

1 10A NCAC 71K .0101 and 10 NCAC 70K .0102 is repealed as published in 35:20 NCR 2194 as follows:

2  
3 **10A NCAC 70K .0101 METHODS OF PROVISION**

4  
5 **10A NCAC 70K .0102 FREEDOM OF CHOICE**

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

8 *Eff. April 1, ~~1978~~. 1978;*

9 *Repealed Eff. August 1, 2021.*

10A NCAC 71L .0101 is readoption with changes as published in 35:20 NCR 2195-2196 as follows:

### 10A NCAC 71L .0101 NATURE AND SCOPE

~~The [State] Maternity Home Fund is [supported by state and federal funds and is administered by the North Carolina Division of Social Services. The State Maternity Fund is] a resourcee for [any] North Carolina residents experiencing problem pregnancies who for various reasons are unable to remain in their own homes during the prenatal period. [an unplanned pregnancy, regardless of age or marital status, who is unable to remain in her own home during the prenatal period and whose financial resources have been determined on a to be inadequate to meet residential costs in an approved living arrangement.]~~

(1) ~~The Maternity Home Fund is administered by the state division of social services and funded under Title IV B of the Social Security Act.~~

(2)(1) Application for [A State] Maternity Home [Funds application, form DSS-6187; "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services> for [an individuals] an individual needing out-of-home care during pregnancy must be submitted ~~experiencing problem pregnancies must be made~~ by a county department of social services or a North Carolina licensed private adoption agency to the North Carolina Division of Social Services for review and approval. The state [North Carolina] division [Division] of social [Social] services [Services] is responsible for monitoring the services of both the county departments of social services and the [North Carolina licensed] private adoption agencies.

(3)(2) The State Maternity Home Fund may assist with residential housing costs for up to six months ~~183 days, including up to two weeks of post-partum care for the mother only. following delivery, as needed by pregnant women in a living arrangement approved for Maternity Home Fund reimbursement.~~

(4)(3) The State Maternity Home Fund [cannot] shall not be utilized for hospitalization and delivery services or other medical ~~services. services. received outside the auspices of a licensed maternity home. Medical services supervision that is provided as a part of the regimen of services by a licensed maternity home are is included in the per diem cost of care. All medical services for State Maternity Fund clients residing in alternate living arrangements must be provided through other resources.~~

(4) The State Maternity Fund may be used to pay for residential care for a pregnant minor who is in the protective custody of a county department of social services when the minor is placed in a facility that is not approved to receive foster care funds.

(5) Living arrangements for which State Maternity Home [Funds] Fund payments may be utilized to pay for the cost of residential care include:

(a) A maternity [home;] home licensed by or meeting the maternity home standards of ~~the~~ licensing authority in the state in which the facility is located; the State of North Carolina;

- 1 (b) A foster family home for children licensed in North ~~Carolina~~; Carolina and used in  
 2 accordance with the license issued for that home;
- 3 (c) The home of a non-legally responsible relative in North ~~Carolina~~; Carolina jointly  
 4 approved for a specific client by the North Carolina Division of Social Services and the  
 5 agency requesting State Maternity Fund payments; or
- 6 (d) For individuals 18 and over, a boarding arrangement in North ~~Carolina~~; Carolina jointly  
 7 approved for a specific client by the North Carolina Division of Social Services and the  
 8 referring agency.

9

10 *History Note:* *Authority G.S. 143B-153;*  
 11 *Eff. April 1, 1978;*  
 12 *Amended Eff. July 1, 1990; January 1, ~~1983~~; 1983;*  
 13 *Readopted Eff. September 1, 2021.*

10A NCAC 71L .0102 is readopted with changes as published in 35:20 NCR 2196 as follows:

### 10A NCAC 71L .0102 APPROVAL CRITERIA

(a) A county department of social services or a North Carolina licensed private adoption agency is responsible for social work services [and planning] shall provide information, develop a service plan, and coordinate services for pregnant clients for whom they are requesting State Maternity Home Funds Fund payments. Social work services include assisting the client to decide to release the baby for adoption or continue parenting the baby.

(b) Marital status and age do not shall not affect eligibility for State Maternity Home Funds Fund payments.

(c) The client must be a resident of the State of North Carolina to be eligible for State Maternity Home Funds Fund payments.

(d) State Maternity Home Funds Fund payments shall supplement any other funds available from applicants, county departments of social services, families or private agencies. The agency requesting State Maternity Fund payments must [make a complete exploration of] make a complete exploration of review all financial resources available to the client. The agency must establish that resources available to the client are not adequate to meet residential costs.

(e) State Maternity Home Funds Fund payments to licensed maternity homes is based on the actual per diem cost of care. A maternity home shall maintain a valid maternity home license for a consecutive one year period and submit an audited financial statement to the North Carolina Department of Health and Human Services, Controller's Office (2019 Mail Service Center, Raleigh, NC 27699-2019) before the per diem rate is assigned. A licensed maternity home is eligible for reimbursement from maternity home funds in the second year of operation if this criteria is met and maternity home funds are available.

(f) State Maternity Home Funds Fund payments for care in a foster home is the North Carolina standard board rate for foster care assistance set by the General Assembly. The current standard board payment for foster care assistance can be obtained from the North Carolina Division of Social Services (952 Old U.S. 70 Highway, Black Mountain, NC 28711).

(g) State Maternity Home Funds Fund payments for care in the home of a non-legally responsible relative or in a boarding arrangement shall not exceed shall be the same as the North Carolina standard board rate for foster care assistance.

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

*Eff. April 1, 1978;*

*Amended Eff. November 1, 2009; July 1, 1990; January 1, ~~1983~~ 1983;*

*Readopted Eff. September 1, 2021.*

10A NCAC 71L .0103 is readopted with changes as published in 35:20 NCR 2196 as follows:

### 10A NCAC 71L .0103 APPLICATION PROCESS

(a) County departments of social services and North Carolina licensed private adoption agencies are responsible for submitting shall submit applications on behalf of an eligible individual to the family services section of the state division of social services for those clients for whom they accept basic casework responsibility. for the State Maternity Fund. Applications must be made Fund in writing on the "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>. ~~[and the]~~ The original must be submitted to the State Maternity Fund Coordinator, Family Support and Child Welfare Services Section, Division of Social [Services.] Services and shall include the following information: [Applications should not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed. Funds will not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures and all information necessary to make a decision regarding approval.]

~~(b) Licensed private adoption agencies are responsible for submitting applications directly to the family services section for those needy clients for whom they accept basic casework responsibility.~~

~~(c) Application for funds shall be made prior to admission to the Maternity Home Fund approved living arrangement. Emergency situations may be submitted for special consideration.~~

~~(d)~~ (b) The following information must accompany requests for funds. [funds:]

- ~~(1) — social study and service plan; This information must include the reason the individual experiencing the problem pregnancy is unable to remain in her own home, a description of the recommended living arrangement, the plan of services for the natural parents and their infant and a description of financial resources to be considered;~~
- ~~(2) — notice of acceptance of the client by a maternity home or another recommended living arrangement;~~
- ~~(3) — anticipated placement date and expected date of delivery.~~
- (1) the reasons the client cannot remain in her own home (own home includes a foster care facility in which a child resides);
- (2) a description of the client's financial resources;
- (3) household gross monthly income(s), names and ages of other minor children in household, and statement of US citizenship or immigration status;
- (4) a description of the recommended living arrangement and why it is appropriate;
- (5) the proposed plan of services for the biological parents and the child;
- (6) an explanation of why the necessary services cannot be obtained for the client in a community-based living arrangement;
- (7) a tentative agreement to accept the client by the individual responsible for maintaining the recommended living [arrangements] arrangement; and

(8) the anticipated date of admission and the expected date of delivery (month, day, and year for both).

(b) Applications shall not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed.

(c) Applications that do not contain all information required by this Rule shall not be processed.

(d) Funds shall not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures.

~~(e)~~~~(c)~~(e) Upon receipt of notice that funds have been approved, unless the placement is to be in a licensed maternity home, the agency requesting funds must negotiate with the individual responsible for maintaining the living arrangement a written agreement setting out mutually agreed upon responsibilities.

~~(f)~~~~(d)~~(f) Payments shall not exceed the amount initially approved.

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

*Eff. April 1, 1978;*

*Amended Eff. January 1, 1983. 1983:*

*Readopted Eff. September 1, 2021.*

10A NCAC 71L .0105 is readopted with changes as published in 35:20 NCR 2197 as follows:

### 10A NCAC 71L .0105      **PROCEDURE FOR APPROVAL AND PAYMENT**

(a) All State Maternity Fund forms, correspondence, and monthly billing statements shall be addressed to the State Maternity Fund Coordinator, whose contact information can be found on the Application for State Maternity Fund DSS-6187, “Application for State Maternity Fund” Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>.

~~(a)~~(b) Upon receipt of a completed Application for State Maternity Fund DSS-6187 form, “Application for State Maternity Fund” Form DSS-6187, ~~the social study, and related information,~~ the North Carolina ~~division~~ Division of ~~social services~~ Social Services ~~will shall~~ make a decision regarding approval for ~~State Maternity Home~~ ~~Funds~~ Fund payments and the recommended type of living arrangement ~~based on individual circumstances.~~ per the application. Notice of action taken ~~will shall~~ be promptly communicated to the county department of social services or to the private adoption agency submitting the application with a copy routed to the applicable maternity home, if maternity home care is the approved living arrangement. or the approved living arrangement.

~~(b)~~(c) County departments of social services and North Carolina licensed private adoption agencies ~~will shall~~ submit a designated voucher form to the family services section of notification to the state division of social services Division of Social Services when the client is admitted to or discharged from the approved living arrangement; ~~arrangement.~~ and if the approved living arrangement is other than a maternity home, a copy of the written agreement negotiated with the individual responsible for maintaining the living arrangement.

(c) One check will be written each month for each approved living arrangement as appropriate identifying the names of the clients to whom the payment should be credited.

(d) If the approved living arrangement is other than a maternity home, the service agency shall submit a completed copy of the DSS-6189, State Maternity Fund Residential Care Provider Agreement, “State Maternity Fund Residential Care Provider Agreement” Form DSS-6189 negotiated with the individual responsible for maintaining the living arrangement, to the North Carolina Division of Social Services before payment may be made to the residential care provider.

(e) At the end of each month the State Maternity Fund Coordinator will generate a monthly reimbursement worksheet for each maternity ~~home.~~ home or alternate living arrangement. ~~After the worksheet is reviewed, corrected and verified, an~~ An authorized ~~official~~ individual from the maternity home or authorized living arrangement shall review, correct, and certify ~~that all~~ information ~~reported is correct by signing the signature block of the worksheet.~~ reported. The ~~worksheet is then mailed~~ authorized individual shall then mail the worksheet to the North Carolina Division of Social Services for a signature by the State Maternity Fund Coordinator for approval and submission to the North Carolina Department of Health and Human Services Controller’s ~~Office.~~ Office (2019 Mail Service Center, Raleigh, NC 27699-2019).

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

Eff. April 1, 1978;

- 1 *Amended Eff. January 1, ~~1983~~ 1983;*
- 2 *Readopted Eff. September 1, 2021.*



10A NCAC 71L .0106 is adopted with changes as published in 35:20 NCR 2197 as follows:

**10A NCAC 71L .0106 DEVELOPMENT OF SERVICE PLAN**

(a) ~~[The service agency's plan for providing services to the client and her child shall be transmitted to the North Carolina Division of Social Services as a part of the DSS 6187 Application for State Maternity Fund.] The Pregnancy Services caseworker shall complete a needs assessment. If during the process of assessing the needs of a pregnant minor, abuse or neglect is suspected, the Pregnancy Services caseworker shall notify the agency's Child Protective Services Unit. After the assessment is completed, the caseworker and the client shall jointly finalize a specific plan for services, building in time frames for action and identifying channels for accessing resources to be provided by outside agencies.]~~

(b) ~~[A through needs assessment shall be completed at services intake or by the Pregnancy Services caseworker, in conjunction with alternative counseling. If during the process of assessing the needs of a pregnant minor, abuse and/or neglect is suspected, the Pregnancy Services caseworker shall notify the agency's Child Protective Services Unit. After the assessment is completed, the caseworker and the client shall jointly finalize a specific plan for services, building in time frames for action and identifying channels for accessing resources to be provided by outside agencies.] The service agency's plan for providing services to the client and her child shall be transmitted to the North Carolina Division of Social Services as part of the "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>.~~

(c) As needed and appropriate, the plan shall address the following:

- (1) Counseling needs;
- (2) Medical Care;
- (3) Medical Assistance;
- (4) Nutritional Needs;
- (5) Residential or Housing needs;
- (6)-Educational needs;
- (7) Employment Training;
- (8) Parenting Education;
- (9) Financial planning;
- (10) Child ~~[Care; or]~~ Care; and
- (11) Family Planning.

(d) While the client is in residential care, the supervising agency shall maintain ~~[periodic]~~ contact with the client.

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

*Eff. September 1, 2021.*

1 10A NCAC 71L .0107 is adopted with changes as published in 35:20 NCR 2197 as follows:

2  
3 **10A NCAC 71L .0107 ASSESSING THE APPROPRIATENESS OF ALTERNATIVE TYPES OF LIVING**  
4 **ARRANGEMENTS FOR INDIVIDUAL CLIENTS**  
5

6 (a) The Pregnancy Services caseworker ~~[is responsible for evaluating]~~ shall evaluate the appropriateness of any  
7 community living arrangement based upon the aspects set forth in Paragraph (c) of this Rule for which the State  
8 Maternity Fund is requested, whether it is a boarding arrangement, the home of a non-legally responsible relative, or  
9 a licensed family foster home.

10 (b) When residential care in a family foster home is being considered for a minor, the Pregnancy Services caseworker  
11 shall request the assistance of the Foster Care Services staff in determining whether a home is available, and complete  
12 an assessment of the placement for the pregnant client and for all other persons residing in the home. A decision shall  
13 be reached by the Foster Care worker and the Pregnancy Services caseworker as to the individual assuming  
14 responsibility for case management.

15 (c) The following aspects of a community living arrangement shall be explored in determining the appropriateness for  
16 individual placements:

17 (1) Location and surroundings;

18 (2) Physical environment;

19 (3) Emotional environment;

20 (4) Stability of living arrangement; and

21 (5) Emergency transportation.

22 (d) Living arrangements for an expectant mother for whom the State Maternity Fund is being requested shall be  
23 selected on the basis of an assessment of the client's individual circumstances and service needs.

24  
25 *History Note: Authority G.S. 143B-153;*

26 *Eff. September 1, 2021.*

1 10A NCAC 71O .0101, 10A NCAC 71O .0102, and 10A NCAC 71O .0103 were proposed as amendments as  
2 published in 35:20 NCR 2198 and are now being repealed as follows:

3  
4 **10A NCAC 71O .0101 SERVICES AVAILABILITY**

5  
6 **10A NCAC 71O .0102 SERVICE GOALS**

7  
8 **10A NCAC 71O .0103 METHODS OF SERVICE PROVISION**

9  
10 *History Note: Authority G.S. 143B-153; ~~P.L. 94-23~~;*

11 *Eff. March 22, ~~1980~~. 1980;*

12 *Repealed Eff. September 1, 2021.*

10A NCAC 71O .0104 is readopted with changes as published in 35:20 NCR 2198 as follows:

### 10A NCAC 71O .0104 ELIGIBILITY

(a) Refugee assistance services as described in P.L. 96-212 and P.L. 96-422 [8 U.S.C. § 1522] are available only to individuals who are determined to be refugees as defined in these laws. [this law.] For purposes of this Subchapter, 8 U.S.C. § 1522, 45 CFR 400.5, 45 CFR 400.154, 45 CFR 400.155, and 45 CFR 400.156 are hereby incorporated by reference including any subsequent amendments and editions, and may be accessed at [www.gpo.gov](http://www.gpo.gov) or [www.congress.gov](http://www.congress.gov) at no charge.

(b) Any refugee assistance service may be provided to any refugee who is receiving cash assistance, including supplementary assistance, or whose gross family income is not more than 90 percent of the state's median income as issued by the administration for public services and adjusted for family size, except that vocational training may not be provided to a refugee who is not 16 years of age or older. [To receive Refugee Support Services the client] For purposes of assistance and services as set forth in 8 U.S.C. § 1522, the individual: [must be a Refugee, admitted under INA § 207; Asylees, granted asylum under INA § 208; Cuban and Haitian Entrants, as defined under federal regulations (45 CFR § 401.2); Certain Amerasians; Trafficking Victims who have been issued an Office of Refugee Resettlement certification letter; Special Immigrant Visa holders from Iraq and Afghanistan; or Legal Permanent Residents (LPR) who were admitted originally as one of the previous statuses.]

(1) must be a Refugee, admitted under INA § 207;

(2) Asylees, granted asylum under INA § 208;

(3) Cuban and Haitian Entrants, as defined under federal regulations (45 CFR § 401.2);

(4) Certain Amerasians; Trafficking Victims who have been issued an Office of Refugee Resettlement certification letter;

(5) Special Immigrant Visa holders from Iraq and Afghanistan; or

(6) Legal Permanent Residents (LPR) who were admitted originally as one of the previous statuses.

(c) Certain refugee assistance services may be provided in accordance with special eligibility criteria as follows: [The Refugee Assistance Program (RAP) Support Services Program provides specifically defined and designated services to refugees to facilitate achieving self support and self sufficiency as quickly as possible following their arrival in North Carolina. The program provides funding for refugee specific support services that are linguistically and culturally appropriate. Refugee service providers may be public or private, not for profit agencies that provide direct services specifically designed to:] The State Division of Social Services, through its State Refugee Office, is the State agency responsible for funding and the development of a State Plan for refugee assistance and services, pursuant to 45 CFR 400.5

(d) Refugee service providers may be public or private, not-for-profit agencies that provide direct services pursuant to 45 CFR 400.154 through 45 CFR 400.156. Eligibility for refugee assistance and services may be determined by county departments of social services, the State Division of Social Services, or by provider agencies from which the Division is purchasing services under a purchase agreement or contract which specifies the provider agency's responsibility for eligibility determination. The agency that determines eligibility shall be responsible for case

management for refugee assistance and services and for meeting program requirements for reporting and case documentation.

(e) Refugee service providers shall:

- (1) Outreach services and social adjustment services may be provided to refugees without regard to age or family income; Assist refugees in obtaining the skills to achieve economic self sufficiency, including job readiness, skills training, vocational education, job placement employment follow up, and other employment services; Provide assistance and services that are defined and designated to facilitate self-support and self-sufficiency;
- (2) English as a second language (ESL) instruction, and career counseling, job orientation, and job placement and follow up components of manpower employment services, may be provided without regard to family income to refugees who are 16 years of age or older and who are not full time students in elementary or secondary school. Provide training in English language instruction; Provide assistance and services that are linguistically and culturally appropriate;
- (3) Assessment services, and development of an individual employability plan as a component of manpower employment services may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full time student in elementary or secondary school. Provide social adjustment services such as case management, cultural orientation, health management, and support services such as interpretation, translation, and transportation; and Assist refugees in obtaining the skills to achieve economic self-sufficiency, including job readiness, skills training, vocational education, job placement employment follow-up, and other employment services;
- (4) Offer assessment services and development of an individual employability plan as a component of employment services which may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full time student in elementary school or secondary school. Provide training in English language instruction;
- (5) Provide social adjustment services such as case management, cultural orientation, health management, and support services such as interpretation, translation, and transportation; and
- (6) Offer assessment services and development of an individual employability plan as a component of employment services which may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full-time student in elementary school or secondary school.

(d)(f) For purposes of determining eligibility, "family" is defined as one or more adults and children, if any, related by blood, or law, and residing in the same household. Emancipated minors and children living under the care of individuals not legally responsible for that care are considered one person families. Where adults reside together, each may be considered a separate family, or all adults, living in the same household may be considered as a family unit, whichever is more beneficial to a refugee refugees in determining his-their eligibility on the basis of family size and income; provided that spouses must be considered a family unit.

(e) Eligibility for refugee assistance services may be determined by county departments of social services, or by the Division of Social Services, or by provider agencies from which the division [Division] is purchasing services under a purchase agreement or contract which specifies the provider agency's responsibility for eligibility determination. The agency that determines eligibility shall be responsible for case management for refugee assistance services and for meeting program requirements for reporting and case documentation.

*History Note: Authority G.S. 143B-153; P.L. 96-110; 96-212; 96-422; 8 U.S.C. § 1522; 45 CFR 400.5; 45 CFR 400.154; 45 CFR 400.155; 45 CFR 400.156*  
*Eff. March 22, 1980;*  
*Amended Eff. May 1, 1990; 1990;*  
*Readopted Eff. September 1, 2021.*

1 10A NCAC 72 .0102 is amended with changes as published in 35:20 NCR 2219-2220 as follows:

3 **10A NCAC 72 .0102 DEFINITIONS**

4 The following definitions shall apply in this Chapter:

- 5 (1) "Academic Year" means a period of time in which a student completes the equivalent of two  
6 semesters or three quarters of academic work.
- 7 (2) "Approved Institution" means one of the branches of the University of North Carolina or one of the  
8 North Carolina community colleges.
- 9 (3) "Case Management Services" are a set of services provided to participating students and their  
10 families ~~which~~ that are designed to support the student's postsecondary education experience. Such  
11 services include:
  - 12 (a) processing and accepting applications for the program;
  - 13 (b) certifying each eligible student and the amount of the Eligible Student's Scholarship and  
14 communicating this information to the North Carolina State Education Assistance  
15 Authority to authorize release of funds;
  - 16 (c) compiling accurate databases of resources in the students' academic communities that can  
17 help students succeed in school;
  - 18 (d) providing or arranging for counseling regarding academic issues as well as other concerns  
19 that may affect the performance of the student;
  - 20 (e) communicating with and advising students on academic issues;
  - 21 (f) providing contact with students throughout their postsecondary experience;
  - 22 (g) responding to students experiencing crisis;
  - 23 (h) providing or arranging for emergency housing up to two weeks for students who have no  
24 place to live when school is out of session;
  - 25 (i) if allowed by the student, being available to consult with student's families and staff of  
26 local Departments of Social Services regarding student's postsecondary experiences;
  - 27 (j) monitoring grades and the individual's course of study, and evaluating progress toward  
28 goal achievement;
  - 29 (k) maintaining records for each individual student regarding their academic progress and  
30 assistance provided; and
  - 31 (l) providing quarterly program reports of case management services to the contract  
32 administrator at the State Division of Social Services.
- 33 (4) "Cost of Attendance" ~~Costs of attendance are~~ is defined by the Higher Education Act of 1965, which  
34 includes tuition, fees, room, board, supplies, transportation, and personal expenses. This amount is  
35 established by each institution. This grant is limited to cost of attendance less other grants or  
36 scholarships from federal, state, or other sources.

