



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

March 17, 2016

Carlotta Dixon
Chris Urso
Lynne Berry

Sent via e-mail to Carlotta.dixon@dhhs.nc.gov, chris.urso@dhhs.nc.gov, and lynne.berry@dhhs.nc.gov

Re: Extension of the Period of Review for Rules 10A NCAC 71P

Dear Ms. Dixon, Urso and Berry:

This morning the Rules Review Commission (RRC) 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 Social Services Commission (SSC), allowing the SSC additional time to understand RRC staff's comments concerning the rules, make technical changes, prepare any other response to staff's concerns, and submit the rewritten rules for review by the RRC.

Pursuant to G.S. 150B-21.13, when the RRC 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 after granting the extension. Your rules will be on the agenda for the next regularly-scheduled meeting of the RRC, on **April 21, 2016**, and the RRC will act on them no later than its meeting on May 19, 2016.

Should you have any questions regarding the RRC's actions or the rules referenced above, please do not hesitate to contact me.

Sincerely,

Jason Thomas
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
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Rules Review
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919/431-3000
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Civil Rights
Division
919/431-3036
fax: 919/431-3103

Thomas, Jason S

From: Berry, Lynne
Sent: Monday, March 14, 2016 4:58 PM
To: Thomas, Jason S
Cc: Merrill, Suzanne; Massey-smith, Joyce; Lanier, Kathryn; Urso, Chris; Dixon, Carlotta
Subject: Request for Extension of Time for 10A NCAC 71P

Dear Mr. Thomas,

Thank you for meeting with Chris Urso, Carlotta Dixon and myself on Friday, March 11, 2016. After further review of your helpful comments to our proposed amendments to rules in 10A NCAC 71P, Chris Urso and I asked to meet with Suzanne Merrill, Division of Aging and Adult Services Director, and Joyce Massey-Smith, Adult Services Supervisor. At our meeting today, it was determined that it will require additional time to properly address your extensive comments to the 10A NCAC 71P rules submitted by the Division of Aging and Adult Services to the Rules Review Commission. The 71P rules are on the Commission's agenda for this Thursday's meeting (March 17, 2016). Both Ms. Urso and I will be in attendance to respectfully ask for an extension of time to address the volume of issues and corrections that need be addressed in order to advance the rules to the appropriate standard necessary to be adopted by our agency.

I thank you for your consideration of this request.

Lynne E. Berry, J.D.
N.C. Legal Services Developer
Division of Aging & Adult Services
North Carolina Department of Health and Human Services

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Generally, this set of rules includes numerous formatting errors. In addition, the History Notes for all rules are incomplete. Staff has edited a copy of these rules to assist you in correcting these errors or omissions. In addition, make sure that words are separated by a single space. Please make all of these corrections.

Generally, this set of rules often uses more than one term to refer to a single entity or concept. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate. For example, the terms such as "assistance," "benefit," "payment," and "check" appear to be used interchangeably in some contexts. This is ambiguous and unclear and should be corrected. Please consider using the term "State/County Special Assistance" throughout these Rules. I have attempted to identify each place where such terms appear, but you should carefully review your rules and make your use of all terms consistent.

The term "Beneficiary" is defined. Capitalize the term wherever it is used.

The term "Beneficiary" is defined as "an applicant ... or ... recipient" of "State/County Special Assistance." Please use this defined term throughout the rules instead of phrases such as "applicant or recipient" if such use is appropriate.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0101

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 17 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 18 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0101 is amended as published in 30:06 NCR 607 as follows:

2
3 **CHAPTER 71 – ADULT AND FAMILY SUPPORT**

4
5 **SUBCHAPTER 71P - STATE/COUNTY SPECIAL ASSISTANCE FOR ADULTS**

6
7 **SECTION .0100 - GENERAL PROVISIONS**

8
9 **10A NCAC 71P .0101 SUPERVISION**

10 ~~The Adult and Family Services Section of the Division of Social~~

11 ~~Services~~ The Adult Services Section of the Division of Aging and Adult Services is responsible for
12 supervising the administration of the ~~State/County Special Assistance for Adults program.~~ State/County
13 Special Assistance Program. The section is located at ~~325 North Salisbury Street, 2405 Mail Service Center,~~
14 ~~Raleigh, North Carolina 27699-2405.~~ 693 Palmer Drive, 2101 Mail Service Center, Raleigh, North Carolina
15 27699-2101. The office is open during regular business hours.

16
17 *History Note: Authority G.S. 143B-153;*

18 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0102

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 5-14 – do you need this Item (1) in light of .0705(2)?

Line 5 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 6 – what does “the payment” mean? Does it mean “assistance,” “benefit,” “payment,” or “check”? Please select single term that accurately describes the intended meaning and use that term consistently and exclusively, as appropriate. Please consider using the term “State/County Special Assistance” here and throughout these Rules.

Lines 6-8 – replace “payment. The action may be effective immediately upon the mailing or delivery of the notice in the circumstances outlined in G.S. 108A-79.(b).” with “payment, as authorized by G.S. 108A-79(b).”

Line 13 – insert “such” before “notices”

Line 13 – delete “of action”

Lines 15 and 17 – “Adult Care” is defined and should be capitalized wherever the defined term is used. Does the “adult care” in “adult care facility” and “adult care home” refer to this defined term? If so, “Adult Care” should be capitalized.

Line 19 – replace “under” with “pursuant to”

Line 20 – replace “Chapter” with “Subchapter” if that is what you mean.

Line 20 – replace “this definition” with “an Adult Care facility”

Line 20 – delete “facilities”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 21 – insert “and are” after “blind”

Line 21 – replace “under” with “pursuant to”

Line 22 – delete the comma after “Advance”

Line 23 – do you mean “reduction” or “modification”?

Line 23 – insert “as authorized by G.S. 108A-79(b)” after “assistance”

Line 24 – replace “108A-79” with “108A-79(c)”

Line 24 – replace “notices of action” with “such notices”

Line 26 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 27 – replace “applicant/beneficiary” with “Beneficiary” (Beneficiary is defined to include both the applicant and the recipient).

Lines 30-31 – consider revising thus:

"Budget Unit" shall mean, for the purposes of the State/County Special Assistance for the Certain Disabled Program, all persons whose needs and income are considered in determining the State/County Special Assistance.

Line 32 – what does this sentence mean?

Line 33 – delete “the same as”

Line 35 – consider revising thus:

"Essential Person" shall mean, for the purposes of the State/County Special Assistance for the Certain Disabled Program, a person living...

Line 36 – capitalize “Beneficiary” twice if you mean to refer to the defined term.

Line 41– capitalize “Beneficiary” if you mean to refer to the defined term.

Lines 42-43 – consider revising thus:

... actual expenses, indemnity-type payments, or reimbursement for expenses.

Line 45 – what does “facility rate” and “personal needs allowance” mean? Are they defined or explained in a rule?

Line 48 – replace “outlined” with “set forth”

Line 48 – what does “and shall also mean the assistance itself” mean”

Line 52 – replace “outlined” with “set forth”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 52 – what does “and shall also mean the assistance itself” mean”

Line 53 – replace “mean” with “include the”

Line 55 – insert a comma after “trustee”

Line 57 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 69 – this line should be removed

Line 71 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 72 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0102 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0102 DEFINITIONS**

4 For purposes of this Chapter are the following definitions:

5 ~~(3)~~(1) "Adequate Notice" shall mean a written notice sent to an applicant or recipient a beneficiary
6 to inform him or her of intended action to terminate or modify the payment. The action
7 may be effective immediately upon the mailing or delivery of the notice in the
8 circumstances outlined in G.S. 108A-79.(b). The applicant or recipient must receive the
9 notice no later than the effective date of payment or in the case of termination, the date he
10 would have received payment. Adequate notice may be given only in circumstances
11 outlined in 10 NCAC 24A .0602. Advance, or timely notice shall mean notice sent to an
12 applicant or recipient regarding termination or reduction of assistance. Such notice shall
13 be mailed at least ten work days before the proposed action. All notices of action shall
14 contain information outlined in G.S. 108A-79.

15 ~~(7)~~(2) "~~Domiciliary~~" "Adult Care" shall mean group care for persons who cannot remain in their
16 own home and who are placed in facilities licensed by the Department of Health and
17 Human Services as ~~a domiciliary~~ an adult care facility (e.g., an adult care home, assisted
18 living residence, a family care home, a home for the aged and infirm or homes for
19 developmentally disabled adults). ~~or a licensed residential facility under 10A NCAC 27G~~
20 .5601(c)(1) and (3). For purposes of this Chapter this definition shall also include facilities
21 for persons under age 18 who are legally blind licensed under 10A NCAC 27G .2101.

22 (3) Advance, or timely notice shall mean a written notice sent to an applicant or beneficiary at
23 least ten days prior to proposed action regarding termination or reduction of assistance. All
24 notices of action shall contain information outlined in G.S. 108A-79.

25 ~~(14)~~(4) "~~Representative~~" "Authorized Representative" shall mean a person who ~~acts on behalf of a~~
26 client is legally authorized or designated in writing by the beneficiary to act on behalf of
27 the applicant/beneficiary.

28 (5) "~~Client~~" "Beneficiary" shall mean an applicant for or recipient of ~~State/County Special~~
29 Assistance for Adults. State/County Special Assistance.

30 ~~(4)~~(6) "Budget Unit" shall mean for State/County Special Assistance for the Certain Disabled
31 Program, all persons whose needs and income are considered in determining the payment.
32 The budget unit is one for State/County Special Assistance SAA and SAD.

33 (7) "Division of Aging and Adult Services" shall mean the same as the Division of Aging as
34 defined in G.S. 143B-181.1.

35 ~~(10)~~(8) "Essential Person" for the Certain Disabled Program shall mean a person living in the
36 recipient's/beneficiary's home, rendering vital services without which the client/beneficiary

would not be able to remain in his or her home, and eligible to be included in the budget unit.

(9) "Long term care insurance" shall mean insurance policies purchased to cover a wide range of medical, personal and social services provided at home or in a care facility when the beneficiary requires, at a minimum, assistance with activities of daily living. Long term care policies pay either a set rate regardless of the actual expenses or indemnity type payments, or on a reimbursement for expenses basis.

~~(13)~~(10) "Maintenance amount" shall mean the amount a client in domiciliary care or his wife at home are allowed for basic needs. facility rate plus the personal needs allowance.

~~(1)~~(11) "AA-SA"-"SAA" shall mean a program of financial assistance State/County Special Assistance to for persons who are at least 65 years of age and who meet the eligibility requirements outlined in 10A NCAC 71P .0800 and shall also mean the assistance itself.

~~(2)~~(12) "AD-SA"-"SAD" shall mean a program of financial assistance State/County Special Assistance to for disabled persons with disabilities who are at least 18 years of age but less than 65 years of age or who are under 18 and are legally blind and who meet the eligibility requirements outlined in 10A NCAC 71P .0800 and shall also mean the assistance itself.

(13) "State/County Special Assistance" shall also mean State/County Assistance In-Home Program unless otherwise noted.

