 ~~receive regular monthly cash assistance payments or vendor payments.~~

17 (b) For vendor payments, in addition to the criteria in Paragraph (a) of this Rule, the child shall also meet the  
18 following criteria:

19 (1) at or prior to the issuance of the adoption decree, have a known and diagnosed medical, mental, or  
20 emotional condition that is documented by a medical professional that will require ongoing  
21 treatment or therapy of a medical or remedial nature; or

22 (2) after the issuance of the adoption decree but while still under the age of 18, have been determined  
23 by the public adoption agency administering adoption assistance benefits to have a medical, mental,  
24 or emotional condition, congenital problem, birth injury, or other documented problem that is  
25 determined by a medical professional to have been preexisting at the time of his or her placement  
26 into an adoptive home.

27 (c) The prospective adoptive parents must meet the following criteria:

28 (1) Enter into an adoption assistance agreement with a public adoption agency at the time of or prior to  
29 the issuance of an adoption decree;

30 (2) Have a child placed with them in accordance with applicable state and local laws for purposes of an  
31 adoption who meets the requirements in Paragraph (a) of this Rule;

32 (3) are legally responsible for the support of the child and is providing support to the child, if the child  
33 is under the age of 18;

34 (4) entered into an adoption assistance agreement with the public adoption agency prior to entry of the  
35 decree of adoption. The adoption assistance agreement shall identify the specific services for the  
36 child that the parents want to be covered by vendor payments;

- 1           (5)     Shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and  
2           shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction  
3           that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and  
4           well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- 5           (6)     Shall provide the public adoption agency with the results of the criminal back history investigation.
- 6           (7)     Shall have a completed check of the North Carolina’s Responsible Individuals List and have a check  
7           of the results of child abuse and neglect central registry of states where the applicant has resided the  
8           past five years and not be placed on the North Carolina’s Responsible Individuals List or any other  
9           state’s child abuse and neglect central registry. The public adoption agency shall maintain a copy  
10          of the results in their file.
- 11          (8)     For vendor payments when the child meets the criteria in Item (b)(2) of this Rule, shall enter into  
12          an adoption assistance agreement amendment on a form provided by the Department (“North  
13          Carolina Division of Social Services Adoption Assistance Agreement Amendment” DSS-5307,  
14          which can be found at <https://www.ncdhhs.gov/divisions/dss>) that identifies and includes supporting  
15          documentation of the child’s preexisting condition and allows the parents to be reimbursed for  
16          vendor services related to the child’s preexisting condition.
- 17          (d)     All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed  
18          a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history,  
19          as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive  
20          parent is unfit to have responsibility for the safety and well-being of children as determined by the public  
21          adoption agency pursuant to G.S. 48-3-309.
- 22          (e)     Prior to the adoption, all individuals 18 years of age or older who reside in the prospective adoptive home  
23          shall have a completed check of the North Carolina’s Responsible Individuals List and have a check of the  
24          results of child abuse and neglect central registry of states where the applicant has resided the past five years  
25          and not be placed on the North Carolina’s Responsible Individuals List or any other state’s child abuse and  
26          neglect central registry. The public adoption agency shall maintain a copy of the results in their file.
- 27          (f)     Upon adoption, the adoptive parents shall comply with all the terms of the adoption agreement assistance  
28          and notify the public adoption agency of any change in their legal or financial responsibility of the adopted  
29          child, address or contact information.
- 30          (g) The public adoption agency shall:
- 31               (1)     prior to the adoption, make a determination as to whether the requirements of this Rule have been  
32               met on a form created by the Department (“Adoption Assistance Eligibility Checklist” Form DSS-  
33               5012 which can be found at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reasons  
34               that the eligibility requirements have been met and inform the prospective adoptive parents of the  
35               right to appeal the decision.
- 36               (2)     maintain a copy of the results of the criminal investigation of the foster parents and any individual  
37               18 years of age or older who resides in the prospective adoptive home.

1           (3) after the adoption:

2                   (a) annually send to the adoptive parents a letter reminding them to report any changes in their legal  
3                   or financial responsibility of the adopted child;

4                   (b) issue to the adoptive parents a notice if the adoption assistance payments are to be suspended  
5                   (“North Carolina Division of Social Services Adoption Assistance Suspension Notice” Form DSS-  
6                   5306 which can be found on the Department’s website at <https://www.ncdhhs.gov/divisions/dss>)  
7                   that shall identify the reason for the suspension and how to appeal the suspension.

8                   (c) issue to the adoptive parents a notice if the adoption assistance payments are to be terminated  
9                   (“North Carolina Division of Social Services Adoption Assistance Termination Notice” Form DSS-  
10                   5308 which can be found at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for  
11                   the termination and how to appeal the termination.