- (5) "Education Training Voucher" (ETV) means the Federal scholarship program funded by the John Chafee Foster Care Independence Act 42 U.S.C. 677, which benefits individuals who were in the custody of the Department of Social Services at or after age 17 or who were adopted or exited to guardianship on or after their 16<sup>th</sup> birthday.
- (6) "Eligible Student" means a student who:
- (a) has received a high school diploma or GED and has not yet reached his or her 26<sup>th</sup> birthday;
  - (b) is pursuing an undergraduate degree, diploma, or certificate at an approved institution as a half-time student or a full-time student, as defined in 34 CFR 668.2;
  - (c) was in the custody of a North Carolina local Department of Social Services on his or her 18<sup>th</sup> birthday, or ~~was~~ adopted from the North Carolina foster care system on or after his or her 12<sup>th</sup> ~~birthday;~~ ~~birthday,~~ and or exited foster care to a permanent home through the Guardianship Assistance Program; and
  - (d) is making satisfactory academic progress toward completion of the course of undergraduate study as defined in 34 CFR 668.34.
- (7) "Fiscal Year" means each annual period ~~which~~ that begins on July 1 in any calendar year and ends on June 30 the following calendar year.
- (8) "Higher Education Act" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq.
- (9) "Matriculated Status" means the student is recognized by the approved institution as a student in a defined program of study leading to an associate's degree, baccalaureate degree, diploma or certificate.
- (10) "Pell Grant" means the needs based scholarship program administered by the federal government to benefit low income baccalaureate and postgraduate students.
- (11) "Program" means the Postsecondary Educational Support Scholarship program, also known as NC Reach, established by Section 10.34(a) of Session Law 2007-323.
- (12) "Residence Manual" means the most current edition of A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes as adopted by the Board of Governors of the University of North Carolina and available free of charge at [https://ncresidency.cfnc.org/residencyInfo/pdf/RDS\\_Guidebook.pdf](https://ncresidency.cfnc.org/residencyInfo/pdf/RDS_Guidebook.pdf).
- (13) "Scholarship" means an award for education awarded to an eligible student under the program.

*History Note:* Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57; 34 CFR 668.34; 34 CFR 677;  
 Eff. June 1, 2008;  
 Readopted Eff. September 1, ~~2019~~; 2019;  
 Amended Eff. September 1, 2021.





**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

July 15, 2021

Paris Penny  
Social Services Commission  
**Sent via email only to: [paris.penny@dhhs.nc.gov](mailto:paris.penny@dhhs.nc.gov)**

Re: Extension of the Period of Review for Rule 10A NCAC 71K .0101 and .0102; 71L .0101, .0102, .0103, .0104, .0105, .0106, and .0107; 71O .0101, .0102, .0103, and .0104; 71U .0101, .0201, .0203, .0204, .0205, .0206, .0207, .0209, .0210, .0211, .0212, .0213, .0214, .0215, .0216, .0302, .0303, .0401, .0402; 71V .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0201, .0202, .0203, .0204, and .0205; 71W .0101, .0302, .0303, .0304, .0403, .0404, .0405, .0407, .0408, .0410, .0412, .0413, .0502, .0503, .0601, .0602, .0603, .0604, .0605, .0606, .0607, and .0704; and 72 .0102

Dear Ms. Penny:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the technical change requests.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber May  
Commission Counsel

cc: Joel Johnson

**Donald R. van der Vaart**, Director  
Chief Administrative Law Judge

**Fred G. Morrison, Jr.**  
Senior Administrative Law Judge

**Linda T. Worth**  
Deputy Director

*An Equal Employment Opportunity Employer*

1711 New Hope Church Road, Raleigh, NC 27609  
Telephone: (984) 236-1850 | Facsimile: (984) 236-1871  
[www.oah.nc.gov](http://www.oah.nc.gov)

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71K .0101 and .0102

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

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

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff 1.

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

*Please combine these repeals in accordance with 26 NCAC .0406(b). Examples of consecutive repeals can be found at*

*<https://files.nc.gov/ncoah/documents/Rules/Examples---Permanent-Repeal-Of-Consecutive-Rules-For-Publication-In-The-Ncac.pdf>.*

*10A NCAC 71K .0101 and .0102 should look like the following:*

10A NCAC 71K .0101 and .0102 are repealed as published in 35:20 NCR 2194 as follows:

**10A NCAC 71K .0101    METHODS OF PROVISION**  
**10A NCAC 71K .0102    FREEDOM OF CHOICE**

*History Note:    Authority G.S. 143B-153;  
                       Eff. April 1, ~~1978~~ 1978;  
                       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.

Amber May  
 Commission Counsel  
 Date submitted to agency: July 2, 2021

1 10A NCAC 71K .0101 is repealed as published in 35:20 NCR 2194 as follows:

2

3 **10A NCAC 71K .0101 METHODS OF PROVISION**

4

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

6 *Eff. April 1, ~~1978~~ 1978;*

7 *Repealed Eff. August 1, 2021.*

1 10A NCAC 71K .0102 is repealed as published in 35:20 NCR 2194 as follows:

2

3 **10A NCAC 71K .0102 FREEDOM OF CHOICE**

4

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

6 *Eff. April 1, ~~1978~~ 1978;*

7 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC Subchapter 71L

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

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

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

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

*What is your specific authority for this Rule? Is it G.S. 143B-153(2)(a) or 143B-153(2a)? Is the program regarding maternity home fund a federal or state program? If so, please provide the relevant citation for the program.*

*Please be consistent in the capitalization of the Division.*

*Please add any additional authority for this Subchapter to the History Note of these Rules.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC Subchapter 71L .0101

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

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

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

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

*Overall, what is the intent of this Rule? Is it to provide requirements for the mother or the kinds of homes eligible to receive funds? Would it make sense to separate these out for purposes of clarity? It appears as though there are a mix of requirements in different rules.*

*What is the intent of lines 4-9? What directives is it intended to provide to your regulated public? Is this simply for informational purposes? If it is intended to provide substantive requirements, please make that clear. For example, on lines 7-11, is it required that 1) the pregnancy was unplanned; 2) the mother is unable to stay in her own home; and 3) the mother's financial resources are not adequate to meet? Please consider breaking out the requirements for clarity purposes. I note that additional requirements appear to be provided in .0102, such as being a resident of the State of NC. I note that I don't see anywhere in these Rules a clear overview of the requirements for an individual to receive these funds. Alternatively, it appears as though there is some repetitive information, which is causing some clarity concerns.*

*On line 8, how will it be determined whether the financial resources are adequate?*

*On line 9, are the approval standards provided elsewhere in rule, statute, or federal law?*

*Just to be sure that I understand – these funds cannot be used for either 1) a planned pregnancy; or 2) for a mother to stay in her own home if she can no longer pay rent? If these are requirements, please make that clear.*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*In Item (1), please remember that the smallest unit of text to be changed is an entire word. As such, the correct formatting for removing the s in “funds” is as follows: ~~funds~~ fund*

*In (1), are the contents of the application set forth elsewhere in rule, statute, or federal law? Are these provided in .0103 of this Subchapter? If so, please confirm.*

*In (1), please change “an individuals” to either “individuals” or “an individual”*

*In (1), are the approval standards set forth elsewhere in rule or statute? Are these provided in .0102 of this Subchapter?*

*In (1), please change “is responsible for monitoring” to “shall monitor.” Also, what is the Division monitoring? Compliance with rules?*

*In (2), how is this determined? What factors will be used in determining how long the housing costs will be covered? Also, what is meant by “the mother only”? What if she has other children? How about a spouse?*

*In (3), please change “cannot” to “shall not”*

*Is Item (3) necessary?*

*In (5)(a), please remove the semi-colon following “a maternity home”*

*In (5)(a), what are the maternity home standards? Please provide the appropriate cross-reference.*

*In (5)(b), is there a cross-reference for the license of foster family homes? I assume that they’re licensed in accordance with statutes and rules?*

*In (5)(c) and (d), how is the Division to determine whether the living arrangement will be approved? What factors will be used?*

*In (5)(c), what is a “non-legally responsible relative”?*

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

10A NCAC 71L .0101 is readoption as published in 35:20 NCR 2195-2196 as follows:

### 10A NCAC 71L .0101 NATURE AND SCOPE

The State Maternity Home Fund is supported by state and federal funds and is administered by the North Carolina Division of Social Services. The State Maternity Fund is a resource for any North Carolina residents experiencing problem pregnancies who for various reasons are unable to remain in their own homes during the prenatal period, an unplanned pregnancy, regardless of age or marital status, who is unable to remain in her own home during the prenatal period and whose financial resources have been determined to be inadequate to meet residential costs in an approved living arrangement.

(1) ~~The Maternity Home Fund is administered by the state division of social services and funded under Title IV B of the Social Security Act.~~

(2)(1) ~~Application for A State Maternity Home Funds application, form DSS-6187, for an individuals needing out-of-home care during pregnancy must be submitted experiencing problem pregnancies must be made~~ by a county department of social services or a North Carolina licensed private adoption agency to the North Carolina Division of Social Services for review and approval. The ~~state North Carolina division~~ Division of social Social services Services is responsible for monitoring the services of both the county departments of social services and the North Carolina licensed private adoption agencies.

(3)(2) ~~The State Maternity Home Fund may assist with residential housing costs for up to six months 183 days, including up to two weeks of post-partum care for the mother only, following delivery, as needed by pregnant women in a living arrangement approved for Maternity Home Fund reimbursement.~~

(4)(3) ~~The State Maternity Home Fund cannot be utilized for hospitalization and delivery services or other medical services. services, received outside the auspices of a licensed maternity home. Medical services supervision that is provided as a part of the regimen of services by a licensed maternity home are is included in the per diem cost of care. All medical services for State Maternity Fund clients residing in alternate living arrangements must be provided through other resources.~~

(4) The State Maternity Fund may be used to pay for residential care for a pregnant minor who is in the protective custody of a county department of social services when the minor is placed in a facility that is not approved to receive foster care funds.

(5) Living arrangements for which State Maternity Home Funds payments may be utilized to pay for the cost of residential care include:

- (a) A maternity home; licensed by or meeting the maternity home standards of the licensing authority in the state in which the facility is located; the State of North Carolina;
- (b) A foster family home for children licensed in North Carolina; Carolina and used in accordance with the license issued for that home;



- 1 (c) The home of a non-legally responsible relative in North ~~Carolina~~; Carolina jointly  
2 approved for a specific client by the North Carolina Division of Social Services and the  
3 agency requesting State Maternity Fund payments; or  
4 (d) For individuals 18 and over, a boarding arrangement in North ~~Carolina~~; Carolina jointly  
5 approved for a specific client by the North Carolina Division of Social Services and the  
6 referring agency.

7  
8 *History Note:* *Authority G.S. 143B-153;*  
9 *Eff. April 1, 1978;*  
10 *Amended Eff. July 1, 1990; January 1, ~~1983~~ 1983;*  
11 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71L .0102

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

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

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

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

*Overall, what is the intent of this Rule? Is it to provide requirements for the mother or the kinds of home that are eligible to receive funds? Would it make sense to break these out for purposes of clarity?*

*In (a), please change "is responsible for services and planning" to "shall provide information regarding services (or whatever is accurate regarding their responsibility for the services) and plan." Also, what are their job duties with regard to planning? Are they to provide information and arrange for services available through the county department?*

*In (b), please change "do not" to "shall not"*

*In (d), assuming that you want to delete the language on line 13, please remove the underline from the stricken language – this tells us to both add and take away the language.*

*In (e), to be sure I understand, the intent here is to say "In order to receive maternity care home funds, a maternity home shall be licensed for one consecutive year and submit an audited financial statement to the Department. State Maternity Fund payments to licensed maternity homes shall be based on the actual per diem cost of care."*

*Just to verify, in (f), there are no similar requirements for a foster home as there are for a maternity care home?*

*In (g), by "shall not exceed", do you mean "shall be the same as"? If you mean "shall not exceed", how is this determined? Is this the actual cost, not to exceed the standard board rate set by the General Assembly?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71L .0102 is readopted as published in 35:20 NCR 2196 as follows:

### 10A NCAC 71L .0102 APPROVAL CRITERIA

(a) A county department of social services or a North Carolina licensed private adoption agency is responsible for ~~social work services and planning for pregnant clients for whom they are requesting State Maternity Home Funds Fund payments. Social work services include assisting the client to decide to release the baby for adoption or continue parenting the baby.~~

(b) Marital status and age do not affect eligibility for State Maternity Home Funds Fund payments.

(c) The client must be a resident of the State of North Carolina to be eligible for State Maternity Home Funds Fund payments.

(d) State Maternity Home Funds Fund payments shall supplement any other funds available from applicants, county departments of social services, families or private agencies. The agency requesting State Maternity Fund payments must make a complete exploration of review all financial resources available to the client. The agency must establish that resources available to the client are not adequate to meet residential costs.

(e) State Maternity Home Funds Fund payments to licensed maternity homes is based on the actual per diem cost of care. A maternity home shall maintain a valid maternity home license for a consecutive one year period and submit an audited financial statement to the North Carolina Department of Health and Human Services, Controller's Office (2019 Mail Service Center, Raleigh, NC 27699-2019) before the per diem rate is assigned. A licensed maternity home is eligible for reimbursement from maternity home funds in the second year of operation if this criteria is met and maternity home funds are available.

(f) State Maternity Home Funds Fund payments for care in a foster home is the North Carolina standard board rate for foster care assistance set by the General Assembly. ~~The current standard board payment for foster care assistance can be obtained from the North Carolina Division of Social Services (952 Old U.S. 70 Highway, Black Mountain, NC 28711).~~

(g) State Maternity Home Funds Fund payments for care in the home of a non-legally responsible relative or in a boarding arrangement shall not exceed the North Carolina standard board rate for foster care assistance.

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

*Eff. April 1, 1978;*

*Amended Eff. November 1, 2009; July 1, 1990; January 1, ~~1983~~ 1983;*

*Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71L .0103

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

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

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

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

*In (a), please change “are responsible for submitting applications” to “shall submit applications”*

*How are these to be made in writing? Is this the DSS-6187? If so, please say that.*

*On lines 8-9, do you need this language? If you do, please change “should” to “shall.” Should lines 8-10 (“Applications should not be ... action on the application can be completed”) be a separate paragraph? Also, if you need this language, what is the intent? Are the county departments and adoption agencies to submit the application, regardless of whether they know the actual admission date or is this directed at the Division?*

*How does the actual admission date referenced on lines 8-9 affect the anticipated admission date required by Sub-Item (b)(8)? What is the intent of this language?*

*On line 9, what are the practical implications of “so that review and action on the application can be completed”?*

*Should lines 10-11 (“Incomplete applications will not be processed”) be a separate paragraph?*

*Should lines 11-13 be a separate paragraph?*

*on lines 10 and 11, please change “will” to “shall”*

*Are the contents of the application provided in (b)? Do you mean something like the following:*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

- (a) County departments of social services and North Carolina licensed private adoption agencies ~~are responsible for submitting~~ shall submit applications on behalf of an eligible individual to the family services section of the state division of social services for those clients for whom they accept basic casework responsibility. ~~for the State Maternity Fund~~ [Fund. Applications must be made] in writing on form DSS-6187. ~~and the~~ The original must be submitted to the State Maternity Fund Coordinator, Family Support and Child Welfare Services Section, Division of Social Services and shall include the following information: [Services. Applications should not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed. Funds will not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures and all information necessary to make a decision regarding approval.]
- (b) Licensed private adoption agencies are responsible for submitting applications directly to the family services section for those needy clients for whom they accept basic casework responsibility.
- (c) Application for funds shall be made prior to admission to the Maternity Home Fund approved living arrangement. Emergency situations may be submitted for special consideration.
- (d) ~~(b)~~ The following information must accompany requests for funds: [funds:]
- (1) social study and service plan; This information must include the reason the individual experiencing the problem pregnancy is unable to remain in her own home, a description of the recommended living arrangement, the plan of services for the natural parents and their infant and a description of financial resources to be considered;
  - (2) notice of acceptance of the client by a maternity home or another recommended living arrangement;
  - (3) anticipated placement date and expected date of delivery.
  - (1) the reasons the client cannot remain in her own home (own home includes a foster care facility in which a child resides);
  - (2) a description of the client's financial resources;
  - (3) household gross monthly income(s), names and ages of other minor children in household, and statement of US citizenship or immigration status;
  - (4) a description of the recommended living arrangement and why it is appropriate;
  - (5) the proposed plan of services for the biological parents and the child;
  - (6) an explanation of why the necessary services cannot be obtained for the client in a community-based living arrangement;
  - (7) a tentative agreement to accept the client by the individual responsible for maintaining the recommended living arrangement;
  - (8) the anticipated date of admission and the expected date of delivery (month, day, and year for both).
- (b) Applications shall not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed.
- (c) Applications that do not contain all information required by this Rule shall not be processed.
- (d) Funds shall not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures and all information necessary to make a decision regarding approval.
- ~~(e)~~ (d) Upon receipt of notice that funds have been approved, unless the placement is to be in a licensed maternity home, the agency requesting funds must negotiate with the individual responsible for maintaining the living arrangement a written agreement setting out mutually agreed upon responsibilities.
- ~~(f)~~ (d) Payments shall not exceed the amount initially approved.

*In (c), what kind of responsibilities are to be negotiated? Is this to be done on the DSS-6189 as referenced in .0105?*

*In (d), the amount initially approved by the Division? Is this in accordance with the amounts provided in .0102? What if there is an intervening change in appropriations by the General Assembly?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71L .0103 is readopted as published in 35:20 NCR 2196 as follows:

### 10A NCAC 71L .0103 APPLICATION PROCESS

(a) County departments of social services and North Carolina licensed private adoption agencies are responsible for submitting applications ~~to the family services section of the state division of social services for those clients for whom they accept basic casework responsibility~~ for the State Maternity Fund. Applications must be made in writing and the original must be submitted to the State Maternity Fund Coordinator, Family Support and Child Welfare Services Section, Division of Social Services. Applications should not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed. Funds will not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures and all information necessary to make a decision regarding approval.

~~(b) Licensed private adoption agencies are responsible for submitting applications directly to the family services section for those needy clients for whom they accept basic casework responsibility.~~

~~(c) Application for funds shall be made prior to admission to the Maternity Home Fund approved living arrangement. Emergency situations may be submitted for special consideration.~~

~~(d)~~(b) The following information must accompany requests for ~~funds~~ funds:

- (1) ~~social study and service plan; This information must include the reason the individual experiencing the problem pregnancy is unable to remain in her own home, a description of the recommended living arrangement, the plan of services for the natural parents and their infant and a description of financial resources to be considered;~~
- (2) ~~notice of acceptance of the client by a maternity home or another recommended living arrangement;~~
- (3) ~~anticipated placement date and expected date of delivery.~~
- (1) the reasons the client cannot remain in her own home (own home includes a foster care facility in which a child resides);
- (2) a description of the client's financial resources;
- (3) household gross monthly income(s), names and ages of other minor children in household, and statement of US citizenship or immigration status;
- (4) a description of the recommended living arrangement and why it is appropriate;
- (5) the proposed plan of services for the biological parents and the child;
- (6) an explanation of why the necessary services cannot be obtained for the client in a community-based living arrangement;
- (7) a tentative agreement to accept the client by the individual responsible for maintaining the recommended living arrangement;
- (8) the anticipated date of admission and the expected date of delivery (month, day, and year for both).

1 ~~(e)(c)~~ Upon receipt of notice that funds have been approved, unless the placement is to be in a licensed maternity  
2 home, the agency requesting funds must negotiate with the individual responsible for maintaining the living  
3 arrangement a written agreement setting out mutually agreed upon responsibilities.

4 ~~(f)(d)~~ Payments shall not exceed the amount initially approved.

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

7 *Eff. April 1, 1978;*

8 *Amended Eff. January 1, ~~1983~~ 1983;*

9 *Readopted Eff. August 1, 2021.*



1 10A NCAC 71L .0104 is repealed as published in 35:20 NCR 2196 as follows:

2

3 **10A NCAC 71L .0104     ADDITIONAL REQUIREMENTS FOR THE PRIVATE AGENCY**

4

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

6 *Eff. April 1, 1978;*

7 *Amended Eff. January 1, 1983; March 1, ~~1982~~ 1982;*

8 *Repealed Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71L .0105

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

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

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

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

*In (b), what factors or standards will be used in determining whether to approve the payments and living arrangements?*

*In (b), by "with a copy routed to the applicable maternity home", do you just mean that you will also send a copy of the approval to the home? What if it is a foster family home, non-legally responsible relative, or some other boarding arrangement? Is no notification required then?*

*In (c), please capitalize "division of social services"*

*In (c), how are they to provide this notification?*

*In (d), are the contents of the DSS-6189 set forth elsewhere in rule, statute, or federal law?*

*In (e), please revise the last sentence to say who shall do what. Who is to send this to the Division? What are they looking for regarding approval?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71L .0105 is readopted as published in 35:20 NCR 2197 as follows:

**10A NCAC 71L .0105 PROCEDURE FOR APPROVAL AND PAYMENT**

(a) All State Maternity Fund forms, correspondence, and monthly billing statements shall be addressed to the State Maternity Fund Coordinator, whose contact information can be found on the Application for State Maternity Fund DSS-6187.

~~(a)(b)~~ Upon receipt of a completed Application for State Maternity Fund DSS-6187 form, ~~the social study, and related information,~~ the ~~North Carolina division~~ Division of social services Social Services ~~will~~ shall make a decision regarding approval for State Maternity Home Funds payments and the recommended type of living arrangement based on individual circumstances, per the application. Notice of action taken ~~will~~ shall be promptly communicated to the county department of social services or to the private adoption agency submitting the application with a copy routed to the applicable maternity home, if maternity home care is the approved living arrangement.

~~(b)(c)~~ County departments of social services and North Carolina licensed private adoption agencies ~~will~~ shall submit a designated voucher form to the family services section of notification to the state division of social services when the client is admitted to or discharged from the approved living arrangement; ~~arrangement.~~ and if the approved living arrangement is other than a maternity home, a copy of the written agreement negotiated with the individual responsible for maintaining the living arrangement.

~~(c)~~ One check will be written each month for each approved living arrangement as appropriate identifying the names of the clients to whom the payment should be credited.

(d) If the approved living arrangement is other than a maternity home, the service agency shall submit a completed copy of the DSS-6189, State Maternity Fund Residential Care Provider Agreement, negotiated with the individual responsible for maintaining the living arrangement, to the North Carolina Division of Social Services before payment may be made to the residential care provider.