~~(15)~~(14) "Substitute Payee" shall mean a personal representative, trustee or guardian who is responsible for receiving and ~~dispensing~~ ~~disbursing~~ special assistance State/County Special Assistance checks payments to meet the recipient's beneficiary's needs.

~~(6)~~ "Contribution" shall mean cash received by a member of a budget unit on a regular basis.

~~(8)~~ "Effective Date" shall mean the day, month and year for which financial assistance is authorized.

~~(9)~~ "Equity" shall mean the tax value of a resource owned by a person less the amount of debts, liens, or other encumbrances.

~~(11)~~ "Group I" shall mean mandatory supplementation to assure that, in spite of the conversion to supplemental security income, each recipient of aid to the aged or disabled in December 1973 receives no less income beginning January 1974 than he was receiving in December 1973.

~~(12)~~ "Group II" shall mean supplementation to aged or disabled clients who applied for assistance on or after January 1, 1974.

~~(6)~~ "Contribution" shall mean cash received by a member of a budget unit on a regular basis.

History Note: Authority G.S. 108A-79; 143B-153;

Amended Eff. April 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0103

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – replace “Notices and hearings” with “Notice and hearing”

Lines 6, 9, and 11 – replace “stated in” with “set forth in”

Lines 6, 9, and 11 – replace “control for” with “govern”

Lines 9 and 11 – can these citations to 10A NCAC 69 and 10A NCAC 71P be more specific?

Line 14 – this line should be removed

Line 15 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 16 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0103 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0103 STATE/COUNTY SPECIAL ASSISTANCE PROGRAM PROCEDURES**

4 The following general procedures shall be applicable to the ~~state/county special assistance for adults~~
5 ~~program.~~ State/County Special Assistance Program:

6 (1) Notices and hearings rules stated in 10A NCAC 67A .0200 shall control for
7 ~~State/County Special Assistance for Adults.~~ the State/County Special Assistance
8 Program.

9 (2) Confidentiality rules stated in 10A NCAC 69 shall control for ~~State/County Special~~
10 ~~Assistance for Adults.~~ the State/County Special Assistance Program.

11 (3) Manual rules stated in 10A NCAC 71P shall control for ~~State/County Special~~
12 ~~Assistance for Adults.~~ the State/County Special Assistance Program.

13
14 (6) ~~"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

16 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0201

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – capitalize “Adult Care” if you mean to refer to the defined term.

Line 9 – replace “—located in” with “, which is available at”

Line 10 – insert a space after “Dr.,”

Line 10 – insert “or” after “North Carolina,”

Line 11 – insert commas before and after “free of charge”

Line 11 – delete the extra space between “in each”

Line 14 – this line should be removed

Line 15 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 16 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0201 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0200 - ADULT CARE**

4
5 **10A NCAC 71P.0201 MAXIMUM RATES**

6 The county department of social services may negotiate rates lower than the maximum rates with
7 operators of ~~domiciliary~~ adult care facilities. Maximum rates are established by the General Assembly
8 and published in the Eligibility Manual -- State/County Special Assistance for Adults program.
9 State/County Special Assistance Program -- located in Room 531 of the Albemarle Building, 325
10 North Salisbury Street, Taylor Hall, 693 Palmer Dr., Raleigh, North Carolina, on the Department of
11 Health and Human Services website, www.dhhs.nc.gov free of charge and in each county department of
12 social services.

13
14 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

16 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0202

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 5 and 7 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 5 – capitalize “Adult Care” if you mean to refer to the defined term.

Line 7 – delete “a payment for”

Line 7 – insert “through the” after “Assistance”

Line 7- Insert “Program” after “In-Home”

Line 9 – this line should be removed

Line 10 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 11 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0202 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0202 LICENSED FACILITIES**

4 ~~State/County Special Assistance for Adults~~ State/County Special Assistance payments shall be made only
5 for ~~clients~~ beneficiaries in ~~domiciliary~~ adult care facilities which have signed a civil rights compliance
6 statement and are licensed by the Department of Health and Human ~~Services.~~ Services unless the
7 beneficiary is eligible to receive a payment for State/County Special Assistance In-Home.

8
9 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

11 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0301

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – delete “payment”

Line 9 – this line should be removed

Line 10 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 11 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0301 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0300 - BUDGETING PRINCIPLES**
4

5 **10A NCAC 71P .0301 MINIMUM PAYMENT**

6 The minimum ~~State/County Special Assistance for Adults~~ State/County Special Assistance payment for
7 ~~Group I~~ is one dollar (\$1.00). ~~The minimum payment for Group II is five dollars (\$5.00).~~

8
9 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

11 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0302

DEADLINE FOR RECEIPT: March 11, 2016

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – is “maintenance amount” defined? Refer to a rule, if possible.

Line 6 – capitalize “Adult Care” if you mean to refer to the defined term.

Line 8 – is “personal needs allowance” defined? Refer to a rule, if possible.

Line 10 – this appears to be Item (3). If so, please so indicate and format correctly.

Line 12 – this line should be removed

Line 13 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 14 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0302 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0302 BENEFICIARY IN ADULT CARE**

4 ~~If a recipient is the only member of the budget unit and he is in domiciliary care, his~~ The monthly special
5 ~~assistance~~ State/County Special Assistance payment shall be computed by:

6 (1) Determining ~~needs~~ the maintenance amount by adding the ~~domiciliary~~ adult care
7 facility rate established by the General Assembly for the approved level of care to
8 the ~~maintenance~~ personal needs allowance;

9 (2) Subtracting net income from ~~needs~~ the maintenance amount; and

10 Rounding the difference to the nearest dollar.

11
12 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

14 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0303

DEADLINE FOR RECEIPT: March 11, 2016

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – this line should be removed

Line 6 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 7 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0303 is repealed as published in 30:06 NCR 607 as follows:

2

3 **10A NCAC 71P .0303 RECIPIENT IN DOMICILIARY CARE WITH SPOUSE AT HOME**

4

5 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0304

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – this line should be removed

Line 6 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 7 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0304 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0304 RECIPIENT/DOMICILIARY CARE: SPOUSE/NOT RECEIVING**
3 **ASSIST**

4
5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0306

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 3 – do you mean “payment” or some other word? These rules seem to include several terms referring to a single entity or concept, such as “assistance,” “benefit,” “payment,” and “check.” This is ambiguous and unclear and should be corrected. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate.

Lines 4, 5, and 6 – are the terms “private living arrangement,” “maintenance amount,” and “personal needs allowance” defined? Refer to a rule, if possible.

Line 8 – Paragraph (b) should begin a new line.

Line 10 – how are “financial resources and needs related to health and safety” assessed? What rule governs this assessment or what factors are used in making this assessment?

Line 14 – this line should be removed

Line 15 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 16 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0306 is adopted as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0306 BENEFICIARY IN A PRIVATE LIVING ARRANGEMENT**

3 (a)The maximum payment for an individual eligible for State/County Special Assistance In-home living
4 in a private living arrangement shall be computed by:

5 (1)Determining the maintenance amount by adding the adult care facility rate established by
6 the General Assembly to the personal needs allowance.

7 (2)Subtracting net income from the maintenance amount; and

8 (3)Rounding the difference to the nearest dollar. (b) The actual payment for an individual eligible
9 for State/County Special Assistance In-Home shall be determined by a comprehensive
10 assessment conducted by a social worker of financial resources and needs related to health and
11 safety in the private living setting. The payment may be authorized up to the maximum determined in
12 (a) (1)-(3) in the subparagraph of this rule.

13
14 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

16 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0401

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – this line should be removed

Line 7 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 8 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0401 is repealed as published in 30:06 NCR 607 as follows:

2 **SECTION .0400 - MIXED BUDGETING: WHEN OTHER BUDGET MEMBERS ARE**
3 **RECIPIENTS**

4 **10A NCAC 71P .0401 MINIMUM PAYMENT**

5

6 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

8 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0402, .0403, .0404, .0405, .0406

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – this line should be removed

Line 6 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 7 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0402 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0402 RECIPIENT/DOMICILIARY CARE: SPOUSE/CHILDREN**
3 **RECEIVING AFDC**

4
5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

1 10A NCAC 71P. 0403 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0403 RECIPIENT/DOMICILIARY CARE: SPOUSE/CHILDREN**

3 **RECV'G AFDC-MA**

4

5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

1 10A NCAC 71P. 0404 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0404 RECIPIENT/DOMICILIARY CARE: SPOUSE/RECV'G**
3 **MEDICAL ASSIST.**

4

5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

1 10A NCAC 71P. 0405 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0405 RECIPIENT/SPOUSE BOTH RECEIVING SPECIAL**
3 **ASSISTANCE**

4
5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

1 10A NCAC 71P. 0406 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0406 RECIPIENT/DOMICILIARY CARE: SPOUSE:**
3 **NURSING/INTERMED. FAC.**

4

5 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0501

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Generally in this Rule, do you intend to refer to "recipients" or "Beneficiaries"? Recall that you have defined "Beneficiary" to include both "applicants" and "recipients" (.0102(5)).

Lines 8, 9, 11, and 13 – capitalize "Beneficiary" if you mean to refer to the defined term.

Lines 8-9 – remove line break.

Lines 12 and 13 – replace "or staff of" with "or a staff member of"

Line 13 – capitalize "Adult Care" if you mean to refer to the defined term.

Line 13-14 – replace "is prohibited from acting" with "shall not act"

Line 14 – replace "their residents" with "Beneficiaries who reside at the Adult Care facility that employs such administrator or staff member."

Line 17 – insert "set forth" after "procedures"

Line 18 – replace "the beneficiary" with "a Beneficiary" if you mean to refer to the defined term.

Line 18 – delete "has shown that he or she"

Line 19 – Paragraph (d) should begin a new line.

Line 22 – this line should be removed

Line 23 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 24 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0501 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0500 - PAYMENT PROCEDURES**
4

5 **10A NCAC 71P .0501 PAYEE**

6 a) ~~The recipient is payee for his own special assistance check unless it is determined that he is unwilling~~
7 ~~or unable to manage his assistance to the extent that he deprives himself or is hazardous to himself or others.~~

8 The beneficiary shall be payee for his or her

9 own State/County Special Assistance payment unless the beneficiary or his or her legal
10 representative designates a responsible personal representative to serve as substitute payee.

11 (b)A payee for federal benefits for the beneficiary may serve as the substitute payee for the State/County
12 Special Assistance payment except when the payee for federal benefits is an administrator or staff of an
13 adult care facility where the beneficiary is residing. The administrator or staff of an adult care facility is
14 prohibited from acting as payee for State/County Special Assistance payments for their residents.

15 ~~(b)(c) When this situation occurs court action shall be taken by the county dss to have a substitute payee~~
16 ~~appointed. A substitute payee can be a personal representative, a trustee or a legal guardian. The~~
17 ~~director of the county department of social services may invoke the procedures in G.S. 108A-37 when he~~
18 ~~or she determines that the beneficiary has shown that he or she is unwilling or unable to manage his~~
19 ~~or her assistance to the extent that deprivation or hazard to himself or herself or others results. (d) Under~~
20 ~~no circumstances shall payments be made to persons or entities designated in G.S. 108A-47.~~

21
22 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

23 *History Note: Authority G.S. 143B-153; 108A-25; 108A-37;*

24 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0502

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – insert “for any recipient” after “Assistance”

Line 5 – insert “for or on behalf of such recipient” after “application”

Line 6 – delete the comma after “pending”

Line 6 – what “worker”? Define this term or refer to a definition elsewhere in your rules.