12           (4) In order for vendor services to be reimbursed the vendor must obtain prior approval by submitting  
13                   to the public adoption agency completed and signed forms provided by the Department (“Adoption  
14                   Assistance Vendor Payment Request Form” Form DSS-5112 and “Adoption Assistance Vendor  
15                   Payment Instructions for Providers” Form DSS-5115 which can be found at  
16                   <https://www.ncdhhs.gov/divisions/dss>) that includes documentation of the child’s diagnosis, the  
17                   child’s special needs related to the diagnosis, how the is service related to the special needs, what  
18                   the goals of the service is to accomplish, how achievement of goals be measured, the projected  
19                   duration of treatment or service, the projected total cost and two copies of the provider’s bill after  
20                   all health insurance claims have been processed.

21  
22   *History Note: Authority G.S. ~~48-1-101; 108A-48; 108A-49; 108A-50; 143B-153;~~*  
23                   *Eff. July 1, 1982;*  
24                   *Amended Eff. March 1, 2017; July 18, 2002; July 1, 1991; March 1, ~~1990.~~ 1990.*  
25                   *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0403

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (a), line 4, why are you saying "may be" eligible? Shouldn't this be "is"?*

*On line 5, you refer to issuance of the decree; in (b)(3)(C), you refer to entry of the decree. Shouldn't these be the same?*

*In (b), line 6, are "claims from service providers" related to vendor payments?*

*Also on line 6, should this be "regular monthly cash assistance" to be consistent with the verbiage in other rules?*

*On lines 7 and 8, will each county DSS set its own process?*

*In (b)(1), line 9, insert a comma after "medical providers"*

*In (b)(2), line 13, please insert a comma after "therapeutic" and delete the "services" immediately following it.*

*In (c), line 23, what is the "State Fund for Adoptive Children with Special Needs"?*

*On lines 25-27, I simply asking - do you still need this language, as it relates to adoptions from nearly 10 years ago?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0403 is readopted as published in 35:20 NCR 2188 as follows:

2  
3 **10A NCAC 70M .0403 PROCEDURES/REIMBURSEMENT OF ADOPTION ASSISTANCE BENEFITS**

4 (a) Adoption assistance benefits for which a child may be eligible shall become effective the first month following  
5 the month in which the Decree of Adoption is issued.

6 (b) Claims from service providers and monthly cash assistance shall be reimbursed or provided from adoption  
7 assistance funds in accordance with the Department of Health and Human Services county department of social  
8 services reimbursement process, subject to the following limitations:

9 (1) Vendor payments to adoptive parents, medical providers and to providers of psychological,  
10 therapeutic, and remedial services shall be made only for treatment or services given to alleviate or  
11 correct those conditions for which the child has been determined eligible to receive benefits.

12 (2) The total amount for vendor payments for any combination of medical services not covered by  
13 Medicaid including psychological, therapeutic services or remedial services for any child shall not  
14 exceed two thousand four hundred dollars (\$2,400.00) per State fiscal year.

15 (3) Vendor payments shall not be made to reimburse providers for the following:

16 (A) routine medical examinations;

17 (B) illnesses or conditions not related to or resulting from the conditions for which the child  
18 was determined eligible for vendor payments;

19 (C) services or treatment provided to the child prior to entry of the Decree of Adoption; and

20 (D) services or treatment that may have been provided on or after the first day of the month  
21 following the month in which the child's eligibility ceases.

22 (c) No local match, in terms of dollars, is required for funds for those children certified to receive benefits under the  
23 State Fund for Adoptive Children with Special Needs who are the placement responsibility of licensed private child-  
24 placing agencies with the exception of monthly cash payments for those children who are eligible for benefits from  
25 Title IV-E of the Social Security Act. No monthly cash assistance payments from the State Fund for Adoptive  
26 Children with Special Needs shall be made for any adoption in which the Decree of Adoption is issued on or after  
27 October 1, 2011.

28  
29 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*

30 *Eff. July 1, 1982;*

31 *Amended Eff. October 1, 2011; July 18, 2002; July 1, 1991; March 1, ~~1990~~, 1990;*

32 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0404 and .0405

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*As these are repeals of consecutive rules, please combine them pursuant to Rule 26 NCAC 02C .0403. Please combine them onto one form.*

*The rule submission will look like this:*

**10A NCAC 70M .0404 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND AND EFFECTIVE DATE**

**10A NCAC 70M .0405 PAYMENTS FROM THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND**

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16;  
Temporary Adoption Eff. January 1, 2001;  
Temporary Adoption Eff. August 31, 2001;  
Eff. July 18, 2002;  
Repealed Eff. August 1, 2021.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0404 is repealed as published in 35:20 NCR 2188 as follows:

2

3 **10A NCAC 70M .0404 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL CHILDREN ADOPTION**  
4 **INCENTIVE FUND AND EFFECTIVE DATE**

5

6 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16;*

7 *Temporary Adoption Eff. January 1, 2001;*

8 *Temporary Adoption Eff. August 31, 2001;*

9 *Eff. July 18, ~~2002~~ 2002;*

10 *Repealed Eff. August 1, 2021.*



1 10A NCAC 70M .0405 is repealed as published in 35:20 NCR 2188 as follows:

2

3 **10A NCAC 70M .0405 PAYMENTS FROM THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND**

4

5 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16;*

6 *Temporary Adoption Eff. January 1, 2001;*

7 *Temporary Adoption Eff. August 31, 2001;*

8 *Eff. July 18, ~~2002~~ 2002;*

9 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0501

**DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*On the Submission for Permanent Rule form, Box 8, please confirm this is the correct information.*

*In the Rule:*

*In (a), line 20, with prior approval from whom? If this is to address the requirement of (e)(4), then do you even need to say, "with prior approval", as you are requiring meeting the requirements of the Rule?*

*In (b)(2), line 26, what is the "North Carolina Adoption Resource Exchange"?*

*In (b)(3)(A), line 28, delete "that"*

*In (c), line 35, please state "...(ICPC), in G.S. 7B, Article 38, to provide..."*

*In (d), line 37, please replace "is:" with "shall be:"*

*In (d)(1)(C), Page 2, line 4, please replace "and" with "or"*

*In (d)(2), this does not follow the language in (d). Should this say, "only be available when an adoptive..."?*

*In (e)(3)(A), line 16, what is "legal placement"? Should this mirror the language in (e)(1) and state "legal placement responsibility"?*

*In (e)(3)(F), line 21, what do you mean by "specific"?*

*In (e)(4), how is this prior approval requested and upon what basis is it granted or denied?*

*In (e)(5), line 28, insert a comma after "DSS-5035"*

*On line 31, insert a comma after "service"*

*And are the contents of the form what is set forth in this Subparagraph?*

*In (i), Page 3, line 10, replace "will" with "with"*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021

*In the History Note, line 13, G.S. 48-1 was repealed in 1995. Please strike it.*

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

1 10A NCAC 70M .0501 is readopted as published in 35:20 NCR 2188-2189 as follows:

2  
3 **SECTION .0500 - OUT-OF-STATE ADOPTION FEES –GENERAL**

4  
5 **10A NCAC 70M .0501 PURPOSE OF OUT-OF-STATE ADOPTION SERVICE FEES**

6 ~~(a) Out of state adoption service fees are established as part of the state wide permanency planning effort for the~~  
7 ~~purpose of providing services to foster children to assist in finding permanent adoptive homes for them.~~

8 ~~(b) This adoption service fee is provided to county departments of social services for payment of service fees to obtain~~  
9 ~~adoption services from out of state adoption agencies, including assisting with the costs of:~~

10 ~~(1) — recruiting and securing an adoptive home for the child;~~

11 ~~(2) — pre placement services to family and child;~~

12 ~~(3) — post placement services to family and child;~~

13 ~~(4) — post finalization services.~~

14 ~~(c) The adoption service fee is designed to provide financial assistance to enable county departments of social services~~  
15 ~~having legal placement and consenting authority of children to expand their adoptive family recruitment through~~  
16 ~~referrals to out of state adoption agencies that specialize in hard to place children.~~

17 ~~(d) The Division of Social Services will provide a maximum of one thousand eight hundred dollars (\$1800) per child~~  
18 ~~for adoption service fees contracted for between a county department of social services and an authorized out of state~~  
19 ~~adoption agency.~~

20 ~~(a) When the requirements in this Rule have been met, with prior approval, the Department may reimburse in~~  
21 ~~part or in full a fee incurred by a public adoption agency for adoption services provided by an out-of-state~~  
22 ~~adoption agency. Public adoption agencies shall pay the out-of-state adoption provider directly and provide~~  
23 ~~proof of payment to the Department once payment is made.~~

24 ~~(b) The requirements of this Rule are met when the child:~~

25 ~~(1) is a child with special needs;~~

26 ~~(2) is registered on the North Carolina Adoption Resource Exchange;~~

27 ~~(3) has parents who have each had one of the following occur:~~

28 ~~(A) a court order that terminated parental rights;~~

29 ~~(B) executed a relinquishment of the child to a public or private child-placing agency;~~

30 ~~(C) consented to the adoption;~~

31 ~~(D) a finding by the court in the adoption proceeding that the parent's consent to the adoption~~  
32 ~~is not required; or~~

33 ~~(E) has died.~~

34 ~~(c) Out-of-state adoption agencies shall be licensed by their respective states and as approved by conditions of~~  
35 ~~the Interstate Compact on the Placement of Children (ICPC) Article 38 of G.S. 7B to provide adoptive~~  
36 ~~services for children with special needs.~~

37 ~~(d) The service fee charged by the specialized out-of-state adoption agency is:~~

1 (1) for one of the following services provided by the specialized adoption service agency:

2 (A) recruiting and securing an adoptive home for the child;

3 (B) pre-placement services for the family and child;

4 (C) post-placement services for the family and child; and

5 (D) post-finalization services.