(e) At the end of each month the State Maternity Fund Coordinator will generate a monthly reimbursement worksheet for each maternity home. After the worksheet is reviewed, corrected and verified, an authorized official from the home shall certify that all information reported is correct by signing the signature block of the worksheet. The worksheet is then mailed to the North Carolina Division of Social Services for a signature by the State Maternity Fund Coordinator for approval and submission to the Controller's Office.

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

*Eff. April 1, 1978;*

*Amended Eff. January 1, 1983, 1983;*

*Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71L .0106

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

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

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

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

*Would it make sense to switch (a) and (b)? Does the need assessment happen before the plan?*

*Please consider revising the first sentence of (b) to say who shall do what. A suggestion is something like "The Pregnancy Services caseworkers shall complete a needs assessment in conjunction with alternate counseling."*

*In (b), what is alternate counseling? Is this a known term?*

*In (b), delete or define "thorough"*

*In (b), what is to be included in the needs assessment? Is this known among the regulated public?*

*In (b), line 8, please change "and/or" to either "and" or "or"*

*In (c)(10), should "or" be "and"?*

*In (d), please delete or define "periodic"*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71L .0106 is adopted as published in 35:20 NCR 2197 as follows:

**10A NCAC 71L .0106 DEVELOPMENT OF SERVICE PLAN**

(a) The service agency's plan for providing services to the client and her child shall be transmitted to the North Carolina Division of Social Services as a part of the DSS-6187 Application for State Maternity Fund.

(b) A thorough needs assessment shall be completed at services intake or by the Pregnancy Services caseworker, in conjunction with alternative counseling. If during the process of assessing the needs of a pregnant minor, abuse and/or neglect is suspected, the Pregnancy Services caseworker shall notify the agency's Child Protective Services Unit. After the assessment is completed, the caseworker and the client shall jointly finalize a specific plan for services, building in time frames for action and identifying channels for accessing resources to be provided by outside agencies.

(c) As needed and appropriate, the plan shall address the following:

(1) Counseling needs;

(2) Medical Care;

(3) Medical Assistance;

(4) Nutritional Needs;

(5) Residential or Housing needs;

(6)-Educational needs;

(7) Employment Training;

(8) Parenting Education;

(9) Financial planning;

(10) Child Care; or

(11) Family Planning.

(d) While the client is in residential care, the supervising agency shall maintain periodic contact with the client.

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

*Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71L .0107

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

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

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

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

*In (a), please change "is responsible for evaluating" to "shall evaluate"*

*In (a), how will it be determined whether the community living arrangement is appropriate? Is (c) intended to provide those factors? If so, please make that clear.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71L .0107 is adopted as published in 35:20 NCR 2197 as follows:

**10A NCAC 71L .0107    ASSESSING THE APPROPRIATENESS OF ALTERNATIVE TYPES OF LIVING  
ARRANGEMENTS FOR INDIVIDUAL CLIENTS**

(a) The Pregnancy Services caseworker is responsible for evaluating the appropriateness of any community living arrangement for which the State Maternity Fund is requested, whether it is a boarding arrangement, the home of a non-legally responsible relative, or a licensed family foster home.

(b) When residential care in a family foster home is being considered for a minor, the Pregnancy Services caseworker shall request the assistance of the Foster Care Services staff in determining whether a home is available, and complete an assessment of the placement for the pregnant client and for all other persons residing in the home. A decision shall be reached by the Foster Care worker and the Pregnancy Services caseworker as to the individual assuming responsibility for case management.

(c) The following aspects of a community living arrangement shall be explored in determining the appropriateness for individual placements:

(1) Location and surroundings;

(2) Physical environment;

(3) Emotional environment;

(4) Stability of living arrangement;

(5) Emergency transportation.

(d) Living arrangements for an expectant mother for whom the State Maternity Fund is being requested shall be selected on the basis of an assessment of the client's individual circumstances and service needs.

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

Eff. August 1, 2021.

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC Subchapter 71O

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

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

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

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

*What is your specific authority for these Rules? Is it G.S. 143B-153(2)(a) or 143B-153(2a)? Is the refugee program a federal or state program? If so, please provide the relevant citation for the program.*

*Please add any additional authority for this Subchapter to the History Note of these Rules.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71O .0101

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

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

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

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

*Given .0104, do you need this Rule? It appears to be repetitive.*

*How do .0101 and .0103(a) go together? Is .0103 providing additional information regarding .0101? Are they both necessary?*

*.104 (b) of this Subchapter appears to grant these services to more than just "refugees." Is it more accurate to say something like "Refugee Assistance Services (.0104(b) says "Refugee Support Services) shall be provided to eligible clients as provided by .0104(b) of this Subchapter..."?*

*What are available refugee assistance services? Is there a cross-reference available?*

*What are considered to be refugees? Is there a definition provided elsewhere in rule, statute, or federal law?*

*On line 6, what are considered "eligible refugees"? Is there a cross-reference available? Is it .0104 of this Subchapter?*

*On line 6, what is meant by a "statewide basis"?*

*On line 6-7, what is meant by "to the extent that resources are available"? How is this determined? I assume that this depends upon whether are sufficient funds given to the program?*

*Please consider deleting "on an optional basis." It is redundant of "may."*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*What is meant by “County departments of social services may... budget for and provide the services”? Is this just saying that they can use their own county money?*

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

1 10A NCAC 71O .0101 is readopted as published in 35:20 NCR 2198 as follows:

2  
3 **SUBCHAPTER 71O – ~~REGUGEE~~ REFUGEE ASSISTANCE SERVICES**

4  
5 **10A NCAC 71O .0101 SERVICES AVAILABILITY**

6 Refugee assistance services ~~will~~ shall be provided to ~~needy~~ eligible refugees on a statewide basis to the extent that  
7 resources are available. County departments of social services may, on an optional basis, budget for and provide the  
8 services.

9  
10 *History Note: Authority G.S. 143B-153; ~~P.L. 94-23;~~*

11 *Eff. March 22, ~~1980.~~ 1980.*

12 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71O .0102

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

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

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

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

*Given .0104(c), do you need this Rule? It appears to be repetitive.*

*Overall, what is the intent of this rule? Who is to do what? Please consider revising this rule to say something like "County Departments of Social Services (or whomever this Rule is intended to be address) shall:" Then make any necessary corresponding grammatical changes (including Item (2).)*

*In Item (1), delete or define "effective" in "effective resettlement"*

*In Item (2), should this say something like "assist refugees in achieving or maintaining self-reliance..."? As written, it appears as though something is missing.*

*In Item (2), should lines 8-10 ("establish under the authority of the Immigration and Nationality Act... purposes of this program") be a separate item? It doesn't seem to make sense here. Also, what is the citation for the Act?*

*In Item (2), line 10, what is the "purpose of this Program"? Which program? The Act? These rules? Are they one in the same? Do you need "as a priority in accomplishing the purposes of this Program"?*

*In Item (3), please add a comma after "assimilating."*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71O .0102 is readopted as published in 35:20 NCR 2198 as follows:

### 10A NCAC 71O .0102 SERVICE GOALS

~~Goals toward which the services are directed~~ Service goals are as follows:

- (1) ~~Achieving or maintaining economic self support to prevent, reduce, or eliminate dependency;~~  
Provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency;
- (2) ~~Achieving or maintaining self-reliance to prevent, reduce, or eliminate dependency;~~ Establish under the authority of the Immigration and Nationality Act the provision of employment services and English language training as a priority in accomplishing the purposes of this program; and
- (3) ~~Preventing Prevent or remedying~~ neglect, abuse, or exploitation of children and adults unable to protect their own ~~interests, interests or by~~ preserving, ~~rehabilitating~~ assimilating ~~or and~~ reuniting families.

*History Note: Authority G.S. 143B-153; P.L. 94-23;  
 Eff. March 22, 1980;  
 Amended Eff. January 1, 1983. 1983;  
 Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71O .0103

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

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

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

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

*Given .0104(c), do you need this Rule? It appears to be repetitive.*

*What is the overall intent of (a)? Is this to say who refugees may reach out to for assistance? Is this just setting forth how the Division and Counties may assist them?*

*In (a), what is meant by "arranged as appropriate"? I assume that this is different than purchasing of services?*

*In (a), what is meant by "may be purchased by the Division from public or private providers"? Are these vendor agreements (just entered into by the Division as opposed to counties)?*

*Please consider breaking (a) out into list form. Do you mean something like the following (Please note that I'm not really sure that this suggestion is accurate because I don't understand the differences in some of these options. So, this is intended to just give you an idea of what I mean):*

*Refugee assistance services as set forth in 8 USC 1522 may be provided to eligible refugees as follows:*

- (1) directly by the county department of social services or the Division;*
- (2) By vendor agreements entered into by the county department of social services or the Division; or*
- (3) Purchased by the Division from public or private providers.*

*In (b), please change "will" to "shall"*

*In (b), what are the "state law and federal regulations" governing these purchases?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*Please ensure that the cross-reference to 10A NCAC 67B is still appropriate.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71O .0103 is readopted as published in 35:20 NCR 2198 as follows:

2  
3 **10A NCAC 71O .0103 METHODS OF SERVICE PROVISION**

4 (a) Refugee assistance services as described in ~~P.L. 96-212 and P.L. 96-422~~ 8 U.S.C. § 1522 may be provided directly  
5 or purchased under vendor agreements by county departments of social services, may be provided directly or arranged  
6 for as appropriate by the Division of Social Services, or may be purchased by the ~~division~~ Division from public or  
7 private providers.

8 (b) Purchase of refugee assistance services will be made in accordance with state law and federal regulations  
9 governing such purchases, and in accordance with rules specific to purchases by the ~~division~~ Division as set forth in  
10 Subchapter 10A NCAC 67B.

11  
12 *History Note: Authority G.S. 143B-153; ~~P.L. 96-110; 96-212; 96-422;~~*  
13 *Eff. March 22, 1980;*  
14 *Amended Eff. May 1, ~~1990.~~ 1990;*  
15 *Readopted Eff. August 1, 2021.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71O .0104

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

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

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

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

*Paragraph (a) says "Refugee assistance services", (b) says "refugee support services." Please be consistent where you can. Please note that the rest of this Subchapter says "Refugee assistance services."*

*In (a), what is "this law"? 8 USC 1522 or this Rule? I'm thinking it's this Rule, but note that (b) provides this service to more than just refugees. Given Paragraph (b), do you need Paragraph (a)? Could you essentially combine the two and say something like "To receive Refugee Support Services as set forth in 8 USC 1522, the client must be a...?"*

*Is Paragraph (b) intended to define "refugee" as any of these? If so, please make that clear and say something like "For purposes of assistance services set forth in 8 USC 1522, a "refugee" shall include the following:..." Also, is this the federal definition as provided by the director as referenced in 8 USC 1522?*

*Please consider providing the information set forth in Paragraph (b) in list form.*

*In (c), is the program called "Refugee Assistance Program (RAP) Support Services Program"?*

*In (c), please delete or define "as quickly as possible"? How is this to be determined? Will this be on a case-by-case basis?*

*In (c), what is considered to be "linguistically and culturally appropriate"? I assume that this will be on a case-by-case basis dependent upon the client's background?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71O .0104 is readopted as published in 35:20 NCR 2198 as follows:

### 10A NCAC 71O .0104 ELIGIBILITY

(a) Refugee assistance services as described in ~~P.L. 96-212 and P.L. 96-422~~ 8 U.S.C. § 1522 are available only to individuals who are determined to be refugees as defined in ~~these laws~~ this law.

(b) ~~Any refugee assistance service may be provided to any refugee who is receiving cash assistance, including supplementary assistance, or whose gross family income is not more than 90 percent of the state's median income as issued by the administration for public services and adjusted for family size, except that vocational training may not be provided to a refugee who is not 16 years of age or older. To receive Refugee Support Services the client must be a Refugee, admitted under INA § 207; Asylees, granted asylum under INA § 208; Cuban and Haitian Entrants, as defined under federal regulations (45 CFR § 401.2); Certain Amerasians; Trafficking Victims who have been issued an Office of Refugee Resettlement certification letter; Special Immigrant Visa holders from Iraq and Afghanistan; or Legal Permanent Residents (LPR) who were admitted originally as one of the previous statuses.~~

(c) ~~Certain refugee assistance services may be provided in accordance with special eligibility criteria as follows: The Refugee Assistance Program (RAP) Support Services Program provides specifically defined and designated services to refugees to facilitate achieving self-support and self-sufficiency as quickly as possible following their arrival in North Carolina. The program provides funding for refugee-specific support services that are linguistically and culturally appropriate. Refugee service providers may be public or private, not-for-profit agencies that provide direct services specifically designed to:~~

- (1) ~~Outreach services and social adjustment services may be provided to refugees without regard to age or family income; Assist refugees in obtaining the skills to achieve economic self-sufficiency, including job readiness, skills training, vocational education, job placement employment follow-up, and other employment services;~~
- (2) ~~English as a second language (ESL) instruction, and career counseling, job orientation, and job placement and follow up components of manpower employment services, may be provided without regard to family income to refugees who are 16 years of age or older and who are not full time students in elementary or secondary school. Provide training in English language instruction;~~
- (3) ~~Assessment services, and development of an individual employability plan as a component of manpower employment services may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full time student in elementary or secondary school. Provide social adjustment services such as case management, cultural orientation, health management, and support services such as interpretation, translation, and transportation; and~~
- (4) ~~Offer assessment services and development of an individual employability plan as a component of employment services which may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full-time student in elementary school or secondary school.~~

(d) For purposes of determining eligibility, "family" is defined as one or more adults and children, if any, related by blood, or law, and residing in the same household. Emancipated minors and children living under the care of individuals not legally responsible for that care are considered one person families. Where adults reside together, each may be considered a separate family, or all adults, living in the same household may be considered as a family unit, whichever is more beneficial to a refugee in determining ~~his~~ their eligibility on the basis of family size and income; provided that spouses must be considered a family unit.

(e) Eligibility for refugee assistance services may be determined by county departments of social services, ~~or by the~~ Division of Social Services, or by provider agencies from which the ~~division~~ Division is purchasing services under a purchase agreement or contract which specifies the provider agency's responsibility for eligibility determination. The agency that determines eligibility shall be responsible for case management for refugee assistance services and for meeting program requirements for reporting and case documentation.

*History Note: Authority G.S. 143B-153; P.L. 96-110; 96-212; 96-422;  
Eff. March 22, 1980;  
Amended Eff. May 1, 1990. 1990;  
Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC Subchapter 71U

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

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

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

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

*Overall, what is this Subchapter of Rules applicable to? I assume that it is Food and Nutrition Services? If that's correct, please consider revising 71U .0101 to say something like "This Subchapter shall apply to the Food and Nutrition Services Program..." and provide the cross-reference.*

*If this Subchapter is intended to address the Food and Nutrition Services Program, please add 108A-25 to the History Notes.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0101

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

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

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

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

*Is this Rule necessary given G.S. 108A-51? If so, what is the overall intent? What directives is it intending to provide to your public?*

*If you do need this Rule, what is meant by "oversees and supervises"? Are they to do this in accordance with these Rules and the applicable federal regulations?*

*If you do need this Rule, please add G.S. 108A-25 to the History Note. Also, please provide the specific citation(s) in the USC. I do not believe that the entirety of 7 USC 2011-2027 provides the authority for this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0101 is readopted as published in 35:20 NCR 2200 as follows:

2  
3 **10A NCAC 71U .0101 ADMINISTRATION AND SUPERVISION**

4 ~~The counties shall administer the food stamp program under the supervision of the food assistance branch. The North~~  
5 ~~Carolina Department of Health and Human Services (DHHS), Division of Social Services (DSS) oversees and~~  
6 ~~supervises the Food and Nutrition Services (FNS) program which is administered through county departments of~~  
7 ~~social services.~~

8  
9 *History Note: Authority ~~G.S. 143B-138(b)(5);~~ G.S. 143B-137.1; 143B-138.1(a)(5); 108A-51; 7 U.S.C. 2011 to*  
10 *2026;*  
11 *Eff. February 1, 1976;*  
12 *Readopted Eff. October 31, ~~1977~~. 1977;*  
13 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0201

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

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

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

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

*Is 7 CFR 273.16 incorporated by reference in accordance with G.S. 150B-21.6 somewhere in your rules? If not, please do so.*

*In (a), what is the local agency?*

*In (a), line 5, please delete or define "clear and convincing"*

*In (a), what is considered to be a "reasonable time"? Can the local agency withdraw a referral once it is sent to the district attorney's office? Would this not be up to the district attorney at that point?*

*In (b), please delete or define "directly"*

*Please add G.S. 108A-25 to the History Note. Also, please provide the specific citation(s) in the USC. I do not believe that the entirety of 7 USC 2011-2027 provides the authority for this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71U .0201 is readopted as published in 35:20 NCR 2200 as follows:

2  
3 **10A NCAC 71U .0201 INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION**

4 (a) An administrative disqualification hearing (ADH) or referral for prosecution shall be initiated by the ~~county~~  
5 ~~department~~ local agency whenever there is ~~documented~~ clear and convincing evidence to substantiate that a currently  
6 participating household member has committed one or more acts of an intentional program violation ~~[as defined in 7~~  
7 ~~CFR 273.16(c)]~~ as defined in 7 CFR 273.16(c). If a referral for prosecution is made, an ADH shall not be initiated  
8 unless the referral is declined or a reasonable amount of time has passed and the local agency withdraws the referral.

9 (b) ~~The hearing officer for administrative disqualification hearings shall be the county director. The director may~~  
10 ~~delegate this function to a specifically designated impartial employee of the county department. The Hearing Officer~~  
11 for local ADH hearings is the local Agency Director. The Director may delegate this function to a designated impartial  
12 employee of the local agency. An impartial employee is one who is not a fraud Investigator, is not directly connected  
13 with the case, does not supervise an employee directly connected with the case, and has not discussed the facts of the  
14 case with any local agency staff outside of the hearing.

15 (c) ~~The household member has the right to appeal to a state level hearing. The hearing shall be before a state hearing~~  
16 ~~officer who represents the State Director, Division of Social Services. The local agency must provide the FNS unit~~  
17 with an Advance Notice of Your Disqualification Hearing Form DSS-8556 at least thirty (30) days prior to the hearing  
18 date. The local agency must also provide the FNS unit with a notice of their right to waive the ADH. The local agency  
19 shall ensure that all letters and notices are in the primary language of the individual charged with an intentional  
20 program violation (IPV), and ensure that a qualified translator is present for an ADH when requested by an individual  
21 with limited English proficiency as defined in 7 CFR 273.16(c).

22 (d) The local hearing officer shall render a decision within five (5) business days of the hearing.

23 (e) The FNS unit may appeal the local hearing officer's decision within fifteen (15) calendar days to a State  
24 Disqualification Hearing. The hearing shall be held before a state hearing officer on behalf of the Director of the  
25 Division of Social Services. The state hearing officer shall provide notice to the FNS unit and the local agency at least  
26 ten (10) calendar days before the hearing. The state hearing officer shall render a decision within sixty (60) days of  
27 the State Disqualification Hearing.

28  
29 *History Note: Authority G.S. 108A-51; 143B-153; 7 CFR 273.16; 7 U.S.C. 2011-2027;*

30 *Eff. March 1, 1979;*

31 *Amended Eff. February 1, 1986. 1986:*

32 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71U .0203 is repealed as published in 35:20 NCR 2200 as follows:

2

3 **10A NCAC 71U .0203 FAIR HEARINGS**

4

5 *History Note: Authority G.S. 108A-51; 143B-153; 7 CFR 273.15; 7 U.S.C. 2011-2027;*

6 *Eff. March 1, ~~1979~~ 1979;*

7 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0204

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

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

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

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

*Given 7 CFR 273.10 which sets eligibility requirements, is this Rule necessary?  
Could you simply incorporate this CFR by reference?*

*Overall, please review and revise for clarity. Who shall do what?*

*If you do need this Rule, please provide the specific citation(s) in the USC. I do not believe that the entirety of 7 USC 2011-2027 provides the authority for this Rule.*

*Please also add G.S. 108A-25 to the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0204 is readopted as published in 35:20 NCR 2201 as follows:

2  
3 **10A NCAC 71U .0204 DENIAL OF ZERO BENEFIT HOUSEHOLDS**

4 Households of three or more persons which do not have a member age 60 or over or disabled, thus subject to the 130  
5 percent of poverty as an eligibility level, will have their applications denied if the household's net ~~food stamp~~ FNS  
6 income results in a zero benefit level.

7  
8 *History Note: Authority G.S. 108A-51; 143B-153; 7 C.F.R. 273.10(e)(2)(iii); 7 U.S.C. 2011-2027;*

9 *Eff. October 1, ~~1981~~. 1981;*

10 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0205

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

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

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

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

*I'm not sure that I understand lines 4-6. I'm reading this to say "Households exempt from the federal notice requirements shall be notified in accordance with the federal notice requirements." Is this Rule intending to get to 7 CFR 273.13(c) and saying that "even though we don't have to, we will"? If so, do you mean something like "Household subject to immediate termination or reduction pursuant to (whatever the appropriate cross-reference is) of benefits shall be notified in accordance with the timelines set forth in 7 CFR 273.13(3), which is hereby incorporated by reference, including subsequent amendments and editions and be found at no cost at www..."?*

*On line 4, what households would be subject to immediate termination or reduction? Is there a cross-reference available?*

*On line 5, please change "will" to "shall"*

*On line 6, what are the "federal regulations"? 7 CFR 273.13? If so, please incorporate this by reference.*

*Should lines 6-7 regarding mass changes be a separate paragraph?*

*On line 6, please change "will" to "shall"*

*On line 7, what is meant by "when federal implementing time standards permit"? What are these time standards?*

*Should lines 7-10 be a separate paragraph?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*Is there a cross-reference available for the hearing? Given 7 CFR 273.15, are lines 7-10 necessary? Is the intent to incorporate the CFR by reference? If so, please do so in accordance with G.S. 150B-21.6.*

*Please add G.S. 108A-25 to the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0205 is readopted as published in 35:20 NCR 2201 as follows:

2  
3 **10A NCAC 71U .0205 IMMEDIATE TERMINATION OR REDUCTION OF ASSISTANCE**

4 Households subject to immediate termination or reduction of benefits, and exempt from the federal notice of adverse  
5 action, as found at 7 C.F.R. 273.13(b), will have their benefits terminated or reduced following notice as specified in  
6 federal regulations. For mass changes, as found in 7 C.F.R. 273.13(b)(1) such notice will be provided a minimum of  
7 10 working days in advance when federal implementing time standards permit. If a hearing is requested, benefits will  
8 be continued at the present level pending the hearing decision only if the termination or reduction is due to a mass  
9 change and the issue being contested is that ~~food stamp~~ FNS eligibility or benefits were improperly computed or that  
10 federal law is being misapplied or misinterpreted, as found at 7 C.F.R. 273.15(k)(l).