Line 9 – replace “has” with “had”

Line 10 – delete the comma after “approved”

Line 11 – replace “that month” with “during the month that such assistance was approved.”

Lines 12, 14, and 15 – do you mean “applicant,” recipient,” or “Beneficiary?”

Line 12 – delete the comma after “care”

Line 13 – delete the commas after “Assistance” and “month”

Line 13 – replace “is” with “are”

Line 13 – insert a comma after “met”

Line 14 – delete the comma after “entry”

Line 15 – delete the comma after “requirement”

Line 16 – there appears to be an extra space before “disregard”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 16 – what does “disregard” mean?

Line 16 – insert a comma after “deductions”

Line 17 – do you mean “applicant,” recipient,” or “Beneficiary? If you mean “Beneficiary,” capitalize it.

Line 19 – replace “located” with “available for the Beneficiary.” In the place of “Beneficiary” use “recipient” if that is what you mean.

Line 21 – this line should be removed

Line 22 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 23 – complete the 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 71P. 0502 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0502 PAYMENT AUTHORIZATION**

4 (a) ~~Special assistance~~ State/County Special Assistance shall not be authorized prior to the month of
5 application.

6 (b) If SSI approval is not pending, and the worker disposes of an application after the month of application,
7 ~~special assistance~~ State/County Special Assistance may be authorized as much as two months prior to
8 the month of disposition.

9 (c) If SSI approval has been pending, ~~special assistance~~ State/County Special Assistance may be
10 authorized retroactive to the month SSI was approved, if the applicant was in ~~domiciliary~~ residential care
11 and had applied for ~~special assistance~~ State/County Special Assistance that month.

12 (d) If an applicant enters ~~domiciliary-residential~~ care, or meets the North Carolina residency requirement
13 for Special Assistance, after the first day of the month, and all other eligibility criteria is met ~~he the~~
14 applicant shall be eligible only for a partial payment for that month from the date of entry, or the date ~~he~~
15 the applicant meets the residency requirement, to the end of the month. The payment shall be computed
16 without considering income, disregard, deductions or exemption.

17 (e) If a ~~recipient's~~ beneficiary's level of care is determined to no longer be ~~domiciliary-residential care~~
18 and a bed is not readily available under the Medicaid Program, ~~special assistance~~
19 State/County Special Assistance shall continue until a bed at the appropriate level of care is located.

20
21 (6) ~~"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

22 *History Note: Authority G.S. 143B-153; 108A-41(b);*

23 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0504

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 2-3 – there appears to be a line break separating these lines – please check your formatting.

Line 4 – what does “State responsible overpayments” mean? Line 14 – what does “County responsible overpayments” mean? Are these lines regulatory or explanatory?

Line 4 – capitalize “State” if you are referring to the State of North Carolina.

Lines 5, 7, 8, 11, and 12 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 5 – insert “his or her” before “representative”

Line 5 – insert “to” before “report”

Line 5 – delete “and”

Line 6 – do you mean “payment” or some other word? These rules seem to include several terms referring to a single entity or concept, such as “assistance,” “benefit,” “payment,” and “check.” This is ambiguous and unclear and should be corrected. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate.

Line 6 – delete the colon.

Lines 6-7 – subparagraph (1) is really just the completion of the sentence on line 5-6. Do not break it out into a separate Subparagraph.

Line 8 – this should be Subparagraph (1), not (2).

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 10 – what does “up to that amount” mean? Up to what amount?

Line 11 – this should be Subparagraph (2), not (3).

Line 11 – replace “no” with “not”

Lines 12-13 – How will you compel a Beneficiary to sign an agreement? What if the Beneficiary refuses?

Line 12 – what must the Beneficiary agree to repay, and to whom?

Lines 12-13 – what does “acquire resources” mean? How many resources or how much money will trigger a duty to repay? When must these resources be acquired, and during what period of time will the Beneficiary continue to have a duty to repay?

Line 16 – this line should be removed

Line 17 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 18 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0504 is amended as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0504 CORRECTION OF ADMINISTRATIVE**
3 **OVERPAYMENTS**

4 (a) State responsible overpayments will be charged to the state.

5 (b) If the ~~recipient-beneficiary~~ (or ~~his~~-representative) failed to report a change or report timely, and
6 fraud is not suspected, and he or she is not entitled to all or part of a ~~check-payment~~, the county shall:

7 (1) Ask the ~~recipient-beneficiary~~ to refund the overpayment voluntarily.

8 (2) If the ~~recipient-beneficiary~~ refuses to refund the overpayment, ~~his—special—assistance~~
9 the State/County Special Assistance grant-payment may be reduced up to 10 percent if he
10 or she has disregarded earned income or excess reserve up to that amount.

11 (3) If the ~~recipient-beneficiary~~ has no disregarded earned income or excess reserve, the
12 recipient shall sign an agreement ~~that he will to~~ repay if he or she acquires resources in
13 the future.

14 (c) County responsible overpayments are the responsibility of the county.

15
16 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

18 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0505

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – delete “write checks according to”

Lines 5 and 8 – do you mean “benefits” or some other word? These rules seem to include several terms referring to a single entity or concept, such as “assistance,” “benefit,” “payment,” and “check.” This is ambiguous and unclear and should be corrected. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate.

Line 5 – delete “decision”

Line 6 – insert “, as authorized by the county director of social services” after “staff”

Line 7 – delete “through the authority of the county director of social services”

Lines 6-7 – what is the “State eligibility system”? Is it defined by rule?

Lines 9 and 11 – capitalize “Beneficiary” if you mean to refer to the defined term.

Lines 10-11 – what does “may be added” mean – added to what?

Line 14 – this line should be removed

Line 15 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 16 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0505 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0505 BENEFIT ISSUANCE**

4 (a) ~~The department of social services~~ Department of Health and Human Services shall
5 write checks according to authorize benefits based on the eligibility determination decision of county
6 department of social services staff submitted by county directors of social services. using the current State
7 eligibility system through the authority of the county director of social services.

8 (b) ~~Except for replacement checks, all checks~~ All benefits shall be issued by the method requested
9 ~~mailed to the address given by the recipient beneficiary~~ or substitute payee.

10 (c) ~~Replacement checks are mailed to county departments of social services.~~ payments may be
11 added up to 12 months after initial issuance by the electronic method of the beneficiary's choice.
12 ~~Checks shall be delivered to the post office on the last work day of each month.~~

13
14 (6) ~~"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

16 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0506

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – this line should be removed

Line 5 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 6 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0506 is repealed as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0506 RECEIPT AND USE OF CHECKS**

3

4 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

6 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0507

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 3, 4, and 19 – do you intend to refer to “recipients” or “Beneficiaries”? Recall that you have defined “Beneficiary” to include both “applicants” and “recipients” (.0102(5)). Capitalize “Beneficiary” if you mean to refer to the defined term.

Lines 7, 9, 13, and 17 – capitalize “State” if you are referring to the State of North Carolina.

Lines 7, 9, 14, 17, 20, 21, and 22 – do you intend to use the term “will” or “shall”? Are these lines regulatory or explanatory?

Lines 12 and 17 – do you mean “payee” or “Beneficiary”?

Line 13 – delete the comma after “months”

Line 19 – insert “or she” after “he”

Line 22 – delete the entire sentence that begins “It is the...”

Line 23 – insert “that are” after “payments”

Line 25 – this line should be removed

Line 26 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 27 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0507 is amended as published in 30:06 NCR 607 as follows:

2 **10A NCAC 71P .0507 LOST: STOLEN AND FORGED CHECKS**

3 (a) If a ~~recipient-beneficiary~~ reports that ~~an assistance~~ a State/County Special Assistance check
4 has been lost or stolen before he or she has endorsed it, the county department shall have the recipient
5 sign an affidavit that he or she did not receive the check. Within ten days after the check is reported
6 lost or stolen, the county department shall request a replacement check from the state office.

7 (1) If the check has not been paid, the state shall issue a replacement check and issue a
8 stop payment for the original check.

9 (2) If the check has been paid, the state shall send to the county a photocopy of the endorsed
10 check and a Forgery Affidavit. The county shall compare, or shall arrange for
11 comparison by experts in the field of document examination, the endorsement to other
12 known signatures of the payee.

13 (A) If forgery is suspected, the county shall within 24 months, submit to the state
14 the completed and signed Forgery Affidavit. The state shall issue a
15 replacement ~~check~~ check upon verification of forgery.

16 (B) After the county makes its analysis and a determination is made that the
17 payee endorsed and cashed the check, it shall notify the state. The state shall
18 not issue a replacement check.

19 (b) If a ~~recipient-beneficiary~~ reports that an assistance check has been lost or stolen after he has endorsed
20 it, the county department will request a replacement check of the state office. If the check has not been paid
21 by the State Treasurer, a replacement check will be issued. If the check has been paid, a replacement check
22 will not be issued. It is the responsibility of the ~~recipient-beneficiary~~ to take legal action.

23 (c) This Rule shall not apply to State/County Special Assistance payments issued electronically.

24
25 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

27 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0508

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – revise as follows: “(a) Definitions: Fraud and Misrepresentation”

Lines 5-6 – delete the entire first sentence of Subparagraph (a)(1).

Lines 6-7 – replace “An applicant or recipient is suspected of” with “For the purposes of this Subchapter 71P, a Beneficiary engages in”

Line 9 – delete “or”

Line 12 – move the phrase “and as a result ... assistance.” out of Subparagraph (a)(1)(C) and move it to its own line, as follows:

- (C) does not report changes in income or other eligibility factors that affect the amount of payment
- and as a result obtains or continues to receive assistance.

Lines 13-25 – revise as follows:

- (2) For the purposes of this Subchapter 71P, intentional or unintentional misrepresentation causes monetary loss as a result of a Beneficiary's action or inaction.
 - (A) Intentional Misrepresentation. A Beneficiary engages in intentional misrepresentation when he or she gives incorrect or misleading information in response to either oral or written questions which the Beneficiary knows is incorrect, misleading, or incomplete.
 - (B) Unintentional Misrepresentation. A Beneficiary engages in unintentional misrepresentation when he or she gives incomplete, incorrect, or misleading information

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

because he or she does not understand the eligibility requirements or his or her responsibilities to provide the agency with required information, and there is no proof that the Beneficiary acted willfully and intentionally to obtain more benefits than those to which he or she was entitled.

Line 26 – insert “Fraud” before “Prevention”

Lines 27-28 – what does “income maintenance caseworker” mean – is it defined in a rule?

Line 28 – replace “at applications and reviews” with “when interviewing a Beneficiary”

Lines 27-28 – when are such interviews required? What rules govern these interviews?