6 (2) when an available adoptive family has not been identified in North Carolina.

7 (e) The public adoption agency:

8 (1) shall have custody and placement responsibility of the child and have the legal authority to consent  
9 to the child's adoption;

10 (2) shall make a written request to the Department for reimbursement for the out-of-state adoption  
11 service fee at the time that a decision has been made to place the child with a specific adoptive  
12 parent or parents who have had an approved home study that was conducted by the specialized out-  
13 of-state adoption agency;

14 (3) shall include in its reimbursement request to the Department written documentation that verifies the  
15 following:

16 (A) the public adoption agency has legal placement;

17 (B) the public adoption agency has the authority to legally consent to the adoption of the child;

18 (C) the child meets the requirements of this Rule;

19 (D) the out-of-state adoption agency meets the requirements of this Rule;

20 (E) the service fee to be charged meets the requirements of this Rule; and

21 (F) a quote for the service fee that includes the specific nature of the service to be provided  
22 and the amount of the fee;

23 (4) shall obtain prior approval from the Department prior to initiating contracted services where  
24 reimbursement is expected;

25 (5) Upon the Department's prior approval for an out-of-state adoption service fee, the public adoption  
26 agency shall enter into an agreement with the out-of-state adoption agency on a form provided by  
27 the Department ("North Carolina Division of Social Services Purchase of Out-of-State Adoption  
28 Services Agreement" Form DSS-5305 which can be found at  
29 <https://www.ncdhhs.gov/divisions/dss>) and provide a copy of the agreement to the Department. The  
30 agreement shall include the type and nature of the service to be provided, the fee amount to be  
31 charged, an agreement by the out-of-state adoption agency to provide the identified service and an  
32 agreement by the public adoption agency to pay for the identified service; and

33 (6) shall pay any amount of the out-of-state adoption agency service fee that is not approved by the  
34 Department.

35 (f) To the extent funds are available and the fee for services is not above the maximum allowable amount of one  
36 thousand eight hundred dollars (\$1,800) per child, the Department shall approve the public adoption agency's

1 request for prior approval for reimbursement of the out-of-state adoption service fee if it meets the  
2 requirements in this Rule and the Department notifies the public adoption agency in writing of the approval.

3 (g) The Department shall not reimburse a public adoption agency for any amount over one thousand eight  
4 hundred dollars (\$1,800) per child in out-of-state adoption service fees that are approved pursuant to this  
5 Rule.

6 (h) In order for the public adoption agency to receive reimbursement for a fee that has been approved pursuant  
7 to this Rule, the public adoption agency shall notify the Department of the date that payment of the fee is due  
8 and provide the Department with a copy of the bill for the out-of-state adoption service fee.

9 (i) Upon the public adoption agency's payment of the out-of-state adoption service fee, the public adoption  
10 agency shall provide the Department will a copy of the receipt of payment for the out-of-state adoption  
11 agency fee.

12  
13 *History Note: Authority G.S. 48-1; 143B-153;*  
14 *Eff. March 23, 1981;*  
15 *Amended Eff. July 1, ~~1991~~.1991;*  
16 *Readopted Eff. August 1, 2021.*

1 10A NCAC 70M .0502 is repealed as published in 35:20 NCR 2189 as follows:

2

3 **10A NCAC 70M .0502 GENERAL ELIGIBILITY REQUIREMENTS**

4

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

6 *Eff. March 23, 1981;*

7 *Amended Eff. October 1, 2008; July 1, 1991; June 1, ~~1990~~, 1990;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0601

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (a)(2)(B), line 17, what "applicable" laws are you referring to?*

*In (b), line 27, reimburse whom? The parents, as mentioned in (a)(1), line 12? If so, why not state that?*

*On line 29, so that I'm clear – the "sending state" is the state where the adoptee resided?*

*On line 30, should this be either "for reimbursing" or "for entering into an agreement" rather than both? If so, please chose one. If not, then please clarify this language.*

*On line 31, who is the "petitioner" here?*

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

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021



1 10A NCAC 70M .0601 is readopted as published in 35:20 NCR 2190 as follows:

2  
3 **SECTION .0600 - NON-RECURRING ADOPTION COSTS: GENERAL COSTS**

4  
5 **10A NCAC 70M .0601 PURPOSE OF REIMBURSEMENT OF NON RECURRING ADOPTION**  
6 **EXPENSES PUBLIC ADOPTION AGENCY REQUIREMENTS**

7 ~~Reimbursement of non recurring adoption expenses incurred by adoptive parents shall be provided by county~~  
8 ~~departments of social services in accordance with requirements set forth in this Section to facilitate the adoption of~~  
9 ~~children with special needs, and in accordance with procedures established by the State Division of Social Services.~~

10 (a) Public adoption agencies shall:

11 (1) at the time of or prior to the final decree of adoption, enter into an agreement for the reimbursement  
12 of nonrecurring adoption expenses with parents who adopt a child with special needs;