11  
12 *History Note: Authority G.S. 108A-51; 108A-79; 143B-153; 7 C.F.R. 273.13(b); 7 C.F.R. 273.15(k);*  
13 *7 U.S.C. 2011-2027;*  
14 *Eff. March 1, ~~1982~~. 1982;*  
15 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0206

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

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

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

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

*In (a), for what purpose are these utility allowances being calculated?*

*On line 8, please change "the average amounts are calculated to determine" to "the Division shall calculate the average amounts to determine..."*

*On line 9, please add a comma after "basic."*

*What is the intent of lines 9-11? Please review and revise for clarity purposes.*

*In (b)(3), please add a comma after fees.*

*In (b)(3), what are considered to be "basic telephone services"?*

*Please review (e) for clarity (specifically, the e.g. – is this intended to be a requirement?*

*In (f), please change "which" to "that" in "which charges"*

*In (f), what are considered to be "excess utility costs"? Is this determined by the public housing unit? If so, I think it's fine.*

*Please add any applicable authority.*

*Please clarify which USC provides authority for this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



10A NCAC 71U .0206 is readopted as published in 35:20 NCR 2201 as follows:

**10A NCAC 71U .0206 ~~SIMPLIFIED~~ STANDARD UTILITY ALLOWANCES**

(a) The Division of Social Services shall establish ~~simplified standard~~ utility allowances for use in calculating shelter costs of those households which incur utility costs separate and apart from their rent or mortgage payments. The ~~simplified standard~~ utility allowances shall be developed in conjunction with data gathered through quality control sampling and surveys of utility company rates. Once the Division gathers the sampling information and the average costs information from utilities companies, the average amounts are calculated to determine a statewide average for each type of utility cost for standard, basic and telephone utility allowances. The standard and basic utility allowances are increased by household size. The amount of increase or decrease is calculated from the average statewide increase in utility costs per household size from the previous year.

(b) Types of utility allowances:

(1) Standard utility allowance includes the cost of heating and cooling (air conditioning), cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.

(2) Basic utility allowance includes at least two non-heating or non-cooling utility expenses, such as cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.

(3) Telephone utility allowance includes the basic telephone services, fees and applicable taxes.

(c) ~~Simplified Standard~~ utility allowances are binding upon the household for a period of 12 months following certification (initial or recertification). If the household moves before the expiration of the 12 month period and becomes ineligible for the standard, basic, or telephone allowance, the agency shall make the appropriate change.

(d) The Division shall review the ~~simplified standard~~ utility allowances annually and adjust the allowance as necessary to reflect changes in the cost of the utilities. The annual update shall be ~~effected~~ effective on October 1 of each calendar year to coincide with annual, federal adjustments of the combined dependent care and shelter deduction. The annual update shall be based on information published by the North Carolina Department of Administration, Office of State Energy. The amount of the utility allowances shall not vary seasonally.

(e) The Division shall vary its standard and basic utility allowances by household size, e.g., a different standard amount for each household size or range of household sizes.

(f) The basic utility allowance shall be used by a household living in a public housing unit which charges the household only for excess utility costs provided the household is responsible for at least two non-heating or non-cooling utility expenses.

(g) The standard utility allowance shall be used when a household is billed for a heating or cooling component not totally paid by a vendor payment.

(h) Multiple households living in the same residence and sharing utility costs are allowed the standard or basic utility allowance for their household size.

*History Note: Authority G.S. 108A-51; 143B-153; 7 C.F.R. 273.9(d)(6); 7 U.S.C. 2011-2027; P.L. 107-171;*

- 1                   *Eff. April 1, 1982;*
- 2                   *Amended Eff. March 1, 1990; July 1, 1984;*
- 3                   *Temporary Amendment Eff. February 1, 2003;*
- 4                   *Amended Eff. August 1, ~~2004~~. 2004;*
- 5                   *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0207

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

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

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

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

*Given 7 CFR 273.6, is this Rule necessary? Is the intent to essentially incorporate the CFR by reference? If so, please do so in accordance with G.S. 150B-21.6.*

*If so, please review and revise for clarity, including breaking this Rule out into Paragraphs, if appropriate.*

*On line 7, what is considered to be "good cause"? Please provide how this determination is to be made.*

*On line 8, please change "will" to "shall"*

*Please add G.S. 108A-25 to the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0207 is readopted as published in 35:20 NCR 2201 as follows:

2  
3 **10A NCAC 71U .0207 SOCIAL SECURITY NUMBERS**

4 As a condition of eligibility, a household participating or applying for participation in the ~~Food Stamp~~ FNS Program  
5 shall provide or apply for a social security number for each household member. The individual without a number may  
6 participate as long as the case record is documented that an application for a social security number has been  
7 completed, or that good cause exists for not completing an application. Failure to provide or apply without good cause  
8 for a social security number for each household member will result in the disqualification of the individual until such  
9 time that the individual complies with this requirement. Local ~~county departments of social services~~ agencies shall  
10 keep social security number applications and shall ~~help~~ assist ~~food stamp~~ FNS applicants and recipients ~~in complete~~  
11 completing the forms and obtain obtaining their social security numbers. Applicants and recipients may, at their  
12 option, apply for social security numbers at Social Security Administration offices.

13  
14 *History Note: Authority G.S. 108A-51; 143B-153; ~~7 U.S.C. 2025F; P.L. 94 455; 7 CFR 273.6;~~*  
15 *Eff. July 1, 1982;*  
16 *Amended Eff. April 1, 1984; October 1, ~~1983~~ 1983;*  
17 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0209

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

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

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

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

*What is a second party desk review?*

*Please change "will" to "shall" on lines 4 and 6.*

*On line 7, what are "future error prone profiles"?*

*Please verify 7 CFR 273.2(f)(3)(vi) is the intended citation in the History Note.*

*Please add G.S. 108A-25 to the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0209 is readopted as published in 35:20 NCR 2201 as follows:

2  
3 **10A NCAC 71U .0209 SECOND PARTY REVIEW**

4 A second party desk review will be conducted to review actions taken on all households with five or more members  
5 applying for initial certification or recertification for the ~~Food Stamp~~ FNS Program. Actions taken on households  
6 with four or fewer members will be subject to second party review as determined by the division director, based on  
7 future error prone profiles.

8  
9 *History Note: Authority G.S. 108A-51; 143B-153; 7 C.F.R. 273.2(f)(3)(vi); 7 U.S.C. 2011-2027;*

10 *Eff. July 1, ~~1982~~ 1982;*

11 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0210

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

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

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

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

*Please incorporate this CFR by reference in accordance with G.S. 150B-21.6 and say "Income exclusions set forth in 7 CFR 273.9(c) are hereby incorporated by referenced, not including subsequent amendments and editions, and can be found at www..... at no cost."*

*Please consider breaking lines 5-7 out into a separate Paragraph and say something like "In addition to the income exclusions set forth in 7 CFR 273.9(c), earned income for census employment or educational assistance, except scholarships offered by civic groups or institutions or athletic scholarships, shall be excluded from determining eligibility."*

*Please add G.S. 108A-25 to your History Note.*

*Did you intend to keep PL 107-171 in the History Note? I see that it has been removed as authority in other rules.*

*Why has 7 USC 2026(b)(1) been included as authority in the History note of this Rule?*

*If you do need this Rule, please provide the specific citation(s) in the USC. I do not believe that the entirety of 7 USC 2011-2027 provides the authority for this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0210 is readopted as published in 35:20 NCR 2201 as follows:

2  
3 **10A NCAC 71U .0210 INCOME EXCLUSIONS**

4 Income exclusions are found in 7 CFR 273.9(c) and this provision is hereby adopted by reference under G.S. 150B-  
5 21.6 and does not apply to subsequent amendments and editions. In addition, the following income shall be excluded  
6 in determining eligibility and benefit level: Earned income for census employment or educational assistance, except  
7 scholarships offered by civic groups or institutions, or athletic scholarships. ~~A copy of the CFR may be obtained by~~  
8 ~~contacting the Government Printing Office, Superintendent of Documents, P. O. Box 37194, Pittsburgh, PA 15250-~~  
9 ~~7954 or accessing the CFR online at [www.access.gpo.gov/nara/cfr](http://www.access.gpo.gov/nara/cfr).~~

10  
11 *History Note: Authority G.S. 108A-25; 108A-53; 143B-153; 7 C.F.R. 273.9(c); 7 U.S.C. 2026(b)(1); P.L. 107-*  
12 *171;*  
13 *Temporary Rule Eff. March 28, 1990, for a Period of 180 Days to Expire on August 31, 1990;*  
14 *Eff. September 1, 1990;*  
15 *Temporary Amendment Eff. March 1, 2003;*  
16 *Amended Eff. August 1, ~~2004~~, 2004;*  
17 *Readopted Eff. August 1, 2021.*



1 10A NCAC 71U .0211 is repealed as published in 35:20 NCR 2201 as follows:

2

3 **10A NCAC 71U .0211 VEHICLE DETERMINATIONS**

4

5 *History Note: Authority G.S. 108A-51; 143B-153; H.R.4461; CFR 273.8;*

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

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

8 *Repealed Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0212

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

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

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

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

*In Item (1), are these "sanctions" provided for elsewhere in rule, statute, or federal law?*

*In Item (2), is there a cross-reference available regarding disqualification?*

*In Item (4), does this mean that they are currently receiving more than one work first payment? Please review and revise for clarity if necessary.*

*Please add any additional authority, including G.S. 108A-25.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71U .0212 is readopted as published in 35:20 NCR 2201 as follows:

**10A NCAC 71U .0212 TRANSITIONAL ~~FOOD-STAMP~~ FNS BENEFITS**

Households shall receive transitional ~~food-stamp~~ FNS benefits for a period of five months when they lose their Work First Family Assistance benefits. ~~Food-Stamp~~ FNS benefits shall be no less than the amount received by the household prior to the termination of Work First Family Assistance benefits. The only adjustments to income shall be the deletion of the Work First Family Assistance benefits. Other sources of income shall not be re-calculated. A household is not eligible for transitional ~~food-stamp~~ FNS benefits if it loses Work First Family Assistance benefits for any of the following reasons:

- (1) Work First Family Assistance case closes due to a sanction;
- (2) Household member is disqualified from the ~~Food-Stamp~~ FNS Program;
- (3) Household moves out of North Carolina; or
- ~~(4) Household moves to another county in North Carolina; or~~
- ~~(5)~~(4) Household received more than one Work First Family Assistance payment and a Work First Family Assistance payment is still being received.

A household may reapply for ~~food-stamp~~ FNS benefits during the transitional period with benefits determined according to current circumstances.

*History Note: Authority G.S. 108A-51: 143B-153; P.L. ~~107-171~~;*  
*Temporary Adoption Eff. February 1, 2003;*  
*Eff. August 1, ~~2004~~, 2004;*  
*Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0213

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

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

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

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

*In (a), is this “the simplified reporting category set forth in this Rule”?*

*In (a), please change “applies” to “shall apply”*

*Please end (b)(1)(i) through (ix) with semi-colons and end (b)(1)(ix) with an “and” or “or”*

*In (c)(1), how does a person know whether they are in a non-waiver county?*

*Please end (c)(1) and (2) with semi-colons and end (c)(2) with an “and” or “or”*

*In (c)(3), delete “FNS units are required to report” – this appears to be repetitive of (c)*

*In (c)(3), please change “lottery/gambling” to either “lottery and gambling” or “lottery or gambling”*

*(c)(3) appears to be missing a word – is it only required to be reported if it results in a loss of eligibility?*

*In (c)(3), what are the “non-categorical eligibility financial resource and eligibility requirements”? Those set forth in this Rule?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71U .0213 is readopted as published in 35:20 NCR 2201-2203 as follows:

**10A NCAC 71U .0213 SEMI-ANNUAL SIMPLIFIED REPORTING**

~~(a) The county department shall require households with earned or unearned income that are assigned six month certification periods to report only changes in the amount of gross monthly income that result in their gross monthly income exceeding 130 percent of the monthly poverty income guideline for their household size. The agency shall assign a certification period of six months to all households subject to semi annual reporting requirements. The following households are excluded from semi annual reporting requirements:~~

- ~~(1) Households that contain a homeless individual;~~
- ~~(2) Households that contain a migrant;~~
- ~~(3) Households that contain an Able Bodied Adult Without a Dependent, as defined in 7 CFR 273.24;~~
- ~~(4) Households whose only member(s) is/are Supplemental Security Income (SSI) applicants or recipients who do not receive any other types of fluctuating income;~~
- ~~(5) Households whose only income is stable Social Security Income and/or SSI;~~
- ~~(6) Households with no income;~~
- ~~(7) Households receiving transitional Food Stamp benefits; or~~
- ~~(8) Any other household not subject to semi annual reporting requirements as determined by the United States Department of Agriculture, Food and Nutrition Services.~~

~~(b) Households with income and not excluded in Paragraph (a) of this Rule must not be required to report changes in household circumstances during the certification period for the following:~~

- ~~(1) Changes in sources or amounts of gross monthly income unless the change results in the gross monthly income exceeding 130 percent of the monthly poverty income guideline for the household size;~~
- ~~(2) Changes in household composition;~~
- ~~(3) Changes in residence and the resulting change in shelter costs;~~
- ~~(4) The acquisition of a licensed vehicle;~~
- ~~(5) When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed a total of two thousand dollars (\$2,000); and~~
- ~~(6) Changes in the legal obligation to pay child support.~~

~~(c) The county agency must act on any change reported by such households that would increase benefits. The county agency must not act on changes that would result in a decrease in benefits unless:~~

- ~~(1) The household has voluntarily requested that its case be closed; or~~
- ~~(2) The agency has received information about the household's circumstances from a provider who is the primary source of the information such as:~~
  - ~~(A) Beneficiary Data Exchange (BENDEX), from the Social Security Administration;~~
  - ~~(B) State Data Exchange (SDX), from the Social Security Administration;~~

~~(C) Systematic Alien Verification for Entitlements (SAVE), from the Immigration and Naturalization Service;~~

~~(D) Employment and Training (E&T) information, received from the Employment Security Commission; or~~

~~(E) Intentional Program Disqualifications (IPV's), received from county Program Integrity staff.~~

~~(d) A copy of the CFR may be obtained by contacting the State Division of Social Services, Economic Independence Section, 2420 Mail Service Center, Raleigh, NC 27699-2420.~~

(a) The simplified reporting category applies to all FNS units except the following:

(1) A Simplified Nutrition Assistance Program (SNAP) unit;

(2) A Transitional FNS Unit.

(b) Certification periods are determined based upon the following household situations:

(1) FNS units that contain only specified individuals who are without earned income are certified for a period of twelve (12) months. A specified individual is an individual 60 years of age or older, or one of the following:

(i) A person who receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act.

(ii) A person who receives federally or State administered supplemental benefits under Section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act.

(iii) Receives disability benefits from a governmental agency based on permanent Social Security disability requirements.

(iv) Is a Veteran who receives 100% Veterans Administration (VA) disability payments (service or non-service connected) or is rated as 100% disabled but receives less than 100% disability payment.

(v) Is a Veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the U. S. Code.

(vi) Is a disabled surviving spouse or disabled surviving child of a veteran and in need of regular aid and attendance or permanently housebound or considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the U. S. Code.

(vii) Receiving Railroad Retirement and determined to be eligible for Medicare.

(viii) Receiving Interim Assistance Payments (DSS General Assistance to applicants for SSI that is repaid by SSA upon approval of the SSI application).

(ix) Receiving Medicaid based on disability.

(x) Benefits under the Federal Employees Compensation Act (FECA) based on Social Security disability requirements.

(2) FNS units that contain an Able-Bodied Adult Without Dependents (ABAWD) are certified for a period of six (6) months. These FNS units will be issued a Notice of Adverse Action DSS-8553 during the second month of the certification period notifying the FNS unit that the local agency will terminate benefits after the third month unless the ABAWD satisfies the work requirements or meets an exception as set forth in 7 C.F.R. 274.24. The certification may be for a period of six (6) months if the county is currently under an ABAWD waiver.

(3) All other units are certified for a period up to six (6) months.

(c) FNS units subject to Simplified Reporting are required to report to the local agency any of the following changes that occur during the certification period:

(1) FNS units that include an ABAWD shall report when the ABAWD stops working an average of 80 hours per month. This only applies in non-waiver counties.

(2) FNS units whose income is at or below the 130% maximum allowable gross income limit are required to report an increase in unit income that causes it to exceed the 130% maximum allowable gross income limit for its unit size at certification. Ineligible or disqualified persons are not considered in determining the FNS unit size.

(3) FNS units are required to report if any member of the FNS unit receives lottery/gambling winnings of \$3,500.00 or more. The receipt of lottery/gambling winnings of \$3,500 or more results in loss of eligibility for the entire FNS unit. The unit remains ineligible until they reapply for benefits and meet all non-categorical eligibility financial resource and income eligibility requirements.

(d) FNS units are required to report changes by the 10th of the month following the month in which the change occurs. FNS units completing an application or recertification that experience changes prior to disposition of the application or recertification are required to report such changes by the 10th of the month following the month in which the Notice of Eligibility is received.

(e) Changes are considered reported at the earliest of the following times:

(1) The date the Change Report is received;

(2) The date the change is reported by the FNS unit by telephone, email or fax. If received during non-business hours the date reported will be the next business day;

(3) The date the FNS unit made an in-person office visit to report the change;

(4) The date the change is reported to Work First;

(5) The date the changed information is entered into NC FAST; or

(6) The date the change is reported by a third party.

(f) A local agency shall evaluate, verify and act upon a change within ten (10) calendar days, except for the following changes:

(1) Changes in medical expenses of units eligible for the medical deduction when the source of the change in information is from a third party and requires household contact for verification;

(2) A decrease in the unit's gross monthly income of less than \$50.00; or

(3) A change in income that is not expected to continue for longer than one month beyond the month in which the change is reported.

(g) If a change is reported and the local agency fails to act on the change within the ten (10) calendar days, the local agency shall determine if an over issuance has occurred. If it is determined that an over issuance occurred, the local agency shall establish an Administrative Error (AE) claim.

(h) If a reported change terminates eligibility or decreases a unit's benefit amount, a Notice of Adverse Action shall be issued to the FNS unit within ten (10) calendar days.

(i) If a reported change does not affect eligibility or benefit amount, an Effect of Change Notice shall be issued to the FNS unit.

(j) If a reported change will increase benefit amount, the local agency shall verify the reported change.

(k) If an FNS unit fails to report a required change, the local agency shall establish a claim against the FNS unit and issue a Notice of Adverse Action if the change would result in a reduction or termination of benefits.

*History Note: Authority G.S. 108A-51; 143B-153; P.L. 107-171;*

*Temporary Adoption Eff. February 1, 2003;*

*Eff. August 1, ~~2004~~ 2004;*

*Readopted Eff. August 1, 2021.*



1 10A NCAC 71U .0214 is repealed as published in 35:20 NCR 2203 as follows:

2

3 **10A NCAC 71U .0214 DEDUCTIONS**

4

5 *History Note: Authority G.S. 108A-51; 143B-153; P.L. 107-171;*

6 *Temporary Adoption Eff. February 1, 2003;*

7 *Eff. August 1, ~~2004~~, 2004;*

8 *Repealed Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0215

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

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

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

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

*Where in the CFR are these resource exclusions? Those set forth in 7 CFR 273.8(e)?*

*In Item (2), please change "burial plots/space" to either "burial plots and space" or "burial plots or space", whichever is applicable.*

*In Item (5), what constitutes a good faith effort?*

*Also, based upon the text of this Rule, it appears as though you are intended to incorporate the federal exclusion by reference. Please do so in accordance with G.S. 150B-21.6.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0215 is readopted as published in 35:20 NCR 2203 as follows:

2  
3 **10A NCAC 71U .0215 RESOURCE EXCLUSIONS**

4 ~~Resource exclusions are found in 7 CFR 273.8(e) and this provision is hereby incorporated by reference under G.S.~~  
5 ~~150B-21.6 and does not apply to subsequent amendments and editions.~~ In addition to the resource exclusions found  
6 in federal regulations, the following resources shall be excluded in determining eligibility and benefit level:

- 7 (1) funds from property conveyed to an individual at death of the property owner, also referred to as
- 8 heir property;
- 9 (2) burial plots/space;
- 10 (3) lifetime interest in real or personal property limited to an individual's lifetime but the individual
- 11 does not actually own the property;
- 12 (4) remainder interest in property when one individual owns property and another individual has the
- 13 lifetime right; and
- 14 (5) land or buildings not excluded as a homesite, income producing property, or for the sale by good
- 15 faith effort.

16 ~~A copy of the CFR may be obtained by contacting the Government Printing Office, Superintendent of Documents, P.~~  
17 ~~O. Box 37194, Pittsburgh, PA 15250-7954 or accessing the CFR online at [www.access.gpo.gov/nara/cfr](http://www.access.gpo.gov/nara/cfr).~~

18  
19 *History Note: Authority G.S. 143B-153; P.L. 107-171; 7 CFR 273.8(e)(19);*  
20 *Temporary Adoption Eff. March 1, 2003;*  
21 *Eff. August 1, ~~2004~~ 2004;*  
22 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71U .0216 is repealed as published in 35:20 NCR 2203 as follows:

2

3 **10A NCAC 71U .0216 MEDICAL DEDUCTIONS FOR MEDICARE PRESCRIPTION DRUG CARD**  
4 **BENEFITS**

5

6 *History Note: Authority 143B-153; P.L 108-173;*

7 *Eff. April 1, ~~2005~~, 2005;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0302

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

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

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

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

*Overall, what is this Rule applicable to? Food and Nutrition Services?*

*On line 7, by "local agencies", do you mean the county department of social services? Please be consistent in language where you can. This is applicable throughout these Rules*

*On line 8-9, what is the "required information needed to determine eligibility"? Are the substantive requirements of the application form set forth elsewhere in rule, statute, or federal law? If not, please provide them here.*

*Assuming this Rule applies to Food and Nutrition Services, please add 108A-25 and 108A-52 to your History Note.*

*In your History Note, why have you included 143B-137.1 and 143B-138.1(a)(5)? These statutes appear to address the duties of the Department, as opposed to the Commission (who has clear authority under 108A-25 to promulgate these Rules.)*

*In your History Note, what specifically in 7 USC 2011-2026 provides authority for this particular Rule?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0302 is readopted as published in 35:20 NCR 2203 as follows:

2  
3 **10A NCAC 71U .0302 HOUSEHOLD APPLICATION**

4 An application form shall be completed for each household. ~~This form, available from the food stamp operations and~~  
5 ~~improvement section and the county departments of social services, shall contain all information necessary to~~  
6 ~~determine a household's eligibility, such as number and status of persons in the household and their education and~~  
7 ~~financial status.~~ The application form is available at the local agencies or an application may be made on the ePass  
8 Public Portal of NC FAST. ~~This form~~ The application shall include the required information needed to determine  
9 eligibility. The application shall also include the applicant's commitment to provide information necessary to verify  
10 statements given on the form, to cooperate in state and federal quality control checks, and to notify the ~~food stamp~~  
11 FNS office of changes of status. Until this form is completed and submitted, the applicant shall not participate in the  
12 ~~food stamp~~ FNS program.