Lines 30, 31, 33, 36, 38, 40, 42, 66-67, 69, 74-75, 113-14, and 115 – do you intend to refer to “applicant or Beneficiaries”? Recall that you have defined “Beneficiary” to include both “applicants” and “recipients” (.0102(5)). Capitalize “Beneficiary” if you mean to refer to the defined term.

Line 31 – revise as follows:

- (B) explain the obligation of the Beneficiary or authorized representative to report all changes in situation within five days after they occur;

Line 32 – what does “change in situation” mean – is it defined in a rule?

Line 34 – replace “failure” with “failing”

Line 34 – what does “changes” mean – is it defined in a rule?

Lines 36-37 – what “fraud pamphlet” is referred to here? Where can such pamphlets be obtained?

Line 41 – what does “exceeds income” mean?

Lines 44, 50, 67, 69, 79, 86, 92, 95, 97, 100, 101, and 103 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 44 – what does “changes” mean – is it defined in a rule?

Line 46 – what does “worker” mean – is this the “income maintenance worker”? Is this defined in a rule?

Line 48 – what does “worker” mean – is this the “eligibility staff”?

Line 48 – what does “all available online verification systems” mean?

Line 49 – replace “at applications and reviews” with “when interviewing a Beneficiary”

Line 49 – what does “lead information” mean?

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 50 – insert a comma after “Beneficiaries”

Line 50 – delete the comma after “citizens”

Line 51 – insert “of social services” after “department”

Line 52 – replace “there is an indication” with “a county department discovers evidence”

Line 53 – what does “worker” mean?

Lines 54-57 – revise as follows:

... determined eligibility and documented eligibility information according to applicable regulations and shall obtain and document all evidence necessary to substantiate whether the Beneficiary intended to defraud and whether the overpayment was due to the Beneficiary’s intentional or unintentional misrepresentation.

Line 58 – delete the commas after “director” and “designee”

Line 58 – what does “eligibility staff mean - is this defined in a rule?

Line 60 – delete the comma after “services”

Line 64 – what does “identifying information” mean – identity of the Beneficiary, of the case, or what?

Lines 65, 66, and 67 – insert “a” as the first word in each of these lines.

Line 66 – replace “to substantiate” with “substantiating”

Line 68 – replace “of evidence to substantiate” with “of the evidence substantiating”

Line 69 – insert a comma after “information”

Line 70 – insert a comma after “background”

Line 71-89 – renumber these lines as follows (this only shows the renumbering – other change requests follow):

(e) County Board of Social Services Responsibilities.

(1) The county board of social services ... beneficiary:

(A) willfully and knowingly misstated ...;

(B) willfully and knowingly ... ; or

(C) willfully and knowingly... entitled.

(2) If the board determines ... following:

(A) Administrative action:

(i) involuntary grant reduction up to 10 percent of the payment;

Jason S. Thomas

Commission Counsel

Date submitted to agency: March 1, 2016

- (ii) voluntary grant reduction; or
- (iii) voluntary beneficiary refund;
- (B) Civil court action;
- (C) Criminal court action; or
- (D) Take no action for unusual or hardship cases.

Lines 71, 81, 90, 98, 101, 112, 117, and 120 – is it a county “board” or “department”?

Line 74 – replace “must” with “shall”

Line 76 – replace the comma after “misstated” with “or”

Line 77 – delete “or”

Line 78– what does “changes” mean – is it defined in a rule?

Line 81 – replace “that willful misrepresentation occurred” with “that a Beneficiary engaged in Intentional Misrepresentation” and insert a comma after “Misrepresentation”

Lines 81-82 – delete “and therefore fraud is suspected” and correct the font

Line 84 – delete “grant”

Line 84 – insert “of” after “reduction”

Line 84 – do you mean “payment” or some other word? These rules seem to include several terms referring to a single entity or concept, such as “assistance,” “benefit,” “payment,” and “check.” This is ambiguous and unclear and should be corrected. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate.

Line 85 – delete “grant”

Line 85 – insert “of payment (or whatever word you choose to use for payment)”. These rules seem to include several terms referring to a single entity or concept, such as “assistance,” “benefit,” “payment,” and “check.” This is ambiguous and unclear and should be corrected. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate.

Line 86 – what does “voluntary Beneficiary refund” mean – is this defined in a rule?

Line 89 – under what circumstances would the board decide to take “no action”?

Lines 97-99 – How will you compel a Beneficiary to sign an agreement? What if the Beneficiary refuses?

Line 99 – what must the Beneficiary agree to repay, and to whom?

Line 99 – what does “acquire resources” mean? How many resources or how much money will trigger a duty to repay? When must these resources be acquired, and during what period of time will the Beneficiary continue to have a duty to repay?

Line 107 – replace “making the prosecutor aware of” with “explaining”

Line 108 – replace “exactly” with “in detail”

Line 108 – replace the comma with “and”

Line 109 – insert “such as” before “advance”

Line 112 – delete “of”

Line 115 – replace “just” with “solely”

Line 117 – delete the commas after “board” and “designee”

Line 118 – replace “at” with “of”

Line 119 – insert a comma and “Department of Health and Human Services” after “Adult Services”

Line 120 – replace “keep” with “retain”

Line 120 – for what period of time must the department (or board) retain these documents? Is there a rule that governs this?

Line 122 – revise as follows:

(g) If the board [or department] determines that a Beneficiary engaged in fraud in obtaining services [or benefits or etc.] from an Adult Care facility, G.S. 108A-39 shall control.

Line 124 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 125 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0508 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0508 FRAUD**

4 (a) Definition: Fraud vs. Misrepresentation.

5 (1) Fraud is a crime against society which can only be determined in a criminal court. It is the
6 willful and intentional act that creates the crime, rather than the resulting overpayment. An
7 applicant or recipient is suspected of fraud when he or she willfully and knowingly with
8 the intent to deceive:

9 (A) makes a false statement or misrepresentation; or

10 (B) fails to disclose a material fact; or

11 (C) does not report changes in income or other eligibility factors that affect the amount
12 of payment; and as a result obtains or continues to receive assistance.

13 (2) Misrepresentation causes monetary loss as a result of a ~~recipient's~~ beneficiary's action or
14 inaction. Misrepresentation can be intentional or unintentional:

15 (A) Intentional Misrepresentation. The applicant or ~~recipient~~ beneficiary gives
16 incorrect or misleading information in response to either oral or written questions.
17 The information is provided with the knowledge that it is incorrect, misleading,
18 or incomplete. This may or may not be fraud but that must be decided by a court
19 of law.

20 (B) Unintentional Misrepresentation. There is no proof that the ~~recipient~~ beneficiary
21 acted willfully and intentionally to obtain more benefits than those to which he or
22 she was entitled. The ~~recipient~~ beneficiary gives incomplete, incorrect or
23 misleading information because he or she does not understand the eligibility
24 requirements or his or her responsibilities to provide the agency with required
25 information.

26 (b) Prevention.

27 (1) Interviews. In an effort to prevent fraud, the ~~eligibility worker~~ income maintenance
28 caseworker shall do the following at applications and reviews:

29 (A) obtain correct social security numbers for ~~budget unit members;~~
30 applicant/beneficiary;

31 (B) explain ~~his~~ the applicant/beneficiary or authorized representative's obligation to
32 report all changes in situation within five days after they occur;

33 (C) inform ~~him~~ the applicant/beneficiary or authorized representative of the
34 consequences of failure to report changes, stressing the penalties for fraud and
35 misrepresentation;

36 (D) give ~~him~~ the applicant/beneficiary or authorized representative a copy of the fraud
37 pamphlet and explain ~~to him~~ the meaning of fraud;

- 38 (E) question the applicant or ~~recipient~~-beneficiary or the authorized representative
39 regarding unreported income when it appears ~~living standards of a spouse at home~~
40 ~~or CD-a Certain Disabled Program~~ applicant or ~~recipient~~-beneficiary ~~exceed~~
41 ~~exceeds~~ income;
- 42 (F) tell ~~him~~-the applicant/beneficiary or authorized representative how to report
43 changes; and
- 44 (G) ask the ~~recipient~~-beneficiary about any changes since ~~his~~-the application or last
45 review.
- 46 (2) Documentation and Verification. The worker shall verify and document in detail the
47 information given during the interview.
- 48 (c) Detection. The worker shall check ~~SDX and BENDEX listings~~-all available online verification systems
49 at applications and reviews. If lead information is received from other agencies, providers, other-~~recipients~~
50 ~~beneficiaries~~ or private citizens, the county departments shall investigate.
- 51 (d) Investigation. County department responsibilities.
- 52 (1) As soon as there is an indication that a ~~recipient~~-beneficiary obtained benefits to which he
53 ~~or she~~ was not entitled or an overpayment exists, the worker shall assess whether the agency
54 determined eligibility and documented information obtained according to regulations,
55 substantiate the intent to defraud, and obtain and document all of the evidence necessary
56 to substantiate whether the overpayment is due to intentional or unintentional
57 misrepresentation.
- 58 (2) The director, or his ~~or her~~ designee, shall review each case after the eligibility staff's
59 evaluation. If there is sufficient evidence to suspect fraud, the director shall refer the case
60 for a decision to the board of social services, or make the decision if the board has
61 designated that he ~~or she~~ do so.
- 62 (3) If the director determines that the case should go before the board of social services, a
63 summary shall be prepared which contains:
- 64 (A) identifying information,
- 65 (B) description of the suspected fraudulent act,
- 66 (C) description of the evidence to substantiate the applicant's or ~~recipient's~~
67 ~~beneficiary's~~ intent to defraud,
- 68 (D) description of evidence to substantiate the amount of the overpayment, and
- 69 (E) background information such as the applicant's or ~~recipient's~~ ~~beneficiary's~~ current
70 situation, educational background and competency.
- 71 (e) County Board of Social Services Responsibilities. The county board of social services or its designee
72 shall review the suspected fraud case to determine if there is a basis for suspected fraud and determine the
73 appropriate course of action to take. While fraud may be suspected, the board may decide that the ~~recipient's~~

circumstances preclude prosecution and/or repayment. The board must determine if the applicant or ~~recipient-beneficiary~~:

- (1) willfully and knowingly misstated, provided incorrect or misleading information in response to oral or written questions; or
- (2) willfully and knowingly failed to report changes affecting the amount of payment; or
- (3) willfully and knowingly failed to report the receipt of benefits to which ~~he~~ the beneficiary knew he or she was not entitled.

If the board determines that willful misrepresentation occurred and therefore fraud is suspected, it shall direct the agency to pursue one or more of the following:

(4) Administrative action:

- (A) involuntary grant reduction up to 10 percent of the payment;
- (B) voluntary grant reduction;
- (C) voluntary ~~recipient-beneficiary~~ refund;

- (5) Civil court action;
- (6) Criminal court action;
- (7) Take no action for unusual or hardship cases.

(f) County Department Follow-Up.

