

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: Tuesday, December 16, 2014**

**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.

*On the Submission for Permanent Rule Form, please add the typed name and title in Box 11.*

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

Amber May  
Commission Counsel  
Date submitted to agency: Friday, December 30, 2016

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services

RULE CITATION: 10A NCAC 26C .0701

**DEADLINE FOR RECEIPT: Friday, January 13, 2017**

**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.

*Is the only change to this Rule following publication regarding the effective date? If so, please remove "with changes", the brackets, and the highlighting.*

*If additional changes have been or will be made, please format the changes for adopted rules in accordance with 26 NCAC 02C .0405(b)(1). An example can be found at <http://www.ncoah.com/rules/examples/Permanent%20Adoption%20with%20changes%20for%20Publication%20in%20the%20NCAC.pdf>*

*Why are (b) and (c) necessary? Please consider deleting (b) and (c) and adding "in accordance with the Rules of this Section" at the end of (a).*

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

Amber May  
Commission Counsel  
Date submitted to agency: Friday, December 30, 2016

1 10A NCAC 26C .0701 is proposed for adoption with changes as published in 30:24 NCR 2606-2608 as follows:

2  
3 SECTION .0700 – COUNTY DISENGAGEMENT FROM A LOCAL MANAGEMENT ENTITY-  
4 MANAGED CARE ORGANIZATION  
5

6 **10A NCAC 26C .0701 SCOPE**

7 (a) A county seeking to disengage from a Local Management Entity-Managed Care Organization (LME-MCO) and  
8 align with another LME-MCO operating under a Medicaid waiver shall first obtain the approval of the Secretary of  
9 the Department of Health and Human Services (DHHS).

10 (b) The purpose of the rules in this Section is to set forth the process the Secretary shall use to approve county  
11 requests to disengage from an LME-MCO and realign with another LME-MCO operating under a Medicaid waiver.

12 (c) These rules also set forth the requirements that a county seeking approval to disengage from an LME-MCO  
13 must adhere to in submitting its request for approval.  
14

15 *History Note:* Authority G.S. 122C-115;

16 Eff. [ ] February 1, 2017.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services

RULE CITATION: 10A NCAC 26C .0702

**DEADLINE FOR RECEIPT: Friday, January 13, 2017**

**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.

*What is being changed on line 6? It appears as though the highlighted language was published and no changes following publication have been made. Also, please remove the brackets and highlighting in the history note.*

*When making changes to an adopted Rule, please format the changes in accordance with 26 NCAC 02C .0405(b)(1). An example can be found at <http://www.ncoah.com/rules/examples/Permanent%20Adoption%20with%20changes%20for%20Publication%20in%20the%20NCAC.pdf>*

*In (a), please delete "initiate the process" on lines 5-6*

*In (c), is there a reason why this paragraph only contains a reference to "the county", rather than "a county seeking to disengage from an LME-MCO"? Could "a county seeking to disengage from an LME-MCO" be changed to "the county" in (b) also? Either way, please be consistent in your terminology so that it is clear that it is not a reference to something different.*

*In (c), please delete or define "specifically." Also, how shall the county solicit comments from advocates, self-advocates, etc?*

*In (c), please add an "and" in between "self-advocates" and "State and Local Consumer and Family..."*

*In (c), by "consecutive", do you mean "calendar"?*

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

Amber May  
Commission Counsel

Date submitted to agency: Friday, December 30, 2016

10A NCAC 26C .0702 is proposed for adoption with changes as published in 30:24 NCR 2606-2608 as follows:

**10A NCAC 26C .0702 COUNTY REQUEST TO DISENGAGE FROM A LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

(a) A county seeking to disengage from an LME-MCO shall provide written notice of its intent to initiate the process to disengage from an [ ] LME-MCO to the Secretary, the Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services, and affected counties a minimum of nine months prior to the proposed effective date of disengagement.

(b) A county seeking to disengage from an LME-MCO shall publish its plan for disengagement on its website, and the website of the LME-MCO with which it seeks to align.

(c) The county shall accept public comments on its disengagement plan for a minimum of 60 calendar days. The county shall specifically solicit comments from advocates, self-advocates, State and Local Consumer and Family Advisory Committees (CFACs) and shall post the public comments on its website for a minimum of 30 consecutive days.

(d) A county seeking to disengage from an LME-MCO and realign with a different LME-MCO operating a Medicaid waiver shall provide written documentation of the following to the Secretary, which shall constitute its written request to disengage:

- (1) Approval of its disengagement plan by its Board of County Commissioners which reflects the date of the approval and that the approval was by majority vote;
- (2) A written plan, approved by its Board of County Commissioners, to ensure continuity of services during the transition which includes written notice to the provider agencies with which the LME-MCO contracts;
- (3) A written plan, approved by its Board of County Commissioners, which provides for distribution of real property, where appropriate, and reflects title to the same;
- (4) Approval of the Area Board, by majority vote, of the LME-MCO with which it is seeking to realign;
- (5) Evidence of written notice to the other counties who are also members of the LME-MCO from which the county is seeking disengagement;
- (6) Evidence of its written notice to the providers impacted by its decision to disengage;
- (7) Evidence of its compliance with the population requirements of G.S. 122C-115(a);
- (8) Evidence of its financial liabilities to the LME-MCO from which it is seeking to disengage within 30 calendar days of the request to disengage; and
- (9) Documentation of its compliance with Paragraphs (a) through (c) of this Rule.