13  
14 *History Note:* Authority G.S. 108A-51; 143B-137.1; 143B-138.1(a)(5); ~~143B-138(b)(5);~~ 143B-153; 7 U.S.C. 2011  
15 to 2026; 7 CFR 273.2;  
16 Eff. February 1, 1976;  
17 Readopted Eff. October 31, 1977;  
18 Amended Eff. February 1, ~~1986.~~ 1986;  
19 Readopted Eff. August 1, 2021.

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0303

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

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

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

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

*What is the overall intent of this Rule? Is this related to 7 CFR 273.2(n)? If so, is this Rule necessary? If it is necessary, do you mean something like "In order for a nonhousehold member to complete an application for participation in the FNS program in accordance with 7 CFR 273.2(n), he or she (or is this the household member) shall complete an authorized representative form which shall include the following information: 1)...; 2)...; and 3)... " I give this suggestion based upon the language currently in the Rule; however, I note that 7 CFR 273.2(n)(i) requires that the "authorized representative designation [be] made in writing by the head of household, spouse, or other responsible member of the household" Alternatively, is this Rule intended to address when a household member can't authorize a representative? In any event, please review and revise this Rule for purposes of clarity.*

*On line 4, what is considered to be an "authorized representative"? Is this provided elsewhere in statute or federal law? I think that this is provided in 7 CFR 273.2(n). Please be sure that this CFR is incorporated by reference somewhere? You only need to do it once in your Rules, not everywhere that it is referenced.*

*On lines 4-5, when would it be impossible for "a head of household or his spouse to make application"? Can you provide some examples? I note that 7 CFR 273.2(n) allows for an authorized representative whenever there may be "difficulty in completing the application process" by a "non-household member"*

*Regarding line 5, 7 CFR 273.2(n) appears to allow a household member to complete this without an authorized representative, but this Rule speaks to "a head of household or his spouse" Please review and revise, if necessary.*

*On line 5, who is considered to be the "head of household"?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*On line 5, please change "his" to "his or her"*

*Assuming this Rule applies to Food and Nutrition Services, please add 108A-25 to your History Note.*

*In your History Note, why have you included 143B-137.1 and 143B-138.1(a)(5)? These statutes appear to address the duties of the Department.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71U .0303 is readopted as published in 35:20 NCR 2203 as follows:

2  
3 **10A NCAC 71U .0303 AUTHORIZED REPRESENTATIVE FORM**

4 All counties shall require a form to be completed and signed by an authorized representative when it is impossible for  
5 the head of a household or his spouse to make application for participation in the food stamp FNS program. ~~Until this~~  
6 ~~form, available from the food assistance branch and the county departments of social services, is completed and~~  
7 ~~submitted, the representative shall be ineligible to represent the household. The representative shall be ineligible to~~  
8 represent the household until the form is completed.

9  
10 *History Note: Authority G.S. ~~143B-138(b)(5)~~; 143B-138.1(a)(5); 108A-51; 7 U.S.C. 2011 to 2026; 7 CFR 273.2;*  
11 *Eff. February 1, 1976;*  
12 *Readopted Eff. October 31, ~~1977~~. 1977;*  
13 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71U .0401

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

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

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

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

*This Rule appears to be repetitive of 71W .0601, making it unnecessary.*

*Is (a) necessary? What directive does it provide to your regulated public?*

*Given 7 CFR 274.6(b)(3), please confirm that the fee does not exceed the cost to replace the card.*

*Please remove "or" at the end of (d)(1) and (2)*

*Assuming this Rule applies to Food and Nutrition Services, please add 108A-25 to your History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71U .0401 is readopted as published in 35:20 NCR 2203 as follows:

2  
3 **10A NCAC 71U .0401 ELECTRONIC BENEFIT TRANSFER (EBT) CARD REPLACEMENT FEE**

4 (a) ~~Food Stamp households shall receive the first EBT card at no cost.~~ Electronic Benefit Transfer (EBT) is an  
5 electronic system that allows Food and Nutrition Services (FNS) recipients to access their benefits for food purchases  
6 with a plastic card at FNS authorized retailers. EBT is the method used in the State of North Carolina to issue FNS  
7 benefits.

8 (b) FNS units shall receive its first EBT card at no cost. ~~Food Stamp FNS units households~~ that request a replacement  
9 EBT card shall be assessed a two dollars fifty cent (\$2.50) fee.

10 (c) The fee shall be deducted from the account of the ~~Food Stamp FNS household.~~ unit.

11 (d) The fee shall be refunded if the EBT card:

- 12 (1) was lost in the mail or damaged by the vendor prior to receipt by the ~~Food Stamp FNS~~ FNS unit; or
- 13 (2) is being replaced due to a name change on card; or
- 14 (3) was lost due to a natural disaster such as a fire, flood, tornado or hurricane; or
- 15 (4) was damaged by a retailer or vendor.

16  
17 *History Note:* ~~Authority G.S. 108A-25; 108A-51; 143B-153; 7 U.S.C. 2016 (i)(8); 7 C.F.R. 274.12 (f)(5)(v); 7 CFR~~  
18 274.6(b)

19 *Temporary Adoption Eff. August 1, 2000;*

20 *Eff. April 1, ~~2001~~. 2001;*

21 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71U .0402 is repealed as published in 35:20 NCR 2203 as follows:

2

3 **10A NCAC 71U .0402 FAIR HEARINGS**

4

5 *History Note: Authority G.S. 108A-25; 143B-153; 7 U.S.C. 2016 (i)(8); 7 C.F.R. 274.12 (f)(5)(v);*

6 *Temporary Adoption Eff. August 1, 2000;*

7 *Eff. April 1, ~~2001~~. 2001;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0102

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

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

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

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

*Given .0103 and .0105, is this Rule necessary? With the exception of the requirement for an application, this Rule appears to repeat information provided elsewhere.*

*How is an application to be made? Are the substantive requirements and procedure of the application set forth elsewhere in rule or statute? If not, please provide them here.*

*Please provide any additional authority, including 180A-25.4, if appropriate. Also, is this a federal program under 42 USC 8621-8630? Please add appropriate references in your history note throughout this Subchapter.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0102 is readopted as published in 35:20 NCR 2204 as follows:

2  
3 **10A NCAC 71V .0102 GROUPS COVERED**

4 The state ~~will~~ shall make direct payments to ~~the household~~ household's energy vendor if they the household ~~make~~  
5 makes an application and ~~meet~~ meets the eligibility requirements for this program.

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

7 *Eff. November 19, 1980;*

8 *Amended Eff. October 19, ~~1981~~ 1981;*

9 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0103

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

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

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

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

*I'm not sure that I understand what the overall intent of (1) is. I don't understand lines 6-13 specifically. What is the purpose? Please note that I'm reading this Rule to say both that the Department is going to set the income eligibility requirement and also provides directive regarding the income calculations. Perhaps I just don't understand the process, but I'm struggling with understanding this Rule.*

*Item (1) also appears to provide for rulemaking outside of rulemaking. Is the income eligibility criteria posted on the DHHS website excluded from the process set forth in 150B? Is this under the authority of the Department?*

*Paragraph (a) says "not to exceed 150 percent", but G.S. 108A-25.4 says 130 percent.*

*Please add "or" at the end of (1)(A)(vii)*

*Please add "and" or "or" at the end of (2)(M)*

*Please provide any additional authority, including 108A-25 and 180A-25.4, if appropriate.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71V .0103 is readopted as published in 35:20 NCR 2204-2205 as follows:

### 10A NCAC 71V .0103 ELIGIBILITY REQUIREMENTS

A household must meet the following requirements to be eligible for the Low Income Energy Assistance Program:

- (1) Income: ~~A household's income for the base period used to establish eligibility cannot exceed 110 percent of the current non farm poverty level. The North Carolina Department of Health and Human Services (DHHS) determines the maximum eligibility requirements annually, not to exceed 150 percent of the federal poverty level. DHHS shall consider the economic status of the state of North Carolina and availability of funding in determining the annual income eligibility criteria. The income eligibility criteria shall be included in each annual block grant application that is submitted for public review and approved by the Governor prior to submission to the United States Department of Health and Human Services (HHS) for approval. The income eligibility criteria shall be posted on the DHHS website within ten (10) business days of application approval by HHS. Income will~~ shall be defined as gross income less:

- (A) ~~the standard medical deduction of \$85.00 for each specified person. A specified person is an individual 60 years of age or older, or one of the following: for households in which a household member with is receiving only unearned income;~~
- ~~(i) A person who receives SSI or disability or blindness payments under Titles I, II, XIV or XVI of the Social Security Act; these individuals may have been approved but may have not received their initial payment;~~
  - ~~(ii) A person who receives VA disability benefits for a 100% service or non-service connected disability;~~
  - ~~(iii) A person who is a disabled surviving spouse or disabled surviving child of a Veteran;~~
  - ~~(iv) A person who receives disability retirement benefits from a State, county, or local government agency due to a disability considered permanent under Section 221 of the Social Security Act;~~
  - ~~(v) A person who is receiving a pension from the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare;~~
  - ~~(vi) A person who receives Federal Employees Compensation Act payments due to a disability considered permanent under the Social Security Act;~~
  - ~~(vii) A person who receives Medicaid due to a qualifying disability;~~
  - ~~(viii) A person who receives SSI based on presumptive eligibility.~~
- (B) ~~a deduction of the actual out of pocket child or dependent care costs paid by the household up to the maximum allowed in by the Food Stamp Food and Nutrition Services Program per child or dependent; and~~
- (C) ~~a standard deduction for work related expense as set forth in the below table: (a table shall be used to determine the appropriate amount to deduct).~~



<u>Gross Income Level</u>	<u>Standard Deduction</u>
<u>\$1-50</u>	<u>\$10</u>
<u>\$51-100</u>	<u>\$20</u>
<u>\$101-150</u>	<u>\$30</u>
<u>\$151-200</u>	<u>\$40</u>
<u>\$201-300</u>	<u>\$60</u>
<u>\$310-400</u>	<u>\$80</u>
<u>\$401-UP</u>	<u>20%</u>

Earned and unearned income shall be counted or excluded as mandated by federal laws, federal regulations, and ~~Administrative Procedure Act~~ administrative rules in Subchapter 10A NCAC 71U that govern the ~~Food Stamp~~ Food and Nutrition Services Program. ~~7 CFR 273.9 is hereby adopted by reference under G.S. 150B-14(e).~~

- (2) Assets: A household shall not have assets exceeding two thousand, two hundred and fifty dollars ~~(\$2,200).~~ (\$2,250). All assets ~~will~~ shall be counted ~~with the exception of:~~ except:
- ~~(a)~~ (A) Household or personal belongings (~~includes~~ including essential and non-essential personal property);
  - ~~(b)~~ (B) Cars;
  - ~~(c)~~ (C) Primary residence (including mobile home) and all contiguous property;
  - ~~(d)~~ (D) Income producing real property;
  - ~~(e)~~ (E) Insurance (including burial, term and whole life cash values);
  - ~~(f)~~ (F) Value of prepaid burial contracts;
  - ~~(g)~~ (G) Value of burial plots;
  - ~~(h)~~ (H) Savings of a student under age 18 who is saving his money for school expenses;
  - ~~(i)~~ (I) Relocation assistance payments;
  - ~~(j)~~ (J) That portion of monthly income deposited in a checking or savings account to meet monthly needs;
  - ~~(k)~~ (K) Non-salable life estate or remainder interests;
  - ~~(l)~~ (L) Heir property;
  - ~~(m)~~ (M) HUD community development block grants;
  - ~~(n)~~ (N) Any of a lump sum payment for the month received or the following month.
- (3) Vulnerability: A household must be vulnerable to rising costs of energy. A household that is vulnerable to ~~energy cost increases~~ rising costs of energy is one that is not protected against such increases under any other ~~program.~~ program of assistance.
- (4) Citizenship: ~~Individuals who~~ A household in which all individuals are ~~illegal aliens~~ undocumented immigrants ~~are~~ is not eligible for the Low Income Energy Assistance Program.

*History Note: Authority G.S. 108A-25; 143B-153; 42 U.S.C. 8621(a); 8622(2); 8624(b); 7 C.F.R. 273.9; Eff. November 19, 1980;*

- 1 *Amended Eff. September 1, 1991; October 1, 1990; March 1, 1990; August 1, ~~1985~~ 1985;*
- 2 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71V .0104 is repealed as published in 35:20 NCR 2205 as follows:

2

3 **10A NCAC 71V .0104 BENEFIT LEVELS**

4

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

6 *Eff. November 19, 1980;*

7 *Amended Eff. September 1, 1982; October 19, ~~1981~~, 1981;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0105

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

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

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

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

*Is this rule necessary given G.S. 108A-25.4 which says “energy assistance payment shall be paid directly to the service provider by the county department of social services?” Is the intent here just to say something like “Once a county department of social services submits payment to the service provider, it shall notify the household of the amount of assistance paid”?*

*If you need the language regarding who sends the payment where, please consider revising this Rule to be in active voice and say who shall do what. A suggestion is something like the following:*

Energy assistance checks will be mailed directly to recipients. [home energy suppliers. Payments to suppliers are completed by the local county department of social services. Each participating household shall be notified of the amount of assistance paid to the supplier on behalf of the household.] The Local County Department of Social Services shall mail energy assistance checks to home energy suppliers and shall notify households of the amount of assistance paid.

*Also, out of curiosity, are these checks still mailed? Are they never paid electronically? Perhaps this rule is accurate as written, but if not, would it be appropriate to say something like “ The Local County Department of Social Services shall submit payment on behalf of the household to the energy supplier...”?*

*Please provide any additional authority, including 108A-25 and 180A-25.4, if appropriate.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0105 is readopted as published in 35:20 NCR 2205 as follows:

2  
3 **10A NCAC 71V .0105 METHOD OF PAYMENT**

4 Energy assistance checks will be mailed directly to ~~recipients.~~ home energy suppliers. Payments to suppliers are  
5 completed by the local county department of social services. Each participating household shall be notified of the  
6 amount of assistance paid to the supplier on behalf of the household.

7  
8 *History Note: Authority G.S. 143B-153; 42 U.S.C. 8624(b)(7);*

9 *Eff. November 19, ~~1980.~~ 1980;*

10 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0106

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

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

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

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

*Is this Rule only applicable to the low income energy assistance program?  
Please make that clear within the body of the text of the Rule.*

*What is the specific cross-reference in Subchapter 71W for the correction of overpayments? Is it 71W .0604? Please consider providing the more specific cross-reference.*

*Please provide any additional authority, including 108A-25 and 180A-25.4, if appropriate.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0106 is readopted as published in 35:20 NCR 2205 as follows:

2  
3 **10A NCAC 71V .0106 DUPLICATE PAYMENTS AND OVERPAYMENTS**

4 There ~~can~~ shall be no duplicate payments to a household. Erroneous duplicate payments shall be treated as an  
5 overpayment and corrected pursuant to the procedures set forth for Correction of Overpayments in Subchapter 10A  
6 NCAC 71W.

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

9 *Eff. November 19, ~~1980~~ 1980:*

10 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0107

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

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

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

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

*Is this Rule only applicable to the low income energy assistance program?  
Please make that clear within the body of the text of the Rule.*

*What is the specific cross-reference in Subchapter 71W for suspected fraud? Is it 71W .0606? Please consider providing the more specific cross-reference.*

*Please provide any additional authority, including 108A-25 and 180A-25.4, if appropriate.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71V .0107 is readopted as published in 35:20 NCR 2205 as follows:

2  
3 **10A NCAC 71V .0107 ~~OVERPAYMENTS AND SUSPECTED FRAUD~~**

4 ~~The rules in 10A NCAC 71W .0604 and 71W .0606 will govern for overpayments and suspected fraud. Instances of~~  
5 ~~suspected fraud shall be governed by the procedures set forth for Client Fraud and Intentional Program Violations in~~  
6 ~~Subchapter 10A NCAC 71W.~~

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

9 *Eff. November 19, 1980;*

10 *Amended Eff. August 1, ~~1985~~, 1985;*

11 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71V .0108 is repealed as published in 35:20 NCR 2205 as follows:

2

3 **10A NCAC 71V .0108 APPEALS**

4

5 *History Note: Authority G.S. 108A-25; 143B-153;*

6 *Eff. November 19, 1980;*

7 *Amended Eff. October 1, 1983; October 19, ~~1981~~ 1981;*

8 *Repealed Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0201

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

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

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

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

*G.S. 108A-25.4 appears to give authority regarding the income eligibility requirements for the Crisis Intervention Program to the Department. What is the specific authority of the Commission to promulgate this Rule?*

*Please consider revising Item (1) to say something like "A household shall have income at or below 150 percent of the federal poverty income guidelines calculated in accordance with 10 NCAC 71V .0103."*

*Where can the federal poverty income level be found? Has it been incorporated by reference elsewhere in these Rules?*

*In Item (2), please delete or define "sufficient, timely, and appropriate"*

*In Item (2), I don't see "timely energy crisis" used in this Item. Is this language intended to provide additional information as to what constitutes a crisis? Here, do you mean something like "A household must be in a heating or cooling related crisis to be eligible for assistance. A household is in crisis if it is experiencing or is in danger of experiencing a disconnection of their primary heating or cooling source due to disconnection, inoperable equipment, or insufficient fuel, and the disconnection may result in a life threatening or health-related emergency of a household member?"*

*In Item (2), please delete or define "immediate" in "immediate danger"*

*Please correct the formatting of the History Note and put the cited authority first.*

*Is G.S. 108A-25 still applicable? Please provide any additional authority, including G.S. 180A-25.4. What is your specific authority under G.S. 143B-153*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*Also, is this a federal program under 42 USC 8621-8630? Please correct and add appropriate references in your history note throughout this Subchapter.*

*What is PL 96265 in the History Note?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0201 is readopted as published in 35:20 NCR 2205 as follows:

2  
3 **10A NCAC 71V .0201 ELIGIBILITY REQUIREMENTS**

4 A household must meet the following requirements to be eligible for the Crisis Intervention Program:

- 5 (1) Income: A household must have income at or below 150 percent of the federal poverty income  
6 guidelines. The rules in 10A NCAC 71V .0103 will govern for the definition and computation of  
7 income.
- 8 (2) Crisis: A household must be in a heating or cooling related crisis to be eligible for assistance. A  
9 household is in a crisis if it is experiencing or is in danger of experiencing a life threatening or  
10 health-related emergency and sufficient, timely and appropriate assistance is not available from any  
11 other source. A timely energy crisis means that a household is in immediate danger of experiencing  
12 a disconnection with their primary heating or cooling source, or a household is presently without a  
13 heating or cooling source due to disconnection, inoperable equipment, or insufficient fuel.
- 14 (3) Citizenship: ~~Individuals who~~ Households in which all members are illegal aliens undocumented  
15 immigrants are not eligible for the Crisis intervention Program.

16  
17 *History Note:* *Filed as a Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on*  
18 *January 1, 1982;*  
19 *Authority G.S. 108A-25; 143B-153; 42 U.S.C. 82621(a); 8622(2); 8624(b); P.L. 93-66; P.L. 93-*  
20 *233; P.L. 96265;*  
21 *Eff. January 1, 1982;*  
22 *Amended Eff. October 1, 1990; August 1, 1985;*  
23 *Temporary Amendment Eff. March 13, 2000;*  
24 *Amended Eff. April 1, 2001, 2001;*  
25 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0202

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

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

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

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

*Given G.S. 108A-25.4 which says the "CIP payment shall be paid directly to the service provider by county department of social services and shall not exceed \$600 per household", do you need this Rule?*

*If you do need this Rule, what is the intent of the second sentence? Are these just the factors that the county is to use in determining how much to give (so long as it isn't over \$600.00)? If so, please make that more clear.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0202 is readopted as published in 35:20 NCR 2206 as follows:

2  
3 **10A NCAC 71V .0202 BENEFIT LEVELS**

4 Payments to a household shall not exceed six hundred dollars (\$600.00) in a state fiscal year. ~~Counties may set lower~~  
5 ~~maximums in their annual business plans for operating Low Income Home Energy Assistance Programs.~~ Assistance  
6 shall be based upon the needs of the community, the severity of the crisis and the services needed.

7  
8 *History Note: Authority G.S. 108A-25; 143B-153;*

9 *Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1,*  
10 *1982;*

11 *Eff. January 1, 1982;*

12 *Amended Eff. March 1, 1992; August 1, 1985;*

13 *Temporary Amendment Eff. March 13, 2000; August 24, 1998;*

14 *Amended Eff. November 1, 2007; April 1, 2001; July 1, ~~2000~~; 2000;*

15 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0203

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

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

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

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

*Please ensure that the first sentence is still accurate. Are these payment related to the energy assistance program set forth in 42 USC 8621-8630? If so, please make that clear.*

*How is the new language in .0203 ("Energy assistance payments shall be made directly to vendors. Payments to vendors are completed by the local county department of social services.") different than 71V .0105? This language appears to repeat another rule and is therefore unnecessary.*

*Please correct the formatting of the History Note and put the cited authority first.*

*Please delete G.S. 150B-13 from your History Note and add any additional relevant authority, including G.S. 108A-25.4.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71V .0203 is readopted as published in 35:20 NCR 2206 as follows:

2  
3 **10A NCAC 71V .0203 METHOD OF PAYMENT**

4 Methods of payment include direct payments to ~~recipients~~ vendors, fuel payments on behalf of recipients, provision  
5 of in-kind services or temporary shelter and minor home repairs. Energy assistance payments shall be made directly  
6 to vendors. Payments to vendors are completed by the local county department of social services.