(1) Administration action:

(A) Involuntary grant reduction. If a Certain Disabled ~~recipient-beneficiary~~ has no resources, an involuntary grant reduction shall not exceed 10 percent of the payment. In ~~domiciliary-residential~~ care cases, grant reduction shall be required only if the ~~recipient-beneficiary~~ has disregarded earned income or excess reserve. The amount of reduction shall not exceed the amount available as disregarded earned income or excess reserve. If the ~~recipient-beneficiary~~ has no resources, the board may direct the agency to require ~~him~~ the beneficiary to sign a statement that he or she will repay the overpayment if he acquires resources in the future.

(B) Voluntary grant reduction and voluntary ~~recipient-beneficiary~~ refund. The county department shall ensure that the ~~recipient-beneficiary~~ who agrees to a voluntary grant reduction or refund is not treated any more harshly than the applicant or ~~recipient-beneficiary~~ who has an involuntary grant reduction.

(2) Criminal court action. The county department shall assist the prosecutor by:

- (A) providing a clear and concise summary of the suspected fraud case;
- (B) compiling any information gathered during the investigation;
- (C) making the prosecutor aware of the specific eligibility factors involved in the case;
- (D) explaining exactly how the overpayment amount was computed, the time restraints on social services actions (advance notice, 5-day reporting requirements);

111 (E) if necessary, appearing as a witness.

112 (3) Regardless of what the board or its designee decides or what action is taken by the court,

113 the agency shall continue to work with the applicant or ~~recipient~~beneficiary. The applicant

114 or ~~recipient~~beneficiary shall be promptly notified of any action taken in the case. If the

115 applicant or ~~recipient~~beneficiary remains eligible, the case shall not be terminated just

116 because fraud is suspected.

117 (4) If the board, or its designee, suspects fraud, the department's findings and action shall be

118 reported immediately to the ~~Adult and Family Services Section~~Adult Services Section at

119 the Division of Aging and Adult Services.

120 (5) The county department shall keep all documentation, evidence, or summaries for future

121 reference.

122 (g) G.S. 108A-39 shall control for adult care facilities and fraudulent misrepresentation.

123

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

125 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0601

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – replace this entire line with “A county department of social services shall accept an application for State/County Special Assistance as provided in this Rule.”

Line 7 – begin this line “An” instead of “The

Line 7 – replace “...apply without delay. Without delay is the” with “apply on the”

Line 8 – replace “at the county” with “at any county” if that is what these rules allow; otherwise, replace “the” with “a.”

Line 8 – insert a period after “department” and delete the remainder of this line.

Line 9 – insert at the beginning of this line “An applicant may also submit an application to”

Line 9 – delete “if submitted”

Line 10 – replace “DHHS approved” with DHHS-approved”

Line 10 – what other “methods” have been approved by DHHS – is this approval set forth in a rule?

Line 11 – “verbally” means using words, including in writing. Do you mean “orally” (spoken)?

Line 12 – replace “can” with “may”

Line 13 – replace “must” with “shall”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 15 – replace “pending a decision for SSI eligibility” with a decision regarding the applicant’s SSI eligibility is pending”

Line 16 – replace “the application” with “the decision regarding the application”

Line 16 – replace “can pend up to” with “shall be delayed for no more than”

Line 18 – replace “will” with “shall”

Line 18 – replace “eligibility” with “application”

Line 19 – insert “applicant’s” before “county”

Line 20 – Insert “For the purpose of submitting an application,” before “the applicant...”

Line 20 – replace “his/her” with “his or her”

Line 20 – replace “representatives” with “representative”

Line 21 – replace “he/she” with “he or she”

Line 22 – replace “SA approved” with “SA-approved.” Is “SA” defined? How does one know if a facility is “SA-approved”?

Line 22 – replace “at a county that” with “at another county department that”

Line 22 – replace “convenient” with “conveniently located” if that is what is meant.

Line 23 – delete “to apply”

Line 23 – replace “must” with “shall”

Line 23 – replace “the county” with “his or her county”

Lines 24-25 – is this sentence needed?

Line 24 – insert a space between “Anapplication”

Lines 24-25 – replace “at a department” with “employed”

Line 25 – replace “individual’s” with “applicant’s”

Line 26 – delete “for assistance”

Line 27 – replace the comma with “is”

Line 27 – replace “his/her” with “his or her”

Lines 28-29 – replace “the department with one exception. If the” with “the county department; however, if the”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 31 – replace “assistance” with “State/County Special Assistance” if that is what is meant (and note the general comment as to all of these Rules regarding terms such as “assistance,” “benefit,” “payment,” and “check”).

Lines 31-32 – replace “the department of social services” with “the county department” if that is what is meant.

Line 33 – replace “contact shall be initiated” with “letter or electronic response shall be sent”

Line 33 – replace “work days” with “workdays” if you intend to use the statutory term; otherwise, use the term “business days”

Line 34 – replace “agency” with “county department”

Line 34 – replace “correspondence” with “follow-up letter or electronic response”

Line 37 – delete “the department shall”

Line 37 – replace “if it does” with “if the county department does”

Lines 38-39 – replace “correspondence” with “follow-up letter or electronic response” and replace the remainder of the sentence with “the department shall deem the request for State/County Special Assistance to have been withdrawn.”

Line 41 – replace “can” with “may”

Line 44 – this line should be removed

Line 45 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 46 – complete the 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 71P. 0601 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0600 - APPLICATION PROCESS**
4

5 **10A NCAC 71P .0601 ACCEPTANCE OF APPLICATION**

6 Acceptance of the application shall involve the following:

- 7 (1) The applicant shall be allowed to apply without delay. Without delay is the same day the
8 applicant appears at the county ~~department~~ department, or on the day it is received by
9 the county department of social services if submitted electronically or by another
10 DHHS approved method.
- 11 (2) The applicant shall be informed, verbally and in writing, that:
- 12 (a) He or she can apply without delay;
- 13 (b) A decision must be made concerning his or her eligibility within 45 days
14 from the date of application for ~~AA SAA~~ or 60 days for AD-SAD or CD
15 unless he or a collateral cause the delay; pending a decision for SSI eligibility.
16 In the case of a pending SSI application, the application can pend up to
17 twelve months.
- 18 (c) He or she will receive a written decision concerning his or her eligibility.
- 19 (3) ~~The applicant shall apply in his county of residence.~~ residence shall be responsible for
20 processing the application. The applicant or his/her representatives may appear for
21 the purpose of submitting an application at the county department where he/she
22 currently resides in an SA approved facility or at a county that is convenient for the
23 representative to apply. The applicant must not be required to travel to the county
24 of residence. An application taken by an income maintenance caseworker at a
25 department outside of the individual's county of residence is a courtesy application.
- 26 (4) The date of the application for assistance shall be the date ~~the applicant or his~~
27 ~~representative signs the application~~ application, signed by the applicant or his/her
28 representative under penalty of perjury, perjury and is received in the department with
29 one exception. If the applicant is in a mental institution, the date of application shall be
30 the date the referral is received by the county department of social services.
- 31 (5) If a person requests assistance by mail or electronic submission to the department of
32 social services, the letter or electronic submission shall be considered a request
33 to apply. A follow-up letter contact shall be mailed-initiated within 3 work days
34 after the letter request is received by the agency. The letter correspondence shall
35 request that the applicant come to the county department for an interview or contact
36 the agency so that other arrangements can be made. The letter shall specify that
37 the department shall, if it does not hear from the applicant within 15 days of the date

38 of the ~~letter~~ correspondence from the county, consider that the applicant is no longer
39 interested in receiving assistance.

40 (6) If a person requests assistance by telephone, he or she shall be advised that he or she
41 can apply at any time. If the person requests a specific time, an interview shall be
42 scheduled.

43

44 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

45 *History Note: Authority G.S. 143B-153; 108A-43;*

46 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0602

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – replace “must” with “shall”

Line 7 – is “income maintenance caseworker” defined?

Line 7 – insert “for State/County Special Assistance” after “requirements”

Line 8 – replace “applicant shall be informed” with “caseworker shall inform the applicant”

Line 10 – what does “his situation” mean? This phrase is ambiguous.

Lines 16-19 – revise as follows:

If the applicant does not wish the county to contact such collateral sources, he or she may withdraw the application. If the applicant denies permission for the county to contact such collateral sources, the application shall be denied.

Line 21 – replace “Residence” with “Applicants’ residence”

Line 21 – capitalize “Adult Care” if you intend to refer to this defined term.

Lines 25, 26, 29, 39, 43, 44, 48, and 49 – don’t capitalize the first words in these lines

Line 27 – do not capitalize “the” after the semicolon.

Lines 27-28 – how and to whom does an applicant make such an appeal? What rules refer to that appeal?

Lines 30-35 – delete these lines through “health and safety.”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Lines 35-36 – who appoints the substitute payee, who decides whether an applicant can “manage the payment,” and what rules or statutes govern this action?

Line 35 – replace “A” with “have a”

Line 35 – delete “may be”

Lines 35-36 – replace “appointed for those individuals who” with “appointed, if the applicant”

Line 40 – insert a comma after “notices”

Line 44 – insert a comma after “changed”

Line 44 – insert “if” before “the applicant”

Line 46 – insert “if” before “the applicant’s”

Line 47 – replace “his/her” with “his or her”

Line 47 – what does “circumstances” mean – what rule defines this term?

Line 49 – insert “or” before “withdraw”

Lines 52, 55, 64, and 71 – don’t capitalize the first words in these lines

Line 52 – insert a comma after “state”

Line 52 – replace “necessary” with “collateral” if that is what is meant.

Line 54 – replace “eligibility. This includes” with “eligibility, including”

Lines 55-56 – delete “or he or she may be subject to prosecution”

Line 57 – insert “, within five days, of” after “services”

Line 58 – insert “State/County Special Assistance” before “payment”

Line 58 – delete “within five days after it happens”

Lines 58-59 – who shall explain the meaning of fraud, to whom, and when?

Line 61 – what does “change in situation” mean? Is the term defined in a rule?

Line 62 – replace “received in error” with “obtained through fraud” if that is the intended meaning.

Line 62 – replace “tried by the courts” with “prosecuted”

Lines 64-70 – What if an applicant does not know of a right to recovery he or she may have against some entity?

Lines 65-68 – delete the sentence that begins “When he or she....”

Lines 71-74 – this Sub-Item (5)(d) appears to apply to a recipient whose application for assistance has been approved, unlike the circumstances governed by the remainder of this Rule. Does this Sub-Item belong in this Rule, which address the obligations of applicants?