13 (2) prior to entering into an agreement for the reimbursement of nonrecurring adoption expenses, the  
14 public adoption agency shall:

15 (A) Make a determination that the child is a child with special needs; and

16 (B) Make a determination that the child has been placed for adoption in accordance with  
17 applicable laws;

18 (3) make payments for reimbursement of nonrecurring adoption expenses incurred by or on behalf of  
19 parents in connection with the adoption of a child with special needs if it enters into an agreement  
20 for the reimbursement of nonrecurring adoption expenses;

21 (4) retain copies of the complete application for reimbursement of nonrecurring adoption expenses,  
22 along with supporting document and receipts, and the agreement for the reimbursement of  
23 nonrecurring adoption expenses for auditing purposes; and

24 (5) upon receipt of a completed nonrecurring adoption expense reimbursement application, the public  
25 adoption agency shall submit the application to the Department.

26 (b) When there is an interstate placement of the child with special needs, the public adoption agency that agency  
27 that entered into an adoption assistance agreement shall also reimburse for the nonrecurring adoption  
28 expenses. When there has been an interstate placement of a child with special needs for the purpose of  
29 adoption and there is no adoption assistance agreement from the sending state, then the public adoption  
30 agency that is responsible for reimbursing for entering into an agreement for non-recurring adoption expenses  
31 shall be the public adoption agency where petitioner resides.

32  
33 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*

34 *Eff. July 1, 1991. 1991;*

35 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0602

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*What are "non-recurring adoption expenses"?*

*In (2), line 20, insert a comma after "DSS-5145"*

*In (2)(a), line 22, how will they "demonstrate" this?*

*In (2)(b)(iii), line 28, what is "reasonable and necessary"? Will this be determined entirely by the adoptive parents? If not, then some guidance on what this means is needed in Rule.*

*On line 29, what is "directly" related?*

*In (3), Page 2, line 6, replace "is" with "to be"*

*In (5), line 12, what is this List?*

*In (6), line 17, approval by whom?*

*On line 20, insert a comma after "DSS-5146"*

*In (7), the citation is 45 CFR 1356.41(e)(2). And why you do have "adoption" on line 24?*

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

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0602 is readopted as published in 35:20 NCR 2190-2191 as follows:

2  
3 **10A NCAC 70M .0602 DEFINITIONS ELIGIBLE NON-RECURRING ADOPTION EXPENSES**

4 ~~Non recurring costs for which reimbursement can be claimed are those costs associated with the adoption that are~~  
5 ~~incurred prior to or at the time of the adoption and which include:~~

- 6 (1) ~~reasonable and necessary adoption fees;~~
- 7 (2) ~~court costs;~~
- 8 (3) ~~attorney's fees;~~
- 9 (4) ~~adoptive home study;~~
- 10 (5) ~~physical examinations;~~
- 11 (6) ~~psychological examinations, when required by an agency;~~
- 12 (7) ~~supervision of the placement prior to entry of the final order of adoption; and~~
- 13 (8) ~~transportation and costs of lodging and food for the child and adoptive parents when necessary to~~  
14 ~~complete the adoptive process.~~

15 An adoptive parent shall receive reimbursement for non-recurring adoption expenses not to exceed two thousand  
16 dollars (\$2,000) when:

- 17 (1) The child placed with the parent for the purpose of adoption is a child with special needs;
- 18 (2) The adoptive parents have submitted a signed application for non-recurring adoption expenses on a  
19 form provided by the Department ("State of North Carolina Application For Reimbursement of  
20 Nonrecurring Adoption Costs" Form DSS-5145 which can be found at  
21 <https://www.ncdhhs.gov/divisions/dss>). The application shall:
  - 22 (a) demonstrate that the child is a child with special needs;
  - 23 (b) include acknowledgements by the adoptive parents that:
    - 24 (i) non-recurring adoption expenses are limited to a reimbursement of two-thousand  
25 dollars (\$2,000) per child and are contingent on the child being a child with special needs;
    - 26 (ii) the expenses that they are seeking reimbursement for were actually incurred by  
27 them;
    - 28 (iii) the expenses that they are seeking reimbursement for are reasonable and necessary  
29 adoption expenses which were directly related to the legal adoption of the child; and
    - 30 (iv) the expenses that they are seeking reimbursement for have not and will not be  
31 reimbursed by another source.
  - 32 (c) if the placement was an interstate placement, include an acknowledgement by the adoptive  
33 parents that the placement was made in accordance with the Interstate Compact on the  
34 Placement of Children adopted by both the sending and receiving state and any other  
35 applicable federal, state or local laws or rules related to the interstate adoptive placement  
36 of a child;
  - 37 (d) the type and amount of the expense that will be incurred by the adoptive parents; and

1 (e) include documentation that verifies the information in the application and receipts for any  
2 non-recurring service for which the parent is seeking reimbursement.