7  
8 *History Note: Filed as a Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on*  
9 *January 1, 1982;*

10 *Authority G.S. 143B-153; 150B-13;*

11 *Eff. January 1, ~~1982~~. 1982;*

12 *Readopted Eff. August 1, 2021.*

**REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71V .0204

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

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

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

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

*Is this Rule only applicable to the crisis intervention program? Please make that clear within the body of the text of the Rule.*

*What is the specific cross-reference in Subchapter 71W for the correction of overpayments? Is it 71W .0604 and .0606? Please consider providing the more specific cross-reference.*

*Please correct the formatting of the History Note and put the cited authority first.*

*Please provide any additional authority, including 180A-25.4.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71V .0204 is readopted as published in 35:20 NCR 2206 as follows:

2  
3 **10A NCAC 71V .0204 OVERPAYMENTS AND SUSPECTED FRAUD**

4 ~~The rules in 10A NCAC 71W .0604 and 71W .0606 will govern for overpayments and suspected fraud. Instances of~~  
5 ~~overpayments or suspected fraud shall be governed by the procedures set forth in Subchapter 10A NCAC 71W.~~

6  
7 *History Note: Filed as a Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on*  
8 *January 1, 1982;*

9 *Authority G.S. 143B-153; 150B-13;*

10 *Eff. January 1, 1982;*

11 *Amended Eff. August 1, 1985; 1985;*

12 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71V .0205 is repealed as published in 35:20 NCR 2206 as follows:

2

3 **10A NCAC 71V .0205 APPEALS**

4

5 *History Note: Filed as a Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on*  
6 *January 1, 1982;*

7 *Authority G.S. 143B-153; 150B-13;*

8 *Eff. January 1, ~~1982~~. 1982;*

9 *Repealed Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC Subchapter 71W

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

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

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

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

*Overall, what is this Subchapter of Rules applicable to? What specific programs is this set of Rules addressing? If these Rules are intended to apply to work first, it appears as though G.S. 108A-25 and 108A-27 gives authority over work first to the Department. What is the Commission's authority to promulgate rules regarding work first?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0101

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

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

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

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

*In (7), please add a comma after recipient.*

*(17) doesn't appear to contemplate a father who is married to the mother. Is the alleged father one who does not meet the definition of a legal father set forth in Item (18)?*

*In (17) and (18), what if an affidavit of parentage has been executed?*

*In (27), please change "which" to "that" in "which will be..."*

*In (28), please change "which" to "that" in "which are available"*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0101 is readopted as published in 35:20 NCR 2207-2208 as follows:

2  
3 **10A NCAC 71W .0101 DEFINITIONS**

4 The following definitions apply to this Chapter:

- 5 (1) "Adjusted Payment" means a payment to the recipient to correct a county-responsible  
6 underpayment.
- 7 (2) "Appeal" means an oral or written request from ~~a an client applicant, recipient, or former recipient~~  
8 for a hearing to review the action of a county Department of Social Services when the ~~client~~  
9 ~~applicant, recipient, or former recipient~~ is dissatisfied with the decision in his case.
- 10 (3) "Applicant" means a person or assistance unit who has applied for Work First.
- 11 ~~(3)(4)~~ "Application Process" means a series of actions beginning with a signed application (written or  
12 electronic) and ending the date a ~~check~~ payment is authorized or a denial notice is mailed.
- 13 ~~(4)(5)~~ "Assistance Unit" means the total number of persons whose needs are considered in determining the  
14 payment amount.
- 15 ~~(5)(6)~~ "Budget Unit" means all those persons for whom application has been made plus anyone in the  
16 home who is liable for the support of a member of the assistance unit or whose income is counted  
17 as available to the assistance unit.
- 18 ~~(6)(7)~~ "Client" means member of the assistance unit. It may be used interchangeably with participant,  
19 payee, recipient and applicant.
- 20 ~~(7)(8)~~ "Collateral" means a person or organization that can substantiate or verify information necessary to  
21 establish eligibility.
- 22 ~~(8)(9)~~ "Determination" means the process of verifying eligibility factors for persons applying for ~~AFDC~~  
23 Work First.
- 24 (10) "Disaster" means periods of natural disaster or other emergencies as declared by state or federal  
25 authorities.
- 26 ~~(9)(11)~~ "Disregard of Earned Income" means the procedure for exempting certain portions of earned income  
27 ~~as a resource~~ when determining the amount of payment.
- 28 ~~(10)(12)~~ "Effective Date" means the date for which the benefit is ~~authorized.~~ authorized or activated.
- 29 (13) "Electronic Funds Transfer" or "EFT" means the method by which Work First payment is issued.  
30 It may be used interchangeably with direct deposit or Electronic Benefit Transfer (EBT) Card.
- 31 ~~(11)(14)~~ "Eligibility, Initial" means the state of eligibility at time of application.
- 32 ~~(12)(15)~~ ~~"Essential Person" means a person who gives an essential service to a client, and, if in need, is~~  
33 ~~eligible to be included in the assistance unit.~~ "ePass" means the North Carolina Electronic Pre-  
34 Assessment Screening Service portal through which applications for benefits may be made.
- 35 ~~(13)(16)~~ "Excluded Income" means money received by a member of the budget unit which is not counted in  
36 determining eligibility for assistance.

~~(14)~~(17) "Father, Alleged" means the man who is said without proof to be the father of a child. This includes a father who has admitted paternity when paternity has not been established in a court of law.

~~(15)~~(18) "Father, Legal" means:

- (a) The man who is married to the mother of child at the time of birth of the child, regardless of whether they are living together. The legal father is not necessarily the natural father, but is legally responsible for support; or
- (b) A man who has been determined by the court to be the father of the child through a paternity suit or by act of legitimation; or
- (c) A man who has legally adopted the child.

~~(16)~~(19) "Father, Natural" means the biological father of the child. He may be the alleged or legal father.

~~(17)~~(20) "Full-Time Student" means a student so designated by the school in which ~~he~~ the student is enrolled.

(21) "Kinship" means relationship to a child by blood, marriage, or adoption.

~~(18)~~(22) "Minor Mother" means a mother who is under the age of 18 ~~who may be payee for an assistance unit or a recipient included in another assistance unit.~~ 18.

~~(19)~~ "Needy Spouse" means the husband or wife of a specified relative (other than a parent) who is eligible to be included in the assistance unit if he applies for assistance and meets the requirements of an essential person.

~~(20)~~(23) "Payee" means the person in whose name the AFDC payment is made.

~~(21)~~(24) "Payment Month" means the month for which the payment is made.

~~(22)~~(25) "Prospective Budgeting" means the best estimate of income in the payment month.

~~(23)~~(26) "Reapplication" means a subsequent application when a case has been ~~terminated or suspended.~~ terminated.

~~(24)~~ "Recipient" means an eligible person whose needs are included in the assistance payment.

~~(25)~~(27) "Remainder Interest" means property which will be inherited in full at a life estate interest holder's death.

~~(26)~~(28) "Revocable Trust" means funds held in trust which are available for the client's use.

~~(27)~~(29) "Verification" means the confirmation of facts and information used in determining eligibility.

(30) "Work First Benefits" or "WFB" means the assistance payments made to adults who are required to work or participate in work-related activities.

*History Note: Authority G.S. 108A-25; 143B-153; ~~45 C.F.R. 233;~~  
Eff. February 1, 1984;  
Amended Eff. June 1, 1990; August 1, 1988; February 1, 1986;  
Temporary Amendment Eff. July 1, 1996;  
Recodified from 10 NCAC 49A .0002 Eff. January 1, 1997;  
Amended Eff. April 1, ~~1997.~~ 1997;  
Readopted Eff. August 1, 2021.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0302

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

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

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

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

*Overall, when is this Rule applicable?*

*On line 4, what interview? When and by whom is this to be done?*

*In Item (1), when must the applicant provide this information? During the interview? Is this part of an application?*

*In (1)(b), what resources? Is there a cross-reference available?*

*In (1)(d), when would medical forms be appropriate?*

*In (1)(e), what would constitute good cause? How is this to be determined?*

*In (1)(g) and (4)(h), what are the drug testing requirements? Those set by the Department in accordance with G.S. 108A-29.1?*

*In Item (2), please change "It is the county's responsibility to use..." to "the County shall use..."*

*In Item (2), what are the eligibility requirements? Are these set by the Department?*

*In Item (3), please change "will" to "shall" in "will be based on..."*

*In Item (3), what are "error-prone characteristics defined by the state using quality control and other management data"?*

*In (4)(b), how is it to be determined whether a substitute payee will be appointed and by whom?*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*In (4)(c), what is "lawful authority"?*

*In Item (5), when must the applicant do this?*

*Should (5)(a) be a part of (1)?*

*Please review (5)(b) for clarity. Is this addressed elsewhere in your Rules?*

*In (5)(c), under what circumstances would the applicant be required to repay the overpayment? Is this in accordance with .0604? Also, I'm reading this to say that if they immediately report the overpayment, then they can keep it – I'm assuming that's not a correct reading.*

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

1 10A NCAC 71W .0302 is readopted as published in 35:20 NCR 2208-2209 as follows:

3 **10A NCAC 71W .0302 INITIAL INTERVIEW**

4 The applicant shall be allowed to have any person(s) of ~~his~~ their choice participate in the interview. ~~The applicant~~  
5 ~~shall be informed of the following:~~

6 (1) ~~He~~ The applicant must provide:

- 7 (a) the names of collaterals, such as landlords, employers, and others with knowledge of ~~his~~  
8 the applicant's situation;
- 9 (b) information about ~~his~~ the applicant's resources;
- 10 (c) verification of ~~his~~ the applicant's earned income and any operational expenses;
- 11 (d) ~~his Social Security number unless he has lost his card;~~
- 12 ~~(e)(d)~~ medical forms when appropriate;
- 13 ~~(f)~~ work registration card from ESC;
- 14 ~~(g)~~ statement from a dealer when verified equity of a motor vehicle is disputed;
- 15 ~~(h)(e)~~ evidence of good cause claim for non-cooperation with the child support enforcement  
16 agency;
- 17 ~~(i)~~ verification of the amount of a lump sum payment and other required information regarding  
18 the lump sum;
- 19 ~~(j)~~ verification of stepparent's income and verification of income of a minor parent's parent or  
20 legal guardian; and
- 21 ~~(k)(f)~~ signed statement from a doctor or medical facility substantiating a pregnancy and the  
22 expected due ~~date.~~ date; and
- 23 ~~(g)~~ a signed consent or declination to complete drug testing requirements.

24 (2) It is the county's responsibility to use collateral sources to substantiate or verify information  
25 necessary to establish eligibility. Collateral sources of information include knowledgeable  
26 individuals, business organizations, public records, and other documentary evidence. If the  
27 applicant does not wish necessary collateral contacts to be made, ~~he~~ the applicant may withdraw the  
28 application. If ~~he~~ the applicant denies permission to contact necessary collaterals, the application  
29 shall be rejected due to failure to cooperate in establishing eligibility.

30 (3) A worker ~~will~~ may visit ~~his~~ the applicant's home at the county's option. The county's decision to  
31 make a home visit will be based on error-prone characteristics defined by the state using quality  
32 control and other management data.

33 (4) The applicant has the right to:

- 34 ~~(a)~~ receive assistance if found eligible;
- 35 ~~(b)(a)~~ be protected against discrimination on the grounds of ~~race, creed, or national origin by Title~~  
36 ~~VI of the Civil Rights Act of 1964. He may appeal such discrimination; race, color,~~  
37 national origin, age, disability, or sex;

- (e)(b) spend ~~his~~ assistance payment payments as ~~he wishes, desired; however, but it use of~~ assistance payments must be made in ~~his the~~ the best interest ~~and that of his family, of the~~ applicant and the applicant's family. A substitute payee may be appointed for those individuals who cannot manage the payments;
- (d)(c) receive ~~his monthly check in advance~~ assistance payments until ~~the payment~~ assistance payments are is terminated by appropriate action; pursuant to lawful authority;
- (e)(d) have any information given to the agency kept in confidence;
- (f)(c) ~~appeal, if his assistance will be denied, changed or terminated, his payment is incorrect based on the agency's interpretation of state regulations, or his request for a change in the amount of assistance was delayed beyond 30 days or rejected; appeal denials, changes, or terminations of assistance payments; appeal assistance payments which the applicant believes were incorrectly calculated; or, if the applicant requests a change in the amount of assistance payments, appeal the rejection of the requested change or the agency's failure to act upon the requested change within thirty (30) calendar days of the requested change;~~
- (g)(f) reapply at any time, if found ineligible; ~~and~~
- (h)(g) withdraw from the assistance program at any ~~time, time; and~~
- (h) refuse to comply with drug testing requirements.
- (5) ~~The applicant's responsibilities. He-~~ The applicant must:
- (a) provide the county department, state and federal officials, the necessary sources from which the county department can locate and obtain information needed to determine eligibility;
- (b) report to the county department of social services any change in situation that may affect eligibility for a ~~check payment~~ within 10 calendar days after ~~he the applicant~~ the applicant learns of the change. The meaning of fraud shall be explained. The applicant shall be informed that ~~he they~~ they may be suspected of fraud if ~~he they fails fail~~ they fail to report a change in situation and that in such situations, ~~he they~~ they may have to repay assistance received in error and that ~~he they~~ they may also be tried by the courts for fraud; ~~and~~
- (e) ~~inform the county department of social services of any person or organization against whom he has a right to recovery. When he accepts medical assistance (included with any AFDC), the applicant assigns his rights to third party insurance benefits to the state. He shall be informed that it is a misdemeanor to fail to disclose the identity of any person or organization against whom he has a right to recovery; and~~
- (d)(c) immediately report to the county department the receipt of a ~~check payment~~ which ~~he the~~ the applicant knows to be erroneous, such as two ~~checks payments~~ checks payments for the same month, or a ~~check payment~~ check payment in the ~~wrong incorrect~~ wrong amount. If ~~he the applicant~~ the applicant does not report such ~~erroneous payments, he the applicant~~ erroneous payments, the applicant may be required to repay any overpayment.

1     *History Note:*     *Authority G.S. 108A-43; 108A-29.1; 143B-153; 45 C.F.R. 206.10;*  
2                         *Eff. February 1, 1984;*  
3                         *Amended Eff. June 1, 1990; February 1, 1986;*  
4                         *Temporary Amendment Eff. July 1, 1996;*  
5                         *Amended Eff. April 1, ~~1997~~. 1997;*  
6                         *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0303

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

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

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

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

*What is this Rule applicable to? All public assistance programs? Please provide clarification within this Rule.*

*Who is to perform this eligibility determination?*

*In Item (1), what are the eligibility factors? Is there a cross-reference available?*

*In Item (2), what is meant by "a home visit shall be made at county option"?*

*In Item (2), what is meant by "error-prone characteristics"?*

*Overall in Item (2), do you mean something like "A county department of social services may perform a home visit at their discretion based upon... (whatever they are to base this decision on...)"*

*Please provide any other applicable authority in the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0303 is readopted as published in 35:20 NCR 2209 as follows:

2  
3 **10A NCAC 71W .0303 ELIGIBILITY DETERMINATION PROCESS**

4 The following steps shall be followed in eligibility determination:

- 5 (1) Each eligibility factor shall be reviewed and verified; and  
6 (2) A home visit shall be made at county option. The county department of social services shall use  
7 error-prone characteristics to decide when it is appropriate to make a home visit.  
8

9 *History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;*

10 *Eff. February 1, ~~1984~~, 1984;*

11 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0304

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

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

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

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

*Is the effect of this Rule that work first payments will occur retroactively upon approval back to the date of the application? If so, I'm not sure that's clear.*

*Please add any additional authority pertinent to this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71W .0304 is readopted as published in 35:20 NCR 2209 as follows:

2

3 **10A NCAC 71W .0304 EFFECTIVE DATE**

4 ~~AFDC~~ Work First payments shall be effective with the date of application.

5

6 *History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;*

7 *Eff. February 1, 1984, 1984;*

8 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0403

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

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

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

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

*Please incorporate the CFR in accordance with G.S. 150B-21.6 and say something like "United States Citizenship requirements set forth in 45 CFR 233.50 are hereby incorporated by reference, including subsequent amendments and editions. 45 CFR 233.50 can be found at <https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.3.233&rgn=div5> at no cost.*

*In (b), do you need the introductory language of "Verification."? I know that this type of language is not elsewhere in this Rule.*

*In (b), what would constitute a reason to doubt? Also, what sort of "documentary evidence" would be sufficient? Please provide some examples.*

*Please provide any additional authority in the History Note.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0403 is readopted as published in 35:20 NCR 2209 as follows:

2  
3 **10A NCAC 71W .0403 UNITED STATES CITIZENSHIP**

4 (a) Eligibility requirement pertaining to United States Citizenship shall be found in 45 CFR 233.50 and this provision  
5 is hereby adopted by reference under G.S. 150B-14(c).

6 (b) Verification. The worker shall accept the applicant's statement unless there is some reason to doubt it. If there is  
7 doubt, documentary evidence shall be required.

8  
9 *History Note: Authority G.S. 143B-153; 45 C.F.R. 233.50;*

10 *Eff. February 1, 1984;*

11 *Amended Eff. August 1, 1988; February 1, 1986. 1986;*

12 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0404

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

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

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

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

*What is this Rule applicable to?*

*In (a)(2), are there limitations on "other relatives"? Is this intended to be addressed by (a)(3)? If so, should "other relatives" be "other blood or adoptive relatives of the alleged father"?*

*In (a)(3), is the intent here that the child could be living with anyone in (a)(3)? If so, please revise to say something like "a blood or adoptive relative, limited to a brother, sister, grandparent..."*

*In (a)(3), line 11, please add "or" before "first cousin"*

*Please delete the "or" at the end of (b)(1)(A) through (C), (b)(2)(A) through (B), and (c)(1) through (4).*

*What is the difference between "bible records" referenced in (b)(1)(E)(ii) and (b)(2)(D)(ii) and "church records" referenced in (c)(6)(D)?*

*In (b)(1)(E)(xi) and (b)(2)(D)(xi), delete "specific"*

*Is (b)(2)(D)(xi) not also applicable to placement with an alleged father's relative?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0404 is readopted as published in 35:20 NCR 2209-2210 as follows:

2  
3 **10A NCAC 71W .0404 KINSHIP AND LIVING WITH A SPECIFIED RELATIVE**

4 (a) ~~Eligibility requirements pertaining to~~ For eligibility determinations based on kinship and living with a specified  
5 ~~relative shall be found in 45 CFR 233.90 and this provision is hereby adopted by reference under G.S. 150B-14(e).~~  
6 relative, children under the age of 21 must have one of the following relationships within the household:

7 (1) A parent, including a biological mother or father, a legal father, or adoptive parent(s) after issuance  
8 of a final adoptive order;

9 (2) An alleged father or other relative of the alleged father;

10 (3) A blood or adoptive relative is limited to: brother, sister, grandparent, great-grandparent, great-  
11 great-grandparent, uncle, aunt, great uncle or aunt, great-great uncle or aunt, nephew, niece, first  
12 cousin. Spouses or former spouses of these individuals must have legal custody or legal guardianship  
13 of the child to meet the kinship requirement if the marriage has been terminated by death or divorce;  
14 or

15 (4) A step-relative limited to a stepparent or stepsibling. Spouses or former spouses of these individuals  
16 must have legal custody or legal guardianship to meet the kinship requirement if the marriage has  
17 been terminated by death or divorce.

18 (b) Verification of kinship shall be made only at application unless previous documentation appears to be incorrect.

19 (1) Kinship of a child to a specified relative except for an alleged father shall be verified by examining:

20 (A) birth certificates; or

21 (B) hospital records established at birth; or

22 (C) marriage record; or

23 (D) Social Security Administration records; or

24 (E) two of the following:

25 (i) school records;

26 (ii) Bible records;

27 (iii) hospital or physician's records;

28 (iv) court records including adoption records;

29 (v) immigration records;

30 (vi) naturalization records;

31 (vii) church documents;

32 (viii) passport;

33 (ix) military records;

34 (x) U.S. census records;

35 (xi) signed statement from an individual having specific knowledge about the kinship  
36 of the child to the specified relative. The statement shall include:

37 (I) name of child;

- (II) date of birth;
- (III) place of birth;
- (IV) individual's relationship; and
- (V) basis of individual's knowledge.

(2) Kinship of a child to ~~his~~ the alleged father or other alleged paternal relative shall be verified by verifying the child's relationship to the alleged father and if necessary the alleged father's relationship to the alleged paternal relative. Relation to the alleged father shall be verified by examining:

- (A) court support records; or
- (B) county department of social services support records; or
- (C) statement signed and dated by the father that acknowledges his paternity; or
- (D) two of the following:
  - (i) school records;
  - (ii) Bible records;
  - (iii) hospital or physician records;
  - (iv) court records;
  - (v) immigration records;
  - (vi) naturalization records;
  - (vii) church documents;
  - (viii) passport;
  - (ix) military records;
  - (x) U.S. census records;
  - (xi) signed statement from an individual having specific knowledge about the kinship of the child to the ~~specified relative.~~ the alleged father. The statement shall include:
    - (I) name of child;
    - (II) date of birth;
    - (III) place of birth;
    - (IV) individual's relationship; and
    - (V) basis of individual's knowledge.

(c) Verification that a child is living within the home of a specified relative shall be made during each determination of eligibility by:

- (1) a home visit when there is evidence of the child living in the home; or
- (2) use of school records; or
- (3) use of day care center records; or
- (4) statement of a social worker employed by the county department of social services when, following a home visit, ~~he~~ the social worker is able to substantiate that the child is living in the home; or

- 1 (5) statement from a non-relative having personal knowledge of the child's living with the specified  
2 relative; or  
3 (6) two of the following:  
4 (A) medical records, including health department records;  
5 (B) Social Security or other benefit records;  
6 (C) rental records;  
7 (D) church records.  
8

9 *History Note: Authority G.S. 108A-25; 143B-153; 45 C.F.R. 233.10;*  
10 *Eff. February 1, 1984;*  
11 *Amended Eff. January 1, 1989; August 1, 1988; February 1, ~~1986~~ 1986;*  
12 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0405

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

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

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

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

*In (a), will these always be families?*

*In (a), what kind of assistance?*

*In (b), why does this matter? Are they to apply for assistance in the county in which they reside? Please make this a complete sentence for purposes of clarity.*

*In (b)(1) and (2), please change the period to a colon after "Adult" and "Child"*

*In (c), what sort of "documentary evidence" would be sufficient? Please provide some examples.*

*G.S. 108A-35 was repealed by 1997-443. Please remove it from the History Note and add any pertinent authority.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021



1 10A NCAC 71W .0405 is readopted as published in 35:20 NCR 2210 as follows:

2  
3 **10A NCAC 71W .0405 RESIDENCE**

4 (a) ~~Eligibility requirements pertaining to residence shall be found in 45 CFR 233.40 and this provision is hereby~~  
5 ~~adopted by reference under G.S. 150B-14(c). Families must be residents of North Carolina to be eligible to receive~~  
6 ~~assistance.~~

7 (b) County residence eligibility requirement.

8 (1) Adult. An adult has residence in the county in which ~~he resides;~~ they reside.

9 (2) Child. A child has the residence of the person with whom ~~he resides;~~ they reside.