Line 71 – insert “of social services” after “department”

Line 73 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 76 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 77 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0602 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0602 INITIAL APPLICATION**

4 The applicant shall be allowed to have any person(s) of his or her choice participate in the ~~interview.~~
5 application process. If the applicant wishes for another person to receive benefit notices, an authorized
6 representative must be legally authorized or designated in writing by the applicant to act on his or her behalf.
7 The ~~eligibility specialist income maintenance caseworker~~ shall explain the eligibility requirements. The
8 applicant shall be informed of the following:

- 9 (1) ~~He~~ The applicant must provide the name of collaterals, such as landlords, employers, and
10 others with knowledge of his situation.
- 11 (2) It is the county's responsibility to use collateral sources to substantiate or verify information
12 necessary to establish eligibility, except that, for an applicant moving to North Carolina to
13 join a close relative (parent, grandparent, brother, sister, spouse, or child), the close relative
14 must provide verification of his or her state residency to the county department of social
15 services-eligibility. Collateral sources of information include knowledgeable individuals,
16 business organizations, public records, and documentary evidence. If the applicant does
17 not wish necessary collateral contacts to be made, he or she can withdraw the
18 application. If ~~he~~ the applicant denies permission to contact necessary collaterals, the
19 application shall be ~~rejected~~ denied due to failure to cooperate in establishing eligibility.
- 20 (3) ~~A worker will visit his home or the domiciliary care facility. The purpose of the visit is to~~
21 ~~verify eligibility requirements.~~ Residence in the adult care facility shall be verified.
22 State/County Special Assistance In-Home applicants' private living residence shall be
23 verified by the social worker conducting the in-home assessment.
- 24 (4) The applicant has the right to:
- 25 (a) Receive assistance if found eligible;
- 26 (b) Be protected against discrimination on the ground of race, creed, or national origin
27 by Title VI of the Civil Rights Act of 1964; ~~He~~ The applicant may appeal such
28 perceived discrimination;
- 29 (c) ~~Spend his assistance payment as he wishes, but it must be in his best interest and~~
30 ~~that of his family.~~ The payment minus the personal needs allowance for a
31 State/County Special Assistance beneficiary who is an adult care facility resident,
32 is intended to supplement the beneficiary's income to pay the facility for room and
33 board. The State/County Special Assistance In-Home payment is intended to be
34 used as indicated in the service plan and shall be used for purposes related to the
35 beneficiary's health and safety. A substitute payee may be appointed for those
36 individuals who cannot manage the payment;

- (d) ~~Receive his monthly check in advance until the payment is terminated by appropriate action;~~
- (d) Have any person participate in the application process. If the applicant wishes for another person to receive benefit notices an authorized representative must be legally authorized or designated in writing by the applicant to act on his or her behalf.
- (e) Have any information given to the agency kept in confidence;
- (f) Appeal, if ~~his~~ assistance will be denied, changed or terminated; his-the applicant believes that the payment is incorrect based on the county's interpretation of state regulations; or his-the applicant's request for a change in the amount of assistance review of his/her circumstances was delayed beyond 30 days or rejected; denied;
- (g) Reapply at any time, if found ineligible;
- (h) Withdraw the application at any time or if found eligible, withdraw from the assistance program at any time.
- (5) The applicant's responsibilities. ~~He-~~The applicant or authorized representative 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. This includes furnishing his or her Social Security Number.
- (b) Not provide false statements or withhold information or he or she may be subject to prosecution. Report-The applicant or authorized representative must report to the county department of social services any change in situation that may affect eligibility for a check-payment within five days after it happens. The meaning of fraud shall be explained. The applicant shall be informed that he may be suspected of fraud if he or she willfully withholds information or fails to report a change in situation and that in such situations, he or she may have to repay assistance received in error and that he or she may also be tried by the courts for fraud.
- (c) Inform the county department of social services of any person or organization against whom he or she has a right to recovery. When he or she accepts Medicaid medical assistance (when included with all SA except for CD), State/County Special Assistance), the applicant assigns his or her rights to third party insurance benefits to the state. He or she shall be informed that it is a misdemeanor to fail to disclose the identity of any person or organization against whom he or she has a right to recovery.
- (d) Immediately report to the county department the receipt of a check-payment which he or she knows to be erroneous, such as two checks-payments for the same

73 month, or a ~~check-payment~~ in the wrong amount. If ~~he~~ the beneficiary does not
74 report such payments, he or she may be required to repay any overpayment.

75

76 *History Note: Authority G.S. 143B-153; 108A-41(b);*

77 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0603

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “eligibility determination” with “determining whether a person is eligible for State/County Special Assistance”

Line 5 – what are the eligibility factors – are they defined in statute or rule?

Line 20 – replace “must” with “shall”

Line 20 – replace “as requirement of eligibility” with “in order to be eligible for State/County Special Assistance”

Line 22 – replace “be held” with “not be approved or denied”

Line 26 – this line should be removed

Line 27 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 28 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0603 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0603 ELIGIBILITY DETERMINATION PROCESS**

4 The following steps shall be followed in eligibility determination:

- 5 (1) Each eligibility factor shall be reviewed;
- 6 (2) ~~A home visit (or a visit to the domiciliary care facility, if a home visit is not appropriate)~~
7 ~~shall be made unless one of the following exceptions applies: The county department~~
8 ~~of social services income maintenance caseworker shall verify the applicant's residence~~
9 ~~in a licensed facility approved for State/County Special Assistance payments. The~~
10 ~~adult services social worker shall verify the State/County Special Assistance In-Home~~
11 ~~applicant's residence in a private living arrangement.~~
12 ~~(a) The applicant resides in a state institution (mental hospital or retardation center).~~
13 ~~In this case, information shall be obtained from a responsible person or staff~~
14 ~~member of the institution.~~
15 ~~(b) The applicant resides in a domiciliary care facility in a county other than his county~~
16 ~~of residence. In this case, information shall be obtained from a responsible~~
17 ~~person or the county department in the county where the facility is located.~~
18 (3) The applicant shall be asked whether he or she receives Supplemental Security Income
19 benefits. If the applicant's income is less than the Federal Benefit Rate for SSI, the
20 individual must apply for SSI as requirement of eligibility. If he or she has not applied,
21 he or she shall be asked to apply immediately. The State/County Special Assistance
22 application shall be held until a disposition on the SSI application is made.
23 ~~(4) The applicant or the applicant's legally responsible party shall cooperate with the~~
24 ~~resident evaluation to be completed by the Adult Care Home Resident Evaluator.~~

25
26 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

27 *History Note: Authority G.S. 143B-153; S.L. 1999-237;*

28 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0604

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 4 and 6 – what does “processed” mean? Perhaps insert “and a notice approving or denying the application shall be mailed” after “processed” if that is the intention.

Lines 4 and 6 – an “application for” is referred to here. The APA requires the substantive contents of forms to be set forth in either rules or statute. Wherever you refer to forms, you should either state the substantive contents of the form in the rule or be able to show rules or statutes where the substantive content is stated. In addition, the rule should also state, with specificity, where the form may be obtained.

Lines 6-7 – delete the entire sentence that begins “The 45 or 60....”

Line 8 – replace “collateral information” with “information from collateral sources”

Line 8 – replace “time standard” with “deadlines set forth in Paragraph (a) of this Rule,”

Line 8 – replace “disposed of” with “processed and a notice approving or denying the application shall be mailed”

Line 9 – replace “work days” with “workdays” if you intend to use the statutory term; otherwise, use the term “business days”

Line 9 – delete the comma after “days”

Line 9 – what does “situation has changed” mean? Is the term defined in a rule?

Lines 9-10 – what does “additional information needed” mean?

Line 13 – delete “pending”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 13 – insert “is pending” after “eligibility”

Line 14 – insert “decision regarding the” before “State/County”

Line 14 – replace “can pend up to” with “may be delayed for no more than”

Line 19 – insert space after (d)

Line 23 – this line should be removed

Line 24 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 25 – complete the 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 71P. 0604 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0604 TIME STANDARD**

4 (a) Applications for ~~AA-SAA~~ shall be processed within 45 days from the date the application form is signed.
5 Applications for ~~AD~~ SAD and ~~CD~~ State/County Special Assistance for the Certain Disabled Program
6 shall be processed within 60 days from the date the application form is signed. The 45 or 60 days cover the
7 time from date of application to the date the ~~check~~ approval or denial notice is mailed.

8 (b) When collateral information is received after the time standard, the application shall be disposed of
9 within 5 work days, unless the applicant's situation has changed. If the situation has changed, the additional
10 information needed shall be documented in the case record. When all information is received, the
11 application shall be disposed of within 5 work days.

12 (c) For pending applications, the time standard defined in Paragraph (a) of this Rule shall apply unless
13 ~~the applicant or collaterals delay in providing information pending a decision for SSI eligibility. In the~~
14 ~~case of a pending SSI application, the State/County Special Assistance application can pend up to 12~~
15 ~~months. If that happens, the application shall be held pending up to one year. On the 45th or 60th day, a~~
16 ~~letter shall be sent to the applicant giving him the reason for the delay and list of what is needed to~~
17 ~~complete the application. A decision must be made concerning his eligibility within 45 days from the~~
18 ~~date of application for AA or 60 days for AD or CD unless he or a collateral cause the delay;~~

19 (d) If the applicant's eligibility cannot be determined by the beginning of the 12th month, ~~he~~ the applicant
20 shall be notified that his or her application will be denied unless the ~~information is provided~~ SSI decision
21 is received by the end of the 12th month.

22
23 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

25 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0608

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 8 – this line should be removed

Line 9 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 10 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0608 is adopted as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0608 NOTICE TO BENEFICIARY**

4 The director of the county department of social services or his/her designee shall notify the beneficiary and
5 his/her authorized representative, if any, in writing of the disposition of the application. The notification
6 for approval must include the effective date of the assistance.

7
8 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

9 *History Note: Authority G.S. 143B-153; 108A-79;*

10 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0701

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – what are the eligibility factors – are they defined in statute or rule? Which factors are “subject to change”?

Lines 6 and 7 – replace “must” with “shall”

Line 8 – what does “changes” mean – is it defined in a rule?

Line 11 – this line should be removed

Line 12 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 13 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0701 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0700 - REDETERMINATION OF ELIGIBILITY**
4

5 **10A NCAC 71P .0701 TIME AND CONTENT**

6 All eligibility factors subject to change must be reviewed at least once every 12 months, before the recipient
7 receives ~~his~~the thirteenth ~~check~~payment. The income maintenance caseworker must immediately
8 evaluate the effect on eligibility of all changes reported by the beneficiary, his/her authorized
9 representative, or made known to the worker by another method.

10
11 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

13 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0702

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – is the term “income maintenance caseworker” defined?

Line 4 – replace “must” with “shall”

Line 5 – replace “facility residence” with “the residence of each Beneficiary”

Line 5 – what does “facility cases” mean – is it defined?

Line 8 – this line should be removed

Line 9 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 10 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0702 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0702 VERIFICATION OF FACILITY RESIDENCE**

4 The ~~home or domiciliary care facility income maintenance caseworker~~ must be visited in at least 10
5 percent of the ~~verify~~ facility residence in all facility cases due for a review each month. ~~The sample must~~
6 ~~include high risk cases.~~

7
8 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

10 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0704

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 3-4 – either use “re-evaluation” or “re-determination” consistently, whichever best fits within your rules and means what you intend.

Lines 4-6 – these lines seem to have extra spaces that should be removed.

Line 6 – capitalize “Adult Care” if you mean to refer to the defined term.

Lines 6-7 – replace the commas after “131D-2” and “Part A” with semicolons.

Line 10 – this line should be removed

Line 11 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Please add a complete History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0704 is as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0704 RE-EVALUATION**

4 Eligibility re-determination shall be based on verification that a re-evaluation has been completed at least
5 every 12 months using the Resident Assessment Instrument for Adult Care Homes and other supportive
6 information which documents the need for care in an adult care home licensed under G.S. 131D-2, a
7 combination home licensed under G.S. 131E, Article 6, Part A, or a facility licensed under G.S. 122C,
8 Article 2.