3 (3) The foster parents and all individuals 18 years of age or older who reside in the prospective adoptive  
4 home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-  
5 309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal  
6 conviction that would cause the prospective adoptive parent is unfit to have responsibility for the  
7 safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-  
8 3-309.

9 (4) The foster parents shall provide the public adoption agency with the results of the criminal history  
10 investigation, and the public adoption agency shall maintain a copy of the results.

11 (5) The adopting parents and all individuals 18 years of age or older who reside in the home shall have  
12 a completed check of the North Carolina’s Responsible Individuals List and have a check of the  
13 results of child abuse and neglect central registry of states where the applicant has resided the past  
14 five years and not be placed on the North Carolina’s Responsible Individuals List or any other state’s  
15 child abuse and neglect central registry. The public adoption agency shall maintain a copy of the  
16 results in their file.

17 (6) Upon approval of the application in Item (2) of this Rule, the adoptive parents shall enter into a  
18 binding written agreement with a public adoption agency for the reimbursement of non-recurring  
19 expenses on a form provided by the Department (“State of North Carolina Agreement for  
20 Reimbursement of Non-recurring Adoption Costs” Form DSS-5146 which can be found at  
21 <https://www.ncdhhs.gov/divisions/dss>) that meets the requirements in 42 USC 673(a)(3) and any  
22 subsequent amendments, and is signed at the time of or prior to the final decree of adoption.

23 (7) The application for reimbursement was filed in accord with the quarter rule outlined in CFR 45  
24 1356.41. E2 adoption.

25  
26 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*  
27 *Eff. July 1, 1991. 1991;*  
28 *Readopted Eff. August 1, 2021.*

1 10A NCAC 70M .0603 is repealed as published in 35:20 NCR 2191 as follows:

2

3 **10A NCAC 70M .0603 REQUIREMENTS**

4

5 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153; 42 U.S.C. 673;*

6 *Eff. July 1, 1991;*

7 *Amended Eff. March 1, ~~2017~~ 2017;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0604

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*On line 9, I suggest replacing "are prohibited from establishing" with "shall not establish"*

*And so that I'm clear – there won't be a cap on a single expense, but there is a cap on the total expenses of \$2000 in Rule .0602, right?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0604 is readopted as published in 35:20 NCR 2191 as follows:

2

3 **10A NCAC 70M .0604 REIMBURSEMENT FOR NON-RECURRING ADOPTION EXPENSES**  
4 **PROHIBITION ON REIMBURSEMENT CAPS**

5 ~~(a) The maximum amount for which adoptive parents will be reimbursed for all non-recurring adoption expenses~~  
6 ~~shall not exceed two thousand dollars (\$2,000).~~

7 ~~(b) No maximum rates for specific reimbursable services shall be established by the State Division of Social Services~~  
8 ~~or by any county department of social services.~~

9 The Department and any public adoption agencies are prohibited from establishing a maximum allowable  
10 reimbursement amount for any single eligible nonrecurring adoption expense.

11

12 *History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*

13 *Eff. July 1, ~~1991~~, 1991;*

14 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0701

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*On line 8, is this the “regular monthly cash assistance payments” in Rule .0401?*

*On line 9, this is the fund created by G.S. 108A-50.1, correct?*

*In (1), line 10, I suggest you just state “The child:”*

*In (1)(a), line 12, use the citation that was published – Rule .0102(e) through (h)*

*On line 13, end the sentence with a semicolon, not a period.*

*In (c), line 15, I suggest stating simply “was in the custody...”*

*In (1)(d), line 18, insert a comma after “school”*

*On line 19, what is ‘direct” daily supervision here? Does your regulated public know?*

*In (1)(f), line 23, state, “The child was legally adopted...”*

*In (2), line 24, I recommend stating “Each foster parent:”*

*In (2)(a), line 25, I recommend stating, “be licensed...”*

*In (2)(b), line 27, I believe “state” means NC both places and should be capitalized.*

*On line 27, insert a comma after “state” before “or local”*

*In (2)(c), line 32, please capitalize “State”*

*End (2)(c), line 34, with a semicolon, not a period.*

*In (2)(d), line 36, what is “accurately and truthfully” here? Who will determine this?*

*Please end (2)(d), line 37, with a semicolon, not a period.*

*In (2)(e), Page 2, line 2, please insert a comma after “State”*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021



*And should the second “state” be capitalized?*

*Please end (2)(h), line 9, with a semicolon.*

*In (2)(i), line 10, this is not the proper way to show the citation. Please spell it out, as you did when you published the Rule in the Register.*

*On line 12, please replace “is” with “to be”*

*On line 14, end the period with a semicolon.*

*In (3), line 23, please replace “is” with “to be”*

*In (4), line 25, state “The public adoption having custody of the child shall:”*