10 (c) Verification. Documentary evidence shall be required to verify the applicant's physical address at the time of  
11 initial application and at any change in the recipient or applicant's residence. The worker shall accept the client's  
12 statement unless there is some reason to doubt it. If there is doubt, documentary evidence shall be required. If any  
13 AFDC recipient's visit to another county within the state or to another state exceeds three months, the worker in the  
14 responsible county shall verify the following:

15 (1) ~~the recipient's intent to return;~~

16 (2) ~~reason for the continuing absence; and~~

17 (3) ~~the continuing maintenance of a home in the first county.~~

18  
19 *History Note: Authority G.S. 108A-35; 143B-153; 45 C.F.R. 233.40;*

20 *Eff. February 1, 1984;*

21 *Amended Eff. August 1, 1988; February 1, ~~1986.~~ 1986.*

22 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0407

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

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

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

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

*In (b) and (f) you have used lead in terms ("Individuals whose reserve is counted" and "Verification.") I don't see them elsewhere in this Rule. Please be consistent.*

*What is the overall intent of (b)? Is this to say whose resources will be counted (I think so, based upon the lead in language.) If that's correct, please make this a complete sentence and say something like, "Resources owned by the following budget unit members shall be counted for purposes of eligibility of work first assistance:"*

*Please end (b)(1) and (2) with semi-colons. Also, add an "and" at the end of (b)(2).*

*In (b)(2), delete "Child."*

*Please make (b)(3) a complete sentence. Do you mean something like "jointly owned resources shall be counted as follows:..."*

*End (b)(3)(A) and (B) with semi-colons instead of periods. Please add an "and" at the end of (b)(3)(B).*

*Please end (b)(3)(C) with some sort of language to lead into (b)(3)(c)(i) and (ii) and end with a colon. Perhaps something like "... disposal of the resource and counted as follows:"*

*Please end (b)(3)(C)(i) with a semi-colon and an "and" or "or", whichever is applicable.*

*Please make (d), line 3, and (e), line 23, a complete sentence.*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*Please add an "and" at the end of (d)(3)*

*In the History Note, I don't understand the reference to 108A-41. Also, 108A-46 was repealed by S.L. 2003-284. Please update the History Note accordingly and include any additional relevant authority.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71W .0407 is readopted as published in 35:20 NCR 2210-2211 as follows:

### 10A NCAC 71W .0407 RESERVE

(a) ~~An AFDC assistance unit shall be allowed to reserve resources at a maximum of one thousand dollars (\$1,000). If the reserve level exceeds one thousand dollars (\$1,000), the unit is ineligible. A Work First assistance unit shall be allowed to reserve resources at a maximum of three thousand dollars (\$3,000). The assistance unit is ineligible if the reserve level exceeds this maximum.~~

~~(b) Only resources that are currently available to the assistance unit shall be counted. For applications, only those resources that are available during any month prior to disposition are counted to determine eligibility for those months.~~

~~(e)~~(b) Individuals whose reserve is counted. Resources owned by budget unit members shall be counted as follows:

(1) ~~Parent. Count unless she receives SSI. Parent, adoptive parent, or stepparent unless the individual receives SSI.~~

(2) ~~Minor Mother. Count unless she receives SSI.~~

(3) ~~Stepparent. If the stepparent is included in the payment, his resources shall be counted. If he is not included, but the parent has access to joint resources, half of the resources shall be counted.~~

(4) ~~Specified Relative. If the specified relative is included in the payment, his resources shall be counted. Otherwise his resources shall not be counted.~~

~~(5)~~(2) Child. If the child is included in the payment, ~~his~~ the child's resources shall be counted.

(6) ~~Essential Person. If an essential person is included in the payment, his resources shall be counted. Otherwise, his resources shall not be counted.~~

~~(7)~~(3) Jointly owned resources.

(A) If a budget unit member owns resources jointly with another public assistance recipient, ~~his~~ the budget unit member's share shall be counted as an available resource. The resource shall be divided equally among the owners unless the owners have a signed agreement specifying division.

(B) If a budget unit member owns resources jointly with a non-assistance recipient, and ~~he~~ the budget unit member can dispose of the resource without the consent of the other owner, ~~his~~ the budget unit member's share shall be counted as an available resource. The resource shall be divided equally among the owners unless they have a signed agreement specifying division.

(C) If a budget unit member owns resources jointly with a non-assistance recipient, and ~~he~~ the budget unit member cannot dispose of the resource without the consent of the other owners, it shall be determined whether the non-assistance recipient consents to the disposal of the resource.

(i) If ~~he~~ the non-assistance recipient consents, the budget unit member's share of the resource shall be counted. Resources shall be divided equally among the owners unless they have a signed agreement specifying division.

(ii) If ~~he~~ the non-assistance recipient refuses, the budget unit member's share shall not be counted.

(d) Reserve; items counted:

- (1) cash on ~~hand, including lump-sum payments received from the sale of an asset or an income tax refund;~~ hand;
- (2) the current balance of savings accounts;
- (3) that portion of a checking account other than the monthly income deposited to meet the family's needs;
- ~~(4) cash value of life insurance policies;~~
- ~~(5) equity on nonessential personal property limited to:~~
  - ~~(A) — equity in excess of one thousand five hundred dollars (\$1,500) for one motor vehicle;~~
  - ~~(B) — a mobile home not used as a home site;~~
  - ~~(C) — boats, boat trailers, and boat motors;~~
  - ~~(D) — campers;~~
  - ~~(E) — farm or business equipment;~~
- ~~(6)(4)~~ stocks, bonds, mutual fund shares; shares.
- ~~(7) revocable trust funds;~~
- ~~(8) equity in real property including income-producing property not used as a home;~~
- ~~(9) value of revocable prepaid burial contracts;~~
- ~~(10) net proceeds from a business, including a farm, which has been discontinued;~~
- ~~(11) life estate interest, if salable; and~~
- ~~(12) remainder interest, if salable.~~

(e) Reserve; items excluded:

- (1) personal effects and household goods;
- (2) a mobile ~~home used as a homesite;~~ home;
- (3) ~~straight term~~ life insurance;
- (4) burial insurance;
- (5) that portion of a checking account that is the monthly income deposited to meet the family's needs;
- (6) ~~non-salable~~ life estate or remainder interest;
- (7) heir property, ~~ie,~~ property from an estate which has not been settled;
- (8) ~~equity value of one thousand five hundred dollars (\$1,500) or less for one car, truck, or other motor vehicle-vehicles;~~
- (9) real property including income-producing property;
- (10) income received from a reverse mortgage;
- (11) retirement funds;
- (12) trust funds;
- (13) remaining balances of lump-sum payments; and

1           (14) a Uniform Transfer to Minors Account if the owner of the account is included in the budget unit.  
2 (f) Verification. ~~Value and ownership of real property and motor vehicles shall be verified. The client's statement of~~  
3 ~~value of another reserve property available to members of the budget unit shall be accepted without further verification~~  
4 ~~unless either this statement of value is incomplete, inconsistent, or unclear, or the values stated by the client would~~  
5 ~~cause the budget unit's reserve to exceed the reserve maximum. The applicant or recipient's statement of the value of~~  
6 ~~reserve property shall be accepted without further verification unless the statement of value is incomplete, inconsistent,~~  
7 ~~unclear, or the values stated by the applicant or recipient would cause the budget unit's reserve to exceed the reserve~~  
8 maximum.  
9

10 *History Note: Authority G.S. 108A-41; 108A-46; 143B-153; 45 C.F.R. 233.20;*  
11 *Eff. February 1, 1984;*  
12 *Amended Eff. June 1, 1990; February 1, ~~1986~~. 1986;*  
13 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0408

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

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

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

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

*Please make (a) a complete sentence and make clear how they go with (1) and (2). Is this intended to address whose income will be counted for eligibility purposes?*

*Please and (a)(1) with a semi-colon and an "and."*

*Please delete "child." In (a)(2).*

*(c) and (f) appear to address the same subject. Can these be combined.*

*Please make (d) a complete sentence. It's not entirely clear how this Paragraph fits with this Rule. When would it be applicable. Should this Paragraph be in .0410?*

*In (d), you can't have a (1) without a (2) on line 18. A suggestion would be to simply delete (d), lines 16-17 and make (d)(1) (d) and (d)(1)(A) through (E) (d)(1) through (5).*

*In (d), please define "timely." Are the timelines for these reports set forth elsewhere in rule or statute?*

*Also, what are these reports? Who is to complete them? This Paragraph appears to be missing some sort of requirement regarding the reports.*

*In (d)(1)(A), delete or define "significant"*

*In (d)(1)(B), please add "a" before "caretaker"*

*Please begin (d)(1)(D) with lower case letters for purposes of consistency.*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*In (d)(1)(D), please change “and/or” to either “and” or “or”, whichever is applicable.*

*Also, is 45 CFR 233.20 incorporated by reference elsewhere in your rules? If not, please do so here in accordance with G.S. 150B-21.6.*

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



10A NCAC 71W .0408 is readopted as published in 35:20 NCR 2211-2213 as follows:

### 10A NCAC 71W .0408 INCOME

(a) Consideration of available earned and unearned income to determine eligibility for and amount of assistance.

(1) ~~Parent's net income shall be counted unless the parent:~~ Parents' incomes, including the incomes of adoptive parents and stepparents, shall be counted unless the parent, adoptive parent, or stepparent receives SSI, provided that cash contributions from the parent to the assistance unit shall be counted.

~~(A) — receives SSI. Provided that cash contributions from the parent to the assistance unit shall be counted.~~

~~(B) — is excluded from the assistance unit because he does not meet eligibility requirements. Gross income of the parent minus his needs shall be counted if he is excluded because he does not meet eligibility requirements. If the parent's needs have already been considered in calculating deemed income from a stepparent, the parent's gross income shall be counted.~~

~~(2) — Minor mother's net income shall be counted unless she:~~

~~(A) — is a student and qualifies for earned and unearned income exclusions. See unearned or earned income exclusion in (e) and (f) of this Rule.~~

~~(B) — receives SSI. Provided that cash contributions from the minor mother to the assistance unit shall be counted.~~

~~(C) — is excluded from the assistance unit because she does not meet eligibility requirements. Gross income of the minor mother minus her needs shall be counted if she is excluded because she does not meet eligibility requirements. If the minor mother's needs have already been considered in calculating deemed income from a stepparent, the minor mother's gross income shall be counted.~~

~~(3) — Stepparent. If the stepparent is included in the assistance unit, his net income shall be counted. If the stepparent is not in an assistance unit, net income shall be counted unless he is an SSI recipient. If he is an SSI recipient only cash contributions from him to the assistance unit shall be counted.~~

~~(4) — Specified relative other than parent. If the specified relative is included in the assistance unit, net income shall be counted. If he is not included in the assistance unit, only cash contributions from him to the assistance unit shall be counted.~~

~~(5)~~(2) Child. Countable net unearned income of a child who is included in the assistance unit shall be counted.

~~(6) — Essential person. Net income of an essential person who is included in the assistance unit shall be counted.~~

(b) The following items of earned income shall be included in determining eligibility:

- (1) income from wages, salaries, and commissions;
- (2) farm income;
- (3) ~~small~~ business income including self-employment;

(4) rental income; and

(5) income from roomers and ~~boarders~~; boarders.

(6) ~~earned income tax credit~~; and

(7) ~~supplemental payments in excess of state's maximum rates for Foster Care and State Foster Home~~

~~Funds paid by the county to AFDC recipients who serve as foster parents.~~

(c) ~~Earned income exclusions are found in 45 CFR 233.20 and this provision is hereby adopted by reference under G.S. 150B-14(e).~~ In addition to the earned income exclusions contained in 45 CFR 233.20, earned income from temporary census employment shall be excluded in determining eligibility. ~~In addition, the following items of earned income shall be excluded in determining eligibility:~~

(1) ~~Foster Care and State Foster Home Payments equal to or below the state maximum rates to AFDC recipients who serve as foster parents;~~

(2) ~~Earned income from the 185 percent limitation for up to six months in a calendar year of a child applicant/recipient who is a full time student;~~

(3) ~~Earned income from census employment under Section 1115 Demonstration Project Approved by the DHHS contingent on receipt of federal regulations in sufficient time for implementation.~~

(d) Good Cause Provisions for Failure to Timely Report Income or Return Monthly Work First Family Assistance Reports. ~~Report Timely.~~

(1) Circumstances that constitute "good cause" for failing to report income in a timely manner or return a monthly Work First Family Assistance Report are limited to:

(A) ~~the death of a household member;~~ a significant family crisis or change including, but not limited to, the death of a spouse, parent or child;

(B) the hospitalization or illness of the applicant or recipient caretaker, or a dependent child for whom ~~she~~ the individual provides care; ~~care, including participation in substance use treatment or attendance at a medical appointment;~~

(C) ~~failure of the applicant or recipient to report a change in monthly income of five dollars (\$5.00) or less civil leave, including jury duty or a required court appearance;~~

(D) Lack of child care for parent and/or minor parent in school, training, or other work activity;  
or

(E) any other reason determined by the Director of the county department of social services, or his or her designee, ~~hearing officer~~ based on evidence provided by the recipient, applicant, or caretaker.

(2) ~~Circumstances that constitute "good cause" for failing to return a monthly form in a timely manner are limited to:~~

(A) ~~the death of a household member;~~

(B) ~~the hospitalization of the applicant or recipient or a dependent child for whom she provides care;~~

~~(C) — extenuating circumstances beyond the control of the recipient. Extenuating circumstances are defined as a natural disaster, a fire, computer breakdown, a postal strike, or postal delay provided the return envelope is postmarked the day prior to the deadline;~~

~~(D) — any other reason determined by the county director or his designee based on evidence provided by the recipient.~~

(e) The following items of unearned income shall be included in determining eligibility for or the amount of assistance:

- (1) OASDHI benefits;
- (2) Veterans Administration benefits;
- (3) Railroad Retirement benefits;
- (4) pensions or retirement benefits;
- (5) workmen's compensation;
- (6) unemployment compensation;
- (7) support payments and contributions;
- (8) work release payments;
- (9) dividends and income from trust ~~funds; funds, stocks, bonds, and other investments;~~
- (10) private disability or unemployment benefits, including benefits from insurance plans;
- ~~(11) any portion of loans, grants, or scholarships designated or used for maintenance needs which is a duplication of items included in the assistance standard;~~
- ~~(12)~~(11) trade readjustment benefits;
- ~~(13)~~(12) military allotments;
- ~~(14)~~(13) brown lung benefits;
- ~~(15)~~(14) black lung benefits;
- ~~(16)~~(15) lump sum payments;
- ~~(17) — deemed income from a stepparent not receiving assistance;~~
- ~~(18) — deemed income to an alien from a sponsor and his spouse if living together;~~
- ~~(19)~~(16) cash ~~contributions. contributions; and~~
- ~~(20)~~(17) any other income unless excluded by federal law of Paragraph (f) of this ~~Rule; Rule.~~

~~(f) Unearned income exclusions are found in 45 CFR 233.20 and this provision is hereby adopted by reference under G.S. 150B-14(c). In addition, In addition to the unearned income exclusions contained in 45 CFR 233.20, the following items of unearned income shall be excluded in determining eligibility for ~~assistance. assistance:~~~~

- (1) food given to or grown by a member of the household;
- (2) the value of the ~~coupon~~ allotment received under the ~~Food Stamp~~ Food and Nutrition Services Program;
- (3) child support being routed to IV-D Accounting;
- (4) assistance from other agencies and ~~organizations. This includes organizations, including financial~~ assistance and in-kind goods or services received from a governmental, civic, or charitable

organization so long as such aid is for rehabilitation purposes, special training or educational opportunities and provided no duplication exists;

(5) HUD Section 8 payments;

(6) loans (if there is any agreed upon repayment plan);

(7) assistance received through the Low Income Home Energy Assistance Program including the Crisis Intervention Program;

(8) home energy assistance as defined in ~~45 C.F.R. 233.53 and this provision is adopted by reference under G.S. 150B-14(e);~~ 45 CFR 233.53;

(9) income paid to a child recipient through ~~Job Training Partnership Act of 1982~~ the Workforce Innovation and Opportunity Act (WIOA), P.L. 113-128, as need-based payments, payments for supportive services, compensation in lieu of wages and payments to Job Corps participants;

(10) gifts, including but not limited to birthday, Christmas and ~~graduation, up to thirty dollars (\$30.00) per calendar quarter per assistance unit member.~~ graduation. If the payee states in writing the gift was intended for the entire assistance unit, the gift shall be divided among assistance unit members.

The gift shall be divided in the manner that is most advantageous to the assistance unit.

(g) Verification. The ~~client~~ applicant or recipient shall be responsible for providing verification of ~~earned~~ income including operational expenses for farm or self-employment income. For gifts, the recipient shall be responsible for obtaining a written statement from the provider of the gift indicating the amount, date given and purpose. ~~The county department of social services shall be responsible for all other income verifications.~~

*History Note: Filed as a Temporary Rule Eff. March 5, 1990, for a Period of 180 Days to Expire on August 31, 1990;*

*Authority G.S. 108A-25; 108A-33; 143B-153; 45 C.F.R. 233; ~~42 U.S.C. 1315;~~*

*Eff. February 1, 1984;*

*Amended Eff. September 1, 1990; June 1, 1990; August 1, 1988; February 1, ~~1986.~~ 1986;*

*Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0410

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

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

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

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

*On line 4, budgeting and reporting by whom?*

*In Item (1), what is meant "to arrive at a monthly amount to consider"? Based upon (2), it looks like this will determine the amount of the payment.*

*In Item (3), what are "error prong classes of recipients as defined by the state based on quality control and other management data"?*

*On line 24, please incorporate 45 CFR 233.37 by reference and add where it can be found (a website is fine) and the cost.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71W .0410 is readopted as published in 35:20 NCR 2213-2214 as follows:

### 10A NCAC 71W .0410 PROSPECTIVE BUDGETING AND QUARTERLY REPORTING

Income shall be budgeted and reported as described below:

- (1) Income shall be budgeted prospectively for determining eligibility for and the amount of ~~AFDC~~ Work First payments. To arrive at a monthly amount to consider, the following processes shall be followed:
  - (a) For income that is paid on less than a monthly basis, the pay received from each period during a month shall be averaged and converted to a monthly amount as follows. Averaged pay shall be ~~multiplied~~ determined by:
    - (i) multiplying pay received by 2 if pay is received twice per month ~~month~~;
    - (ii) multiplying pay received by 2.15 if pay is received every two weeks ~~weeks~~;
    - (iii) multiplying pay received by 4.3 if pay is received weekly ~~weekly~~; or
    - (iv) dividing pay received by 3 if pay is received quarterly.
  - (b) For child support, regular self-employment, or income that is received once per month, the amount received from two previous successive months shall be averaged to arrive at one monthly amount.
  - (c) Annualized self-employment income shall be averaged over the lesser of the following period: the number of months the business has been in operation or 12 months.
- (2) The monthly income calculated in Paragraph (a) of this Rule shall be used to determine the ~~AFDC~~ Work First ~~payment for three consecutive calendar months.~~ payment.
- (3) Quarterly reporting shall be required for error-prone classes of recipients as defined by the state based on quality control and other management data. The quarterly reporting process shall follow the processing requirements found in 45 CFR 233.37 which is hereby incorporated by reference including all subsequent amendments and editions. ~~Copies of this Code of Federal Regulations may be obtained from the Division of Social Services, 325 North Salisbury Street, Raleigh, NC 27603 [telephone number (919) 733-3055] at a cost of ten cents (\$.10) per page at the time of adoption of this Rule.~~
- (4) ~~AFDC~~ Work First ~~families~~ recipients shall be required to report all changes in income within 10 calendar days after they become aware a change has occurred.

*History Note: Authority G.S. 143B-153; 45 C.F.R. 233.28; 45 C.F.R. 233.36;*  
*Eff. February 1, 1984;*  
*Amended Eff. August 1, 1988; February 1, 1986;*  
*Temporary Amendment Eff. July 1, 1996;*  
*Amended Eff. April 1, 1997; 1997;*  
*Readopted Eff. August 1, 2021.*

1 10A NCAC 71W .0412 is repealed as published in 35:20 NCR 2214 as follows:

2

3 **10A NCAC 71W .0412 JOBS PROGRAM (JOBS)**

4

5 *History Note: Authority G.S. 143B-153; 45 C.F.R. 250.30;*

6 *Eff. October 1, ~~1990~~. 1990;*

7 *Repealed Eff. August 1, 2021.*

1 10A NCAC 71W .0413 is repealed as published in 35:20 NCR 2214 as follows:

2

3 **10A NCAC ~~74W~~ 71W.0413 TWO-PARENT FAMILIES**

4

5 *History Note: Authority G.S. 108A-25; S.L. 1997-443; P.L. 104-193;*

6 *Temporary Adoption Eff. March 1, 1998;*

7 *Eff. April 1, ~~1999~~. 1999;*

8 *Repealed Eff. August 1, 2021.*



### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0502

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

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

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

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

*Given .0302 of this Subchapter, do you need this Rule?*

*If so, please revise (a) to say who shall do what.*

*Please add any additional authority pertinent to this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0502 is readopted as published in 35:20 NCR 2214 as follows:

2  
3 **10A NCAC 71W .0502 INTERVIEW**

4 (a) An interview shall be held in either the client's home or in the agency at which time all eligibility requirements  
5 shall be discussed in understandable terms.

6 (b) The recipient's rights and responsibilities shall be explained as specified in 10A NCAC 71W .0302.

7  
8 *History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;*

9 *Eff. February 1, ~~1984~~ 1984;*

10 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0503

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

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

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

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

*Please revise this Rule to say who shall do what when.*

*What are "error-prone characteristics" ?*

*Please add any additional authority pertinent to this Rule.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0503 is readopted as published in 35:20 NCR 2214 as follows:

2

3 **10A NCAC 71W .0503 HOME VISITS**

4 The home visit shall be made at county option. The county department of social services shall use error-prone  
5 characteristics to decide when it is appropriate to make a home visit.

6

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

8 *Eff. February 1, ~~1984~~, 1984;*

9 *Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0601

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

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

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

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

*In (a), how is this determined? Is the recipient to make a choice? If so, please make that clear.*

*How do (b)(1) and (2) go with (b)? Please provide some sort of introductory language to tie the Subparagraphs with the Paragraph. Same question for the Subparagraphs of (c).*

*In (c), please change "are prohibited from accessing and or using" to "shall not access or use"*

*In (c) and (c)(3), please change "which" to "that" in "which provides adult-oriented"*

*In (c)(1)? What restrictions? Those set forth in Paragraph (c)?*

*In (c)(2), please add a comma following "reapplication"*

*In (c)(3), how will it be determined whether they will be subject to penalties? Is this under the Department's authority? Is there a cross-reference available?*

*What specific provision of G.S. 143B-153 provides authority to the Commission for this Rule?*

*What specifically in 45 CFR 233 provides authority for this Rule? Should this citation be elsewhere in these Rules?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0601 is readopted as published in 35:20 NCR 2214-2215 as follows:

3 **10A NCAC 71W .0601 CHECK ISSUANCE**

4 (a) The department of social services shall ~~write checks according to authorizations submitted by county directors of~~  
5 ~~social services.~~ issue Work First payments through Electronic Funds Transfer (EFT):

6 (1) By direct deposit to a recipient's checking or savings account at the recipient's financial institution;

7 or

8 (2) By Electronic Benefits Transfer (EBT) card.