9
10 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

11 *History Note: Authority G.S. 143B-153; S.L. 1999-237.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0705

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

There appear to be extra spaces between words throughout this Rule – please correct such formatting errors.

Lines 4, 7, 10, 14, 15, 17, 19, 21, and 24 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 5 – insert “of any” after “writing”

Line 5 – insert “Beneficiary’s” after “reduce the”

Line 5 – replace “assistance” with “State/County Special Assistance” if that is what is meant (and note the general comment as to all of these Rules regarding terms such as “assistance,” “benefit,” “payment,” and “check”).

Lines 5-6 – replace “assistance. The appropriate notice shall be sent as follows:” with “assistance, as follows:”

Line 7 – replace “Advance, or timely” with “Advance or timely notice”

Lines 7-9 – replace the entire remainder of Item (1) after “no later than ...” with “as set forth in Rule .0102(3) of this Subchapter.”

Lines 10-13 – replace all of these lines with “Notwithstanding the requirements of Item (1) of this Rule, Adequate Notice, as defined in Rule .0102(1) of the Subchapter, shall be provided to the Beneficiary, as authorized by G.S. 108A-79(b), only in the following circumstances:”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Lines 14-23 – what is the authority for immediate termination or modification in these circumstances? Are these circumstances set forth in federal regulations, as referred to in G.S. 108A-79(b)(2)?

Lines 22-25 – the phrase beginning after the semicolon with “assistance authorized...” appears to be a new Sub-Item (f). Please correct this and format it properly.

Line 23 – replace “th” with “the”

Line 24 – replace “at approval” with “at the time that assistance was approved”

Line 27 – this line should be removed

Line 28 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 29 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0705 is as adopted in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0705 NOTICE TO BENEFICIARY OF INTENDED ACTION**

4 The director of the county department of social services or his/her designee shall notify the beneficiary and
5 his/her authorized representative, if any, in writing intended action to terminate or reduce the assistance.

6 The appropriate notice shall be sent, as follows:

7 (1) Advance, or timely shall be sent to a beneficiary at least ten work days before the
8 proposed action becomes effective. All notices of action shall contain information
9 outlined in G.S. 108A 79.

10 (2) An adequate notice must be received by the beneficiary no later than the effective
11 date of the change in the payment or in the case of termination, the date he or she
12 would have received payment. Adequate notice may be given only in the following
13 circumstances:

14 (a)The beneficiary dies;

15 (b)The beneficiary is admitted to a public institution and no longer qualifies for
16 assistance;

17 (c)The beneficiary signs and dates a written statement or requests to have
18 State/County Special Assistance terminated or reduced;

19 (d)The beneficiary is placed in skilled nursing care, intermediate care, or long-term
20 hospitalization;

21 (e)The beneficiary's whereabouts are unknown and agency mail has been returned
22 by the post office indicating no know forwarding address; assistance authorized for a
23 specific period is terminated and th

24 beneficiary was informed in writing at approval that such benefits would stop at a
25 specific time.

26
27 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

28 *History Note: Authority G.S. 143B-153; 108A-79;*

29 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0801

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – this line should be removed

Line 8 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 9 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0801 is repealed as published in 30:06 NCR 607 as follows:

2

3

SECTION .0800 – COVERAGE

4

5 **10A NCAC 71P .0801 AA-SA: GROUP I**

6

7 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

9 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0802

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – this line should be removed

Line 6 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 7 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P. 0802 is repealed as published in 30:06 NCR 607 as follows:

2

3 **10A NCAC 71P .0802 AD-SA: GROUP I**

4

5 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

7 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0803

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – insert “State/County” before “Special Assistance”

Line 8 – insert “are” before “financially”

Line 13 – insert “State/County” before “Special Assistance”

Line 13 – delete “and”

Lines 14-15 – is “qualified alien” defined – perhaps in .0902(a)(2)? If so, refer to that provision.

Line 16 – insert “and” at the end of this line

Line 19 – this line should be removed

Line 20 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 21 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0803 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0803 SAA**

4 ~~AA SA Group II~~ SAA coverage shall be provided only for persons who are:

- 5 (1) aged 65 or older;
- 6 (2) residing in ~~domiciliary~~ duly licensed adult care facilities; facilities or residing in a
7 private living arrangement if eligible for Special Assistance In-Home;
- 8 (3) receiving SSI or financially ineligible for ~~SSI~~; SSI due to excess income;
- 9 (4) ~~in need;~~ need of the level of care provided in licensed adult care facilities;
- 10 (5) not inmates of public institutions;
- 11 (6) ~~not patients in institutions for mental disease;~~ (6) residing in North Carolina voluntarily
12 with the intent to remain and meet the North Carolina residency requirement for
13 Special Assistance; and
- 14 (7) ~~(8)(7) U.S. citizens or qualified aliens lawfully admitted for permanent residence.~~
15 aliens;
- 16 (8) Meet income requirements;
- 17 (9) Meet resource requirements.
- 18

19 ~~(6) — "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

20 *History Note: Authority G.S. 143B-153; 108A-41(b);*

21 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0804

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – the deletion “only for persons who” does not make grammatical sense.

Line 5 – replace “but under 65; 65 or under 18” with “but less than 65, legally blind and aged 65 or older, or legally blind and aged less than 18;” if this is what you mean. If not, please clarify what this line means.

Line 6 – where may these “Social Security definition and standards” be found?

Lines 7, 9-13, 16-18 – add a space after each number in parenthesis.

Line 9 – insert “are” before “financially”

Lines 13-15 – correct the formatting of these lines.

Line 15 – delete “and”

Line 16 – is “qualified alien” defined – perhaps in .0902(a)(2)? If so, refer to that provision.

Line 17 – insert “and” at the end of this line

Line 20 – this line should be removed

Line 21 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 22 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0804 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0804 SAD**

4 ~~AD SA Group II~~ SAD coverage shall be provided ~~only for persons who are:~~

- 5 (1) aged 18 or older but under 65; 65 or under 18 and legally blind;
6 (2) disabled according to Social Security definition and standards;
7 ~~(2)(3)residing in domiciliary~~ duly licensed adult care facilities or residing in a private living
8 arrangement if eligible for State/County Special Assistance In-Home;
9 ~~(3)(4)receiving SSI or financially ineligible for SSI~~ due to excess income;
10 ~~(4)(5)in need of the level of care provided in licensed~~ adult care facilities;
11 ~~(5)(6)not inmates of public institutions;~~
12 ~~(6)(7)not patients in institutions for mental disease;~~
13 ~~(7)(8)residing in North Carolina voluntarily with the~~
14 intent to remain and meet the North Carolina residency requirement for ~~Special Assistance;~~
15 State/County Special Assistance; and
16 ~~(8)(9)U.S. citizens or qualified~~ aliens —lawfully admitted for permanent residence-aliens;
17 (10)Meet income requirements;
18 (11)Meet resource requirements.

19
20 ~~(6) ——"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

21 *History Note: Authority G.S. 143B-153; 108A-41(b);*

22 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0805

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – delete “coverage”

Line 6 – insert “are” before “not”

Lines 10-12 – correct the formatting of these lines.

Line 12 – delete “and”

Line 13 – is “qualified alien” defined – perhaps in .0902(a)(2)? If so, refer to that provision.

Line 14 – insert “as they would receive State/County Special Assistance for the Certain Disabled” at the end of this line.

Line 16 – this line should be removed

Line 17 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 18 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0805 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0805 SA: CERTAIN DISABLED**

4 ~~CD-SA~~ State County Special Assistance for the Certain Disabled coverage shall be provided only for
5 persons who are:

- 6 (1) ineligible for SSI and not receiving SSI;
7 (2) in need of the level of care provided in licensed adult care facilities;
8 (3) not inmates of ~~correctional~~ public institutions;
9 ~~(4) not patients in institutions for mental disease;~~
10 ~~(5)~~ (4) residing in North Carolina voluntarily with the
11 intent to remain and meet the North Carolina residency requirement for Special
12 Assistance; and
13 ~~(6)~~ (5) U.S. citizens or qualified aliens ~~lawfully admitted for permanent residence~~ aliens;
14 ~~(7)~~ (6) not receiving Medicaid for the same month.

15
16 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

17 *History Note: Authority G.S. 143B-153; 108A-25; 108A-41(b);*

18 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0902

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – delete the comma after “residence”

Line 9 – what does “worker” refer to?

Line 10 – From whom with “documentary evidence” be required?

Line 10 – replace “and” with “or” if that is what is meant.

Line 13 – this line should be removed

Line 14 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 15 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0900 is amended as published in 30:06 NCR 607 as follows:

2
3 **SECTION .0900 - ELIGIBILITY FACTORS**

4 **10A NCAC 71P .0902 UNITED STATES CITIZENSHIP**

5 (a) Eligibility Requirement. An applicant or recipient must be:

6 (1) A citizen of the United States; or

7 (2) An alien lawfully admitted for permanent residence, or an alien residing in the
8 United States under color of law.

9 (b) Verification. The worker shall ~~accept the applicant's statement unless there is some reason to~~
10 ~~doubt it.~~ require documentary evidence to verify citizenship and alien status. If there is doubt,
11 ~~documentary evidence shall be required.~~

12
13 (6) ~~"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

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

15 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0903

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “must be a resident of North Carolina and” with “shall”

Line 5 – insert “State/County” before “Special Assistance”

Lines 6-18 – delete these lines in their entirety. It is not clear that there is statutory authority for these lines.

Lines 19-20 – these lines should become the entirety of Paragraph (b)

Line 20 – insert “State/County” before “Special Assistance”

Lines 22-28 – replace the entirety of Subparagraph (c)(1) with “An individual shall be a resident of the county in which he or she resides or, if the individual resides in an Adult Care facility, of the county in which her or she lived in private living arrangements prior to entering such a facility” if that is what is meant.

Line 30 – what does “disabled adult child (DAC)” mean – is it defined in a rule or statute?

Line 30 – replace “Example:” with “such as”

Line 35 – insert “or her” after “his”

Line 37 – replace “A” with “An”

Lines 37 and 38 – capitalize “Adult Care” if you mean to refer to the defined term.

Line 37 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 37 – insert “State/County” before “Special Assistance”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Line 39 – what does “within 30 days” mean – 30 days after when? Perhaps replace “he or she is expected to return within 30 days” with “his or her absence is not expected to exceed 30 days.”

Line 41 – replace “Certain Disabled recipient” with “recipient of State/County Special Assistance for Certain Disabled”

Line 42 – add “for such assistance” at the end of this line.

Line 43 – what does “worker” refer to?

Line 43 – replace “applicant’s or recipient’s” with “Beneficiary’s” if you mean to refer to the defined term.

Lines 43-44 – what reasons would be “some reason to doubt”? This is vague and ambiguous.

Line 44 – of whom will documentary evidence be required?