*In (4)(a), line 26, state, “voluntarily agree”*

*In (4)(b), line 29, as well as (4)(c), line 30, state “enter into...”*

*In (4)(d), line 31, state “maintain”*

*On line 33, what is “specifically” here?*

*Consider beginning (4)(d)(i), line 35, as well as (4)(d)(ii), Page 3, line 16, (4)(d)(iii), line 23, (4)(d)(v), line 28, (4)(d)(vi), line 29, and (4)(d)(viii), line 31, with “a”*

*End (4)(d)(l)(E), Page 3, line 15, with a semicolon.*

*In (4)(d)(ii), line 18, please insert a comma after “DSS-5213”*

*I take it that in all places a form is referenced in this Rule, that the contents of those form are what are contained in those Sub-Items?*

*In (4)(d)(iii), line 24, please insert a comma after “DSS-5215”*

*On line 26, there is no such citation. Did you mean Item (4) (which is what you published in the Register) and should thus say, “this Item”?*

*In (4)(d)(iv), line 27, what do you mean by “detailing”?*

*End (4)(d)(vi) with a semicolon.*

*End (4)(d)(ix) with a semicolon and “and”*

*In (4)(d)(x), line 34, replace “It makes” with “make”*

*In the History Note, why are you citing to G.S. 108A-49, 108A-50, and SL 2000-67?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0701 is adopted as published in 35:20 NCR 2191-2913 as follows:

2  
3 **SECTION .0700 – SPECIAL NEED ADOPTION INCENTIVE FUND**

4  
5 **10A NCAC 70M .0701 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL NEED ADOPTION**  
6 **INCENTIVE FUND AND EFFECTIVE DATE**

7  
8 Within the limits of available funding, the Department may approve and provide assistance in the form of monthly  
9 cash payments from the Special Need Adoption Incentive Fund when the following requirements have been met:

10 (1) Requirements for the child:

- 11 (a) Shall be a child with special needs and either has at least one of the factors or conditions  
12 listed in .0102(3) (e) through (h) of the definition in this Chapter of a child with special  
13 needs or meets the requirement in 42 USC 673(c)(2)(B)(ii).  
14 (b) Shall meet the requirements for monthly cash adoption assistance in this Chapter;  
15 (c) The child was in the custody and placement responsibility of an adoption agency for at  
16 least six consecutive months prior to the finalization of the adoption;  
17 (d) The special needs condition from Item (1) of this Rule is expected to limit the child's ability,  
18 both currently and throughout childhood, to function in the home, school or community  
19 absent eight or more hours of direct daily supervision or care for personal health care or  
20 prevention of self-destructive or assaultive behavior;  
21 (e) The child will have resided in the foster parent's home for six consecutive months prior to  
22 the finalization of the adoption; and  
23 (f) The child will have been legally adopted on or after January 1, 2001.

24 (2) The requirements for each foster parent are:

- 25 (a) licensed as a foster parent;  
26 (b) have been receiving monthly cash assistance from any governmental source, such as  
27 federal, state or local, above the state adoption assistance rate established by the General  
28 Assembly for the previous six consecutive months prior to the finalization of the adoption  
29 to provide the direct care or supervision required for the child's health condition that meets  
30 the requirement in Item (4) of this Rule;  
31 (c) prior to the entry of the adoption decree, the foster parent made a request for financial  
32 assistance in addition to the state adoption assistance rate established by the General  
33 Assembly in order to provide the care required for the child's health condition that meets  
34 the requirements in Item (4) of this Rule.  
35 (d) prior to the entry of the adoption decree, the foster parent provided the public adoption  
36 agency with a signed letter that truthfully and accurately details the daily supervision needs  
37 of the child.

- 1           (e) shall only be willing to adopt the child if the monthly cash assistance from any other  
2           governmental source, such as federal, State or local, is above the state adoption assistance  
3           rate received for foster parents and is not terminated upon the adoption of the child;  
4           (f) shall enter into an adoption assistance agreement with a public adoption agency prior to  
5           the decree of adoption;  
6           (g) entered into a supplemental agreement with a public adoption agency prior to the adoption  
7           decree;  
8           (h) agree to provide the public adoption agency with a copy of the adoption decree once the  
9           adoption has been finalized.  
10          (i) shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and –309  
11          and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal  
12          conviction that would cause the prospective adoptive parent is unfit to have responsibility  
13          for the safety and well-being of children as determined by the public adoption agency  
14          pursuant to G.S. 48-3-309.  
15          (j) shall require all individuals 18 years of age or older who reside in the prospective adoptive  
16          home to undergo a criminal history investigated pursuant to G.S. 48-3-303 and 49-3-309;  
17          and  
18          (k) shall provide the public adoption agency with the results of the criminal back history  
19          investigation.  
20          (3) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a  
21          completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not  
22          have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that  
23          would cause the prospective adoptive parent is unfit to have responsibility for the safety and well-  
24          being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.  
25          (4) The requirements for the public adoption agency having custody of the child are:  
26          (a) it voluntarily agrees to participate in the Special Need Adoption Incentive Fund and  
27          agrees to assume fifty percent of the payment above the State adoption assistance rate  
28          established by the General Assembly.  
29          (b) entered into an adoption assistance agreement as provided in this Rule.  
30          (c) entered into a supplement agreement as provided in this Rule.  
31          (d) maintains a record for the child that contains written documentation that the child and  
32          foster parent(s) have met or will meet the requirements for the foster child and the foster  
33          parents in this Rule at the time of the adoption decree and shall specifically include the  
34          following:  
35                  (i) written statement on a form provided by the Department (“Special Children  
36                  Adoption Incentive Fund Agency Verification of Legal Custody and Child’s  
37                  Living Arrangement For Past Six Months” Form DSS-5214, which can be found