9 (b) ~~Except for replacement checks, all checks shall be mailed to the address given by the recipient or substitute payee.~~  
10 The applicant, recipient or payee shall be informed of the two payment options in this Rule at application and  
11 reapplication and provided informational material.

12 (1) A household that elects to receive Work First payments through an EBT card shall receive an initial EBT  
13 card at no cost.

14 (2) A Work First household that requests a replacement EBT card shall be responsible for the cost of the  
15 replacement card unless the household can establish that their original EBT card:

16 (A) was lost in the mail or damaged by the card vendor prior to receipt by the Work First household;

17 (B) is being replaced due to a name change on card;

18 (C) was lost due to a natural disaster such as a fire, flood, tornado or hurricane; or

19 (D) was damaged by a retailer or vendor.

20 (c) ~~Replacement checks are mailed to county departments of social services. Recipients and payees of Work First~~  
21 ~~cash assistance are prohibited from accessing and or using Work First cash assistance through EBT cards in the~~  
22 ~~following establishments: liquor stores; casinos or gaming establishments; or any establishment which provides adult-~~  
23 ~~oriented entertainment in which performers disrobe or perform in an unclothed state.~~

24 (1) These restrictions apply to all Work First households including households where the adult caretaker is  
25 not included in the case but serves as the case payee.

26 (2) Applicants and recipients shall be advised of the restrictions at initial application, reapplication and  
27 redetermination of eligibility.

28 (3) Recipients or payees who use or access Work First cash assistance in an EBT transaction in any liquor  
29 store; any casino or gaming establishment; or any retail establishment which provides adult-oriented  
30 entertainment in which performers disrobe or perform in an unclothed state may be subject to penalties as  
31 defined by the Division of Social Services.

32 (d) ~~Checks shall be delivered to the post office on the last work day of each month.~~

34 *History Note: Authority G.S. 143B-153; 45 C.F.R. 233;*

35 *Eff. February 1, 1984. 1984;*

36 *Readopted Eff. August 1, 2021.*

1 10A NCAC 71W .0602 is repealed as published in 35:20 NCR 2215 as follows:

2

3 **10A NCAC 71W .0602 RECEIPT AND USE OF CHECKS**

4

5 *History Note: Authority G.S. 143B-153; 45 C.F.R. 234.60;*

6 *Eff. February 1, 1984;*

7 *Amended Eff. June 1, ~~1990~~ 1990;*

8 *Repealed Eff. August 1, 2021.*

1 10A NCAC 71W .0603 is repealed as published in 35:20 NCR 2215 as follows:

2

3 **10A NCAC 71W .0603 LOST, STOLEN AND FORGED CHECKS**

4

5 *History Note: Authority G.S. 143B-153; 45 C.F.R. 233.20;*

6 *Eff. February 1, 1984;*

7 *Amended Eff. June 1, 1990; May 1, ~~1988~~. 1988;*

8 *Repealed Eff. August 1, 2021.*



### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0604

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

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

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

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

*In (a), delete or define "reasonable" and "promptly"*

*Please end (b)(1) and (2) with a semi-colon, rather than a comma.*

*In (c), by whom? The County?*

*In (c)(3) and (5), what are "program regulations? These Rules and the CFRs?*

*Please review (c)(4) for clarity. By "providing", do you mean "if"?*

*In (c)(4), delete or define "proper" in "proper notification"*

*In (c)(5), please capitalize "state"*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71W .0604 is readopted as published in 35:20 NCR 2215 as follows:

**10A NCAC 71W .0604 CORRECTION OF OVERPAYMENTS**

(a) If the recipient is not entitled to all or part of a ~~check payment~~ which has been issued and fraud is not suspected, the county shall take all reasonable steps to recover promptly any ~~overpayment of thirty five dollars (\$35.00) or more.~~ overpayment.

(b) A county may recoup ~~an AFDC a Work First~~ overpayment from a recipient's ~~AFDC check, Work First payment,~~ on account of an overpayment made to the recipient's spouse, parent, child, sibling, or other person, only if the recipient, at the time the overpayment occurred, was:

- (1) 18 years of age or older,
- (2) living with the person, and
- (3) part of the assistance unit.

(c) Overpayments shall be collected as follows:

- (1) voluntary repayment by grant reduction or recipient refund;
- (2) involuntary repayment by grant reduction;
- (3) if an overpayment occurs due to a county error in complying with program regulations, the overpayment shall be recouped by state office adjustment;
- (4) if an overpayment occurs due to a state or county processing error, the overpayment shall be recouped from the recipient providing the recipient was provided proper notification of the amount of ~~AFDC Work First~~ they he was were eligible to receive;
- (5) if an overpayment occurs due to a state office error in interpreting regulations, the overpayment shall be charged to the state.

*History Note: Authority G.S. 143B-153; 45 C.F.R. 233.20;*  
*Eff. February 1, 1984;*  
*Amended Eff. September 1, 1991; January 1, ~~1985~~ 1985;*  
*Readopted Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0605

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

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

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

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

*How and by whom are underpayments to be accomplished?*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 71W .0605 is readopted as published in 35:20 NCR 2215 as follows:

2

3 **10A NCAC 71W .0605 CORRECTION OF UNDERPAYMENTS**

4 Retroactive adjustment of any underpayment that results from county or state errors shall be made.

5

6 *History Note: Authority G.S. 143B-153; 45 C.F.R. 233.20;*

7 *Eff. February 1, ~~1984~~. 1984;*

8 *Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0606

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

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

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

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

*In (a)(1), delete "of" after "develop"*

*In (a)(1), please add a comma following "detection"*

*Are they also to notify the recipient of the last sentence (failure to do so... recover the overpayment"? If so, please make that clear.*

*In (b)(2), are the rules governing the Work First Program those set forth in this Subchapter?*

*Please add an "and" at the end of (b)(2)(C) and (b)(4)(C)*

*Please delete "or" at the end of (c)(2)(A) and (c)(4)(A)(i)*

*How is it determined which administrative recoupment in (c)(4)(A) is appropriate?*

*In (d)(1), delete or define "immediately"*

*In (d)(3), delete or define "promptly"*

*In (c)(B)(i), is there a cross-reference available for these hearings? Are there no statutory or federal requirements for these?*

*In (c)(B)(i)(I), if no hearing to to be held for an overpayment of less than \$100, what happens? Is the recipient not entitled to be heard?*

*Please change "will" to "shall" in (c)(B)(i)(II)*

*In (e), please delete or define "promptly"*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

*Also, what is meant by “federal and state financial participation shall not be available”?*

*I assume that recipients are entitled to appeal under G.S. 108A-79? I just want to be sure that I’m following the process.*

*Please review your History Note.*

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

1 10A NCAC 71W .0606 is readopted as published in 35:20 NCR 2215-2218 as follows:

3 **10A NCAC ~~71B~~ 71W .0606 CLIENT FRAUD AND INTENTIONAL PROGRAM VIOLATIONS**

4 (a) County Responsibilities; Fraud Prevention.

5 (1) The county department of social services shall develop of an operational program for fraud  
6 prevention, detection and investigation. Fraud program organizational requirements must be  
7 established based on the number of (~~AFDC or Work First~~) recipients, the effectiveness of the fraud  
8 prevention program, the frequency of suspected fraud cases, and the resources available to the  
9 agency.

10 (2) The county department must designate staff to be responsible for fraud activities.

11 ~~(3) The county shall strive to obtain all Social Security numbers and correctly complete them on~~  
12 ~~computer input forms.~~

13 ~~(4)~~(3) The recipient shall be notified no less frequently than at each eligibility review of his obligation to  
14 report within ten days, all changes in income, resources, or other changes which may effect the  
15 amount of payment. Failure to do so within that time may constitute a willful withholding of such  
16 information, and permit the county department to recover the overpayment.

17 (b) County Department Responsibilities; Detection and Investigation:

18 (1) The county department shall investigate any information which indicates that a recipient may be  
19 receiving ~~AFDC or~~ Work First to which the recipient is not entitled.

20 (2) In the investigation the staff designated for fraud shall:

21 (A) verify that all responsibilities have been fulfilled as set forth in the rules governing the  
22 ~~AFDC or~~ Work First program;

23 (B) determine whether further investigation should be undertaken to support the belief that  
24 fraud is suspected;

25 (C) evaluate the evidence to substantiate fraud and the intent to defraud;

26 (D) determine the amount of the erroneous payment.

27 (3) When there is reason to suspect fraud, the county director must ensure that the agency has explained  
28 to the ~~client his~~ the recipient responsibilities for reporting any change ~~changes~~ in ~~his~~ their  
29 circumstances to the agency. The director shall determine whether the agency should investigate  
30 further and shall present the case and fraud summary to the county board of social services for action  
31 unless the board has delegated this responsibility to ~~him~~ the Director.

32 (4) The fraud summary shall include:

33 (A) identifying information;

34 (B) a description of the fraudulent act;

35 (C) evidence to substantiate fraud and the intent to defraud;

36 (D) evidence to substantiate the amount of ineligible assistance received;

(E) information concerning the ~~client's~~ recipient's competency, educational background, ability to know right from wrong, any statement volunteered by the ~~client~~ recipient in response to the accusation and any other information which may help explain the ~~client's~~ recipient's current situation.

(c) County Board's Responsibilities.

(1) The county board of social services, or its designee, shall determine whether there is a basis for the belief that misrepresentation may have been committed by a person.

(2) The county board, or its designee, shall determine if the person:

(A) willfully and knowingly misstated, provided incorrect or misleading information in response to either oral or written questions; or

(B) willfully and knowingly failed to report changes which might have affected the amount of payment; or

(C) willfully and knowingly failed to report the receipt of benefits which ~~he~~ the person knew ~~he~~ they were ~~was~~ not entitled to receive.

(3) There must be physical evidence to substantiate a determination that fraud was the reason for the overpayment.

(4) If the board, or its designee, determines fraud is suspected, it shall instruct the agency to pursue one or more, of the following actions:

(A) administrative recoupment which is defined as:

(i) involuntary reduction of the AFDC or Work First grant may be collected from all income and assets of the assistance unit. The assistance unit shall retain an amount not less than 90 percent of the assistance payment received by a family of similar composition with no other income; or

(ii) a voluntary grant reduction. There is no limitation on the amount of the reduction;

(iii) voluntary recipient refund. There is no limitation on the amount of the refund;

(iv) NC Debt Setoff Collection. NC Debt Set-off (Tax Intercept) is the process by which the North Carolina Department of Health and Human Services (DHHS) intercepts income tax refunds through the North Carolina Department of Revenue (DOR) to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) Claims of current/former Work First recipients.

(B) administrative disqualification:

(i) Hearing

(I) An administrative disqualification hearing shall be initiated by the county department of social services when there is sufficient evidence to indicate that an individual has intentionally violated a program rule in order to receive cash assistance for which the individual is not eligible. The hearing shall be held and any administrative action initiated within



90 days of the date the individual is notified in writing that the hearing has been scheduled. No hearing shall be held when the amount of the overpayment is less than one hundred dollars (\$100.00).

- (II) The county board of social services shall designate the county director or their impartial county employee to act as the hearings officer. Duties are to: provide written notification of the hearing date, time, and location to the ~~client~~ individual at least 30 days in advance of the date of the hearing. Written notification of the hearing shall include the ~~client's~~ individual's right to have legal representation, a witness or witnesses, or waive the hearing; conduct the hearing to collect all evidence and testimony; render a written decision to the ~~client~~ individual and DSS within 15 days as to whether an intentional program violation has occurred. Written notification that the hearing decision will be mailed by Certified Mail Return Receipt Requested. The notice will inform the ~~client~~ individual of the right to further appeal to the state (or higher local authority) and the procedures for such appeal. When an intentional program violation is found, the notification will inform the ~~client~~ individual of the length of the sanction and that ~~client~~ individual remains a part of the Work First case and subject to all program requirements. When no intentional program violation is found, the notification will inform the ~~client~~ individual that the overpayment will be collected pursuant to ~~10A NCAC 71W .0604~~ this Subchapter.

(ii) Sanctions:

- (I) The county department of social services shall apply disqualification sanctions as follows: 12 months of ineligibility for the first offense; 24 months for the second offense; and permanently disqualified for the third offense.
- (II) The sanction shall be applied by reducing the work first cash assistance payment by the disqualified person's share of the payment for the appropriate period of sanction. The disqualified person remains a part of the work first case and subject to all program requirements.

(iii) Repayment:

The county department of social services will follow procedures pursuant to Part

(c)(4)(A) of this Rule in the collection of overpayments.

- (C) civil court action; or
- (D) criminal court action.

(d) Board Decision; Agency Follow-up:

- (1) If the board, or its designee, suspects fraud, the department's findings and actions shall be reported immediately to the ~~assistance payments section~~ Division of Social Services. The county director shall keep the county board and ~~assistance payments section~~ Division of Social Services informed on all cases referred for court and repayment action.
- (2) The county department of social services shall support the local prosecutor by accomplishing necessary interviews in accordance with the prosecutor's requirements, recommending possible witnesses, providing necessary investigative reports, and taking other action deemed necessary by legal authorities.
- (3) Regardless of what action is taken by the board or the court, the county shall continue to work with the ~~client~~ individual and shall promptly notify the ~~client~~ individual of the action taken in ~~his~~ their case.
- (4) The county shall maintain records on the number of cases referred for investigation, the number of suspected fraud referrals, action taken to recover the overpayment and amounts recovered.

(e) In fraud cases, if a county fails to act promptly on indications of ineligibility, federal and state financial participation shall not be available.

*History Note: Authority S.L. 1997-443, Section 12.17; G.S. 108A-25; 108A-39; 143B-153; 45 C.F.R. 233.20; 45 C.F.R. 235.110;  
Eff. February 1, 1984;  
Amended Eff.; June 1, 1990; February 1, 1986;  
Temporary Amendment Eff. June 17, 1998;  
Amended Eff. April 1, ~~1999~~ 1999;  
Readopted Eff. August 1, 2021.*

1 10A NCAC 71W .0607 is repealed as published in 35:20 NCR 2218 as follows:

2  
3 **10A NCAC 71W .0607 DETERMINATION OF PAYMENT AMOUNT**

4  
5 *History Note: Filed as a Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June*  
6 *28, 1988;*  
7 *Authority G.S. 143B-153; c. 738, 1987 Session Laws;*  
8 *Eff. May 1, ~~1988~~ 1988;*  
9 *Repealed Eff. August 1, 2021.*

### **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 71W .0704

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

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

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

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

*Overall, what is this rule applicable to? This Rule seems to be missing some information.*

*In (a), cash assistance under what program? Is this case assistance in accordance with 45 CFR 233.120?*

*In (a)(2), please provide some lead in language to (a)(2)(A) and (B).*

*Please end (a)(2)(A) with a semi-colon and "and"*

*In (b), services for what? This information appears to potentially be addressed by (b)(3), so perhaps some reorganization would be helpful for purposes of clarity.*

*In (b)(2), what is "EA authorization"? Emergency assistance authorization?*

*108A-39.1 was repealed pursuant to 1997-443. Please remove it from the History Note and provide any applicable authority.*

*Please correct the History Note and put the authority first.*

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

10A NCAC 71W .0704 is readopted as published in 35:20 NCR 2218 as follows:

#### **10A NCAC 71W .0704 BENEFIT LEVELS**

##### **(a) Cash assistance:**

- (1) The maximum cash assistance benefit per household is three hundred dollars (\$300) during 30 consecutive days. Assistance cannot be received again within a 12 consecutive month period.
- (2) When the agency purchases in-kind goods or contracts for the purchase of services to alleviate or to prevent destitution of the family, the value of the in-kind goods or contracted services purchased with the cash assistance must be established and considered when authorizing the benefit level.
  - (A) For in-kind goods, the value shall be the actual purchase price of the goods.
  - (B) For contracted services, the provider shall submit to the agency a written statement of the value of the service purchased with the cash assistance.

##### **(b) Services:**

- (1) There is no maximum benefit level for services but the family must need the services to alleviate the identified emergency.
- (2) Services must be authorized within a single 30 day period no less than 12 months after the beginning of the family's last EA authorization period and are limited to a maximum duration of 364 days.
- (3) Counties shall use their Work First block grant funds to provide emergency assistance to families. Counties shall define the eligibility criteria, including who is eligible and the types of emergencies that will be covered. This assistance is designed to assist with families' sporadic emergency needs, such as a utility cut-off or an eviction notice. Emergency assistance is not designed specifically to help families move to self-sufficiency, although, use of this assistance may help a family's progress.

*History Note:* *Filed as a Temporary Amendment Eff. January 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Filed as a Temporary Amendment Eff. November 7, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Filed as a Temporary Rule Eff. November 1, 1986 for a period of 62 days to expire on January 1, 1987;*  
*Authority G.S. 108A-39.1; 143B-153; 45 C.F.R. 233.120;*  
*Eff. January 1, 1987;*  
*Amended Eff. March 1, 1995; June 1, 1990; August 1, ~~1988~~; 1988;*  
*Readopted Eff. August 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 72 .0102

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

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

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

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

*In Item (3), please change “which” to “that” in “which are designed”*

*In (3)(c), please delete or define “accurate” in “accurate databases”*

*In Item (4), please delete the second “Cost of attendance” and change “are” to “is” on line 33*

*In Item (4), what is “this grant”? The grant for cost of attendance? Is this the education training voucher? Please use consistent terms where you can. If it isn't the voucher, what is it?*

*In (6)(c), please remove the “or” in between “18<sup>th</sup> birthday, and “was” on line 10. Please also change the semi-colon to a comma after “12<sup>th</sup> birthday” on line 11.*

*In (6)(c), what is the Guardianship Assistance Program? Is this known among your regulated public?*

*In Item (7), change “which” to “that” in “which begins”*

*In your history note, please add 34 CFR 677 and any other pertinent authority. Also, where specifically in G.S. 143B-153 is the authority for this rule? Is it G.S. 143B-153(a)(2) and (6)? In this case, do funds for the “program” as defined in this Rule, include federal programs such as John Chafee Foster Care Independence Act set forth in 42 USC 677? Is it implementing the monies allotted in the budget bills cited? Are there others?*

*I note that S.L. 2007-323 indicates that the Department shall collaborate with the State Education Assistance Authority. Was the Department and the SEAA involved in this rulemaking? Please confirm.*

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

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

Amber May  
Commission Counsel  
Date submitted to agency: July 2, 2021

1 10A NCAC 72 .0102 is amended as published in 35:20 NCR 2219-2220 as follows:

3 **10A NCAC 72 .0102 DEFINITIONS**

4 The following definitions shall apply in this Chapter:

- 5 (1) "Academic Year" means a period of time in which a student completes the equivalent of two
- 6 semesters or three quarters of academic work.
- 7 (2) "Approved Institution" means one of the branches of the University of North Carolina or one of the
- 8 North Carolina community colleges.
- 9 (3) "Case Management Services" are a set of services provided to participating students and their
- 10 families which are designed to support the student's postsecondary education experience. Such
- 11 services include:
  - 12 (a) processing and accepting applications for the program;
  - 13 (b) certifying each eligible student and the amount of the Eligible Student's Scholarship and
  - 14 communicating this information to the North Carolina State Education Assistance
  - 15 Authority to authorize release of funds;
  - 16 (c) compiling accurate databases of resources in the students' academic communities that can
  - 17 help students succeed in school;
  - 18 (d) providing or arranging for counseling regarding academic issues as well as other concerns
  - 19 that may affect the performance of the student;
  - 20 (e) communicating with and advising students on academic issues;
  - 21 (f) providing contact with students throughout their postsecondary experience;
  - 22 (g) responding to students experiencing crisis;
  - 23 (h) providing or arranging for emergency housing up to two weeks for students who have no
  - 24 place to live when school is out of session;
  - 25 (i) if allowed by the student, being available to consult with student's families and staff of
  - 26 local Departments of Social Services regarding student's postsecondary experiences;
  - 27 (j) monitoring grades and the individual's course of study, and evaluating progress toward
  - 28 goal achievement;
  - 29 (k) maintaining records for each individual student regarding their academic progress and
  - 30 assistance provided; and
  - 31 (l) providing quarterly program reports of case management services to the contract
  - 32 administrator at the State Division of Social Services.
- 33 (4) "Cost of Attendance" Costs of attendance are defined by the Higher Education Act of 1965, which
- 34 includes tuition, fees, room, board, supplies, transportation, and personal expenses. This amount is
- 35 established by each institution. This grant is limited to cost of attendance less other grants or
- 36 scholarships from federal, state, or other sources.



- (5) "Education Training Voucher" (ETV) means the Federal scholarship program funded by the John Chafee Foster Care Independence Act 42 U.S.C. 677, which benefits individuals who were in the custody of the Department of Social Services at or after age 17 or who were adopted or exited to guardianship on or after their 16<sup>th</sup> birthday.
- (6) "Eligible Student" means a student who:
- (a) has received a high school diploma or GED and has not yet reached his or her 26<sup>th</sup> birthday;
  - (b) is pursuing an undergraduate degree, diploma, or certificate at an approved institution as a half-time student or a full-time student, as defined in 34 CFR 668.2;
  - (c) was in the custody of a North Carolina local Department of Social Services on his or her 18<sup>th</sup> birthday, or was adopted from the North Carolina foster care system on or after his or her 12th birthday; and or exited foster care to a permanent home through the Guardianship Assistance Program; and
  - (d) is making satisfactory academic progress toward completion of the course of undergraduate study as defined in 34 CFR 668.34.
- (7) "Fiscal Year" means each annual period which begins on July 1 in any calendar year and ends on June 30 the following calendar year.
- (8) "Higher Education Act" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq.
- (9) "Matriculated Status" means the student is recognized by the approved institution as a student in a defined program of study leading to an associate's degree, baccalaureate degree, diploma or certificate.
- (10) "Pell Grant" means the needs based scholarship program administered by the federal government to benefit low income baccalaureate and postgraduate students.
- (11) "Program" means the Postsecondary Educational Support Scholarship program, also known as NC Reach, established by Section 10.34(a) of Session Law 2007-323.
- (12) "Residence Manual" means the most current edition of A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes as adopted by the Board of Governors of the University of North Carolina and available free of charge at [https://ncresidency.cfnc.org/residencyInfo/pdf/RDS\\_Guidebook.pdf](https://ncresidency.cfnc.org/residencyInfo/pdf/RDS_Guidebook.pdf).
- (13) "Scholarship" means an award for education awarded to an eligible student under the program.

*History Note:* Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57; 34 CFR 668.34;  
 Eff. June 1, 2008;  
 Readopted Eff. September 1, ~~2019~~, 2019;  
Amended Eff. August 1, 2021.