Line 44 – replace “Certain Disabled recipient’s visit” with “recipient of State/County Special Assistance for Certain Disabled visits”

Line 45 – delete “to” twice

Line 45 – replace “exceeds” with “for a period exceeding”

Line 47 – replace “recipients” with “Beneficiary’s” if you mean to refer to the defined term.

Line 48 – insert “the” before “reason”

Line 49 – what does “first county” mean?

Line 51 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 52 – complete the 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 71P. 0903 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0903 RESIDENCE**

4 (a) State Residence Eligibility Requirement. An individual must be a resident of North Carolina and meet
5 the requirements in G.S. 108A-41(b)(3) to be eligible for Special Assistance.

6 (b) Moving Into, Visiting In, or Moving Out of North Carolina:

7 (1) Moving into or visiting in North Carolina from other states:

8 ~~(A) An individual who moves to or visits in North Carolina cannot be Group I~~
9 ~~regardless of his status in the previous state.~~

10 ~~(B)(A)~~ If an individual moves to North Carolina ~~voluntarily and~~ voluntarily, states ~~his an~~
11 intent to remain, and meets the Special Assistance Residence requirements in G.S.
12 108A-41(b)(3), the individual meets the residence requirements for Special
13 Assistance. he is a resident of North Carolina. This includes anyone who enters
14 North Carolina because of a job commitment or seeking work but is not receiving
15 assistance from another state. He must apply at the county department of social
16 services in the county in which he resides.

17 ~~(C)(B)~~ An individual visiting in the state without a stated intent to remain is ineligible for
18 Special Assistance.

19 (2) An individual who moves to another state and intends to remain there is not eligible for
20 Special Assistance.

21 (c) County Residence Eligibility Requirement:

22 (1) An individual ordinarily has residence in the county in which he resides. However, if he
23 ~~or she is in a hospital, mental institution, intermediate care facility, skilled nursing home,~~
24 ~~boarding home, confinement center or similar facility, adult care facility and receives or is~~
25 applying for Special Assistance, the county in which the facility is located may not be his
26 or her legal residence. Except for (2) ~~and (3)~~ of this Paragraph, the county of legal
27 residence would be the county in which the individual lived in private living arrangements
28 prior to entering a facility.

29 ~~(2) A woman in domiciliary care has the county residence of her husband.~~

30 ~~(3)(2)~~ If a disabled adult child (DAC) has remained in a facility (Example: ~~domiciliary adult care~~),
31 he or she remains a resident of the county and state in which his or her parent(s) had
32 residence immediately prior to ~~his~~ him or her reaching age 18. If he or she as an adult is
33 entering ~~domiciliary an adult care home~~ and it is not possible to trace his or her county of
34 residence as a minor, he or she may establish residence based on his intent to remain
35 regardless of his parent's current legal residence.

36 (d) Temporary Absence.

37 (1) A ~~domiciliary~~adult care applicant or ~~recipient~~beneficiary shall not receive Special
38 Assistance for days he or she is not living in the ~~rest~~ adult care home unless he or she is
39 expected to return within 30 days.

40 (2) Temporary absence from the state or county of residence with subsequent return or intent
41 to return does not make a Certain Disabled recipient in a private living arrangement
42 ineligible.

43 (e) Verification. The worker shall accept the applicant's or recipient's statement unless there is some reason
44 to doubt it. If there is doubt, documentary evidence shall be required. If a Certain Disabled recipient's visit
45 to another county within the state or to another state exceeds three months, the eligibility specialist in the
46 responsible county shall verify the following:

47 (1) the recipient's intent to return;
48 (2) reason for the continuing absence; and
49 (3) the continuing maintenance of a home in the first county.

50

51 *History Note: Authority G.S. 143B-153; 108A-41; 108A-41(b);*
52 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0904

DEADLINE FOR RECEIPT: March 11, 2016

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – insert a comma after “Act”

Lines 14, 17, 20, 21-22, 24, 28, 30, 33, 36. 39, 41, and 44 – replace “applicant or recipient” with “Beneficiary” if you mean to refer to the defined term.

Line 15 – insert commas after “incompetent” and “statement”

Line 15 – insert “the Beneficiary” at the end of this line

Line 17 – what does “held jointly” mean?

Line 18 – insert a comma after “resources”

Lines 22 and 25 – what “requirement” is referred to in these lines?

Line 26 – insert “a declaration of the Beneficiary’s” before “incompetency”

Line 27 – insert “for the” before “appointment”

Line 27 – insert “for the Beneficiary” before “if”

Line 28 – insert “or her” after “his”

Line 29 – what does “required action” mean?

Line 34 – insert “or she” after “he”

Line 35 – insert a comma after “shall”

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

Lines 38-39 – replace “Subparagraph (2)(B)(i) or (ii)” with “Sub-Item (2)(b)(i) or (ii)”

Line 39 – what does “held jointly” mean?

Line 41 – insert “or her” after “his”

Line 42 – insert “or she” after “he”

Line 46 – replace “of” with “after”

Line 46 – insert “or her” after “his”

Line 46 – insert “or she” after “he”

Line 46 – insert “take such action” after “does not”

Lines 49-53 – correct formatting and font

Line 50 what does “shall be excluded” mean – excluded from what?

Line 51 – what does “counted in reserve” mean?

Line 55 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 56 – complete the 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 71P. 0904 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0904 RESOURCES**

4 ~~(a)~~ Eligibility ~~Requirement~~ requirements for resources include:

5 (1) Eligibility shall be determined using the ~~reserve-resource~~ rules governing the federal
6 Supplemental Security Income Program (SSI) found in Title XVI of the Social Security
7 Act which is hereby incorporated by reference including all subsequent amendments and
8 editions. ~~Copies of this law may be obtained from the North Carolina Division of Social~~
9 ~~Services, Adult and Family Section, 325 N. Salisbury St., 2405 Mail Service Center,~~
10 ~~Raleigh, North Carolina 27699-2405, telephone number (919) 733-3677, at a cost of five~~
11 ~~cent (\$0.05) per copy. This law can be accessed free of charge through the federal Social~~
12 ~~Security website www.ssa.gov.~~

13 (2) Mental Incompetence.

14 ~~(A)~~(a) When a representative alleges that an applicant or recipient is mentally
15 incompetent (and the allegation can be supported by a physician's statement) and
16 does not have a legal representative appointed to act in his or her behalf, the
17 resources held solely by the applicant or recipient or held jointly shall be excluded
18 in determining countable ~~reserve-resources~~ provided the following two conditions
19 are met:

- 20 (i) the petition to have an applicant or recipient declared incompetent is filed
21 with the court within 30 calendar days from the date the applicant's or
22 recipient's representative is informed of the requirement; and
23 (ii) the petition to have a legal guardian appointed is filed with the court
24 within 30 calendar days of the date the applicant's or recipient's
25 representative is informed of the requirement.

26 ~~(B)~~(b) The county department of social services shall petition the court for incompetency
27 and appointment of a guardian if:

- 28 (i) the applicant or recipient has no representative willing to act in his behalf
29 or the representative or guardian refuses to take the required action. The
30 county shall petition the court to have the applicant or recipient declared
31 incompetent and to have a guardian appointed within 30 calendar days
32 from the date it learns of the representative's refusal; or
33 (ii) the applicant's or recipient's representative fails to take the required
34 action within 30 calendar days of the date he was informed of the
35 requirement. The county shall within 15 calendar days from this date,
36 petition the court to have the applicant or recipient declared incompetent
37 and to have a legal guardian appointed.

38 If the county department of social services is required to act under Subparagraph
39 (B)(i) or (ii), the resources held solely by the applicant or recipient or held jointly
40 shall be excluded in determining countable ~~reserve~~, resources.

41 ~~(C)~~(c) When the court rules that the applicant or recipient is competent, his resources
42 shall be counted beginning the first day of the month following the month he is
43 declared competent.

44 ~~(D)~~(d) When the court declares the applicant or recipient incompetent and appoints a
45 guardian, the guardian must take appropriate action to dispose of or make exempt
46 the resource within 30 calendar days of his appointment. If he does not, the county
47 department of social services shall determine if the guardian is acting
48 appropriately under the terms of the guardianship.

49 ~~(E)~~(e) If the guardian takes the appropriate action to dispose of or make exempt the
50 resource, the resource shall be excluded until the clerk of court confirms the action taken
51 by the guardian. The resource, if otherwise includible, shall be counted in reserve
52 beginning the first day of the month following the month the action is confirmed by the
53 clerk of court.

54
55 *History Note: Authority G.S. 143B-153; 108A-41; 108A-46;*
56 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0905

DEADLINE FOR RECEIPT: March 11, 2016

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – insert a comma after “Act”

Line 11 – insert a space after “(b)”

Lines 11 and 13 – capitalize “Beneficiary” if you mean to refer to the defined term.

Line 13 – replace “his/her” with “his or her”

Line 15 – this line should be removed

Line 16 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Line 17 – complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0905 is amended as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0905 INCOME**

4 (a) Eligibility Requirement. Eligibility shall be determined using the income rules governing the federal
5 Supplemental Security Income Program (SSI) found in Title XVI of the Social Security Act which is
6 hereby incorporated by reference including all subsequent amendments and editions. ~~Copies of this law~~
7 ~~may be obtained from the North Carolina Division of Social Services, Adult and Family Section, 325~~
8 ~~N. Salisbury St., 2405 Mail Service Center, Raleigh, North Carolina 27699-2405, telephone number~~
9 ~~(919) 733-3677, at a cost of five cent (\$0.05) per copy. This law can be accessed free of charge through~~
10 ~~the federal Social Security website www.ssa.gov.~~

11 (b) Long term care insurance payments for claims on policies purchased on behalf of the beneficiary are
12 considered income for State/County Special Assistance regardless of whether the payment is made to
13 the provider or to the beneficiary or his/her representative.

14
15 (6) ~~"Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

16 *History Note: Authority G.S. 143B-153; 108A-26; 108A-41;*

17 *Amended Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Social Services Commission

RULE CITATION: 10A NCAC 71P .0906

DEADLINE FOR RECEIPT: March 11, 2016

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – delete the extra space after “shall”

Line 5 – insert a comma after “completed”

Line 7 – replace commas with semicolons after “131D-2” and “Part A”

Line 10 – this line should be removed

Line 11 – is this citation of authority complete? Consider whether additional authority should be added, for instance from G.S. 108A, Article 2, Part 3.

Complete the History Note.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: March 1, 2016

1 10A NCAC 71P .0906 as published in 30:06 NCR 607 as follows:

2
3 **10A NCAC 71P .0906 EVALUATION**

4 Eligibility for State/County Special Assistance for Adults shall be determined based on verification that an
5 evaluation has been completed using the Resident Assessment Instrument for Adult Care Homes and other
6 supportive information which documents the need for care in an adult care home licensed under G.S.
7 131D-2, a combination home licensed under G.S. 131E, Article 6, Part A, or a facility licensed under G.S.
8 122C, Article 2.

9
10 ~~(6) "Contribution" shall mean cash received by a member of a budget unit on a regular basis.~~

11 *History Note: Authority G.S. 143B-153; S.L. 1999-237.*