*History Note:* Authority G.S. 122C-115;

Eff. [ ] February 1, 2017.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services

RULE CITATION: 10A NCAC 26C .0703

**DEADLINE FOR RECEIPT: Friday, January 13, 2017**

**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.

*What is being changed on page 2, line 39? It appears as though the highlighted language was published and no changes following publication have been made. Also, please remove the brackets and highlighting in the history note.*

*When making changes to an adopted Rule, please format the changes in accordance with 26 NCAC 02C .0405(b)(1). An example can be found at <http://www.ncoah.com/rules/examples/Permanent%20Adoption%20with%20changes%20for%20Publication%20in%20the%20NCAC.pdf>*

*I assume that a county wanting to have the nine month requirement must make a request and include the factors to be considered in that request; however, that is not clearly stated. Please clarify within the Rule. A suggestion in doing that would be to simply add "Upon written request by the county seeking to disengage from an LME-MCO, the Secretary may waive..."*

*In (b), please delete "at a minimum"*

*In (b)(1), please consider deleting "potential"*

*In (b)(1), by "input from consumers, advocates,..." do you mean the public comment received as required by 10A NCAC 26C .0702?*

*In (b)(1), please add a comma in between "advocates" and "and"*

*In (b)(9), please delete or define "adversely"*

Amber May  
Commission Counsel  
Date submitted to agency: Friday, December 30, 2016

*In (b)(10), what is meant by “improve”? You may want to consider changing this to read “how the disengagement and realignment will affect the quality, variety, and amount of services...”*

*In (b)(10), is there a cross-reference available to indicate who the “eligible persons” are.*

*In (c), please delete “thereof”*

*In (d), do you mean the factors set forth in Paragraph (b) specifically?*

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

10A NCAC 26C .0703 is proposed for adoption with changes as published in 30:24 NCR 2606-2608 as follows:

**10A NCAC 26C .0703 SECRETARY RESPONSE TO COUNTY REQUESTS TO DISENGAGE FROM A LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

(a) The Secretary may waive the nine month requirement set forth in Rule .0702(a) of this Section upon consideration of the following factors:

- (1) the impact of delay upon consumers currently served in the county seeking to disengage;
- (2) the financial vulnerability of the LME-MCO from which disengagement is sought; and
- (3) any substantiated evidence of criminal activity or malfeasance on the part of the LME-MCO from which disengagement is sought.

(b) At a minimum, the Secretary shall consider the following in deciding whether to approve a county request to disengage from an LME-MCO and realign with a different LME-MCO operating under a Medicaid waiver:

- (1) the potential impact to and input from consumers, advocates and self-advocates within the county;
- (2) the county's plan for disengagement from one LME-MCO and realignment with a different LME-MCO;
- (3) the county's plan to ensure continuity of services during the disengagement and realignment phase;
- (4) whether the county has complied with the requirements of Rule .0702 of this Section;
- (5) whether the county is contiguous to the catchment area of the LME-MCO with which it is requesting to align;
- (6) the timing of the request and whether the disengagement will conflict with setting capitation rates;
- (7) whether the disengagement will impact the financial viability of the LME-MCO from which the county is seeking to disengage;
- (8) whether the disengagement and realignment will ensure compliance with the population requirements of G.S. 122C-115(a);
- (9) whether the disengagement and realignment will adversely impact the stability, as a whole, of the State's healthcare system;
- (10) whether the realignment will improve the quality, variety, and amount of services for the eligible persons in the subject county; and
- (11) the operational alignment of the county within the context of the LME-MCO disengagement related to geography, service delivery, and demonstrated provision of whole-person centered care.

(c) The Secretary shall issue a written decision to approve or deny the request for disengagement and realignment within 90 calendar days of receipt thereof.

(d) The Secretary may approve the request as submitted or set conditions upon its issuance based upon consideration of the factors set forth in this Rule.

(e) The Secretary shall notify the following of the decision to approve or deny a county request for disengagement and realignment:



- (1) The Board of County Commissioners of the county seeking to disengage;
- (2) The Boards of County Commissioners of the counties of the [ ] LME-MCO with which  
realignment is requested;
- (3) The LME-MCO from which disengagement is sought;
- (4) The LME-MCO with which realignment is requested; and
- (5) The Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

History Note: Authority G.S. 122C-115;  
Eff. [ ] February 1, 2017.