1 at <https://www.ncdhhs.gov/divisions/dss>) signed by the Director of the public  
2 adoption agency that verifies:

3 (A) each foster parent is licensed;

4 (B) the public adoption agency has legal custody and placement  
5 authority of the child;

6 (C) the child has lived with the foster family for six consecutive  
7 months prior to the adoption;

8 (D) that the foster parent(s) have received monthly cash assistance  
9 from a governmental source in excess of the standard board rate  
10 established by the General Assembly for the previous six  
11 months on a continuous basis and the amount of the payments;  
12 and

13 (E) the foster parent(s) have stated a willingness to adopt this child  
14 if the monthly cash assistance that they have received as foster  
15 parents is not terminated.

16 (ii) written statement on a form provided by the Department (“Special Children  
17 Adoption Incentive Fund Verification of Child’s Health Condition” Form DSS-  
18 5213 which can be found at <https://www.ncdhhs.gov/divisions/dss>) signed by a  
19 medical professional qualified to diagnose the child’s condition prior to the  
20 adoption that demonstrates that the child meets all the requirements in Item (4) of  
21 this Rule;

22 (iii) written statement on a form provided by the Department (“Special Children  
23 Adoption Incentive Fund Verification of Child’s Need for Daily Supervision”  
24 Form DSS-5215 which can be found at <https://www.ncdhhs.gov/divisions/dss>)  
25 signed by the foster parent(s) prior to the adoption that demonstrates that the child  
26 meets all the requirements in (a)(4) of this Rule;

27 (iv) a letter from the foster parent(s) detailing the daily needs of the child.

28 (v) signed adoption assistance agreement;

29 (vi) signed supplement agreement

30 (vii) a copy of the foster parent’s license;

31 (viii) copy of the decree of adoption once it has been received pursuant to this Rule;

32 (ix) a copy of the results of the criminal investigation of the foster parents and any  
33 individual 18 years of age or older who resides in the prospective adoptive home.

34 (x) It makes a request, on behalf of the foster parent(s), prior to the adoption decree  
35 to the Department for Special Need Adoption Incentive Fund assistance for the  
36 foster parents.

- 1 History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153; S.L. 2000-67, s. 11.16;
- 2 Eff. August 1, 2021.

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0702

### **DEADLINE FOR RECEIPT: Friday, July 9, 2021**

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

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

*In (a), line 4, is this the State Division of Social Services?*

*In (b), what do you mean by “participating” county departments? Is this Item (4) of Rule .0701? And so that I’m clear – counties can opt out of participating in this fund?*

*In (c)(1), line 9, and (c)(2), line 10, what is “verification” here?*

*Consider beginning (c)(3) through (7) with “a” and perhaps state, “a copy of a written statement...”*

*In (d), what are the contents of this form and where can it be found?*

*In the History Note, why are you citing to G.S. 108A-49, 108A-50, and SL 2000-67?*

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

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: June 30, 2021

1 10A NCAC 70M .0702 is adopted as published in 35:20 NCR 2193-2194 as follows:

2

3 **10A NCAC 70M .0702 PAYMENTS FROM THE SPECIAL NEED ADOPTION INCENTIVE FUND**

4 (a) Payments from the Special Need Adoption Incentive Fund will be made by the Division of Social Services to the  
5 adoptive parent(s).

6 (b) Participating county departments of social services shall submit claims for payments to the Division of Social  
7 Services.

8 (c) The initial payment claim must include the following items:

9 (1) verification of child's placement authority;

10 (2) verification that the child has lived with the foster family six consecutive months;

11 (3) copy of written statement from a licensed physician regarding the child's health condition;

12 (4) copy of written statement from a licensed health, mental health, or developmental disability  
13 professional regarding the status of the child's condition;

14 (5) copy of signed adoption assistance agreement;

15 (6) copy of signed supplemental assistance agreement; and

16 (7) copy of Decree of Adoption.

17 (d) Monthly payment claims shall be submitted on the "Request for Special Children Adoption Incentive Fund  
18 Payment" form developed by the Division of Social Services.

19

20 History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153; S.L. 2000-67, s. 11.16;

21 Eff. August 1, 2021.