

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70A .0103

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), you are replacing the term “department of social services” with “child welfare agency”; however, the term “department of social services” is still used in G.S. 7B. Is this the correct term?

Consider breaking (a), lines 5 through 11 into a list. It would read:

- (a) Reports... when the alleged perpetrator is:*
 - (1) an employee...;*
 - (2) a foster parent...;*

On line 9, delete “who”

On line 10, delete “who is”

In (b), line 12, where you refer to “agency” does this mean the county child welfare agency?

On lines 12-13, perceived by whom as having a conflict?

So that I’m clear in (b) – if the county director thinks there will be a conflict of interest in the conduct of other investigations, the director shall transfer the other investigations, not the one that might create the conflict? Or does this apply if an existing investigation would be impacted by new ones? I think this can be clarified.

In the History Note, G.S. 7B is a very broad citation – isn’t a more appropriate citation to G.S 7B, Article 3?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70A .0103 is amended as published in 31:04 NCR 276 as follows:

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3 **10A NCAC 70A .0103 REPORTS OF NEGLECT, ABUSE OR DEPENDENCY**

4 (a) Reports of neglect, abuse, or dependency shall be referred to another county ~~department of social services child~~
5 welfare agency for investigation when the alleged perpetrator is an employee of the ~~county department of social~~
6 ~~services, child welfare agency~~, a foster parent supervised by that county ~~department of social services, child welfare~~
7 agency, a member of the Board of Social Services for that county, a member of the Board of County Commissioners,
8 the County manager, a member of the governance structure for the county child welfare agency,~~or~~ a caretaker in a
9 sole-source contract group ~~home or agency operated day care facility; home, or a child's parent/caretaker who is an~~
10 incompetent adult and who is a ward of that county child welfare agency, or a minor in foster care who is also a
11 parent/caretaker.

12 (b) When in the professional judgment of the county director the agency would be perceived as having a conflict of
13 interest in the conduct of other child protective service investigations, the director ~~may shall~~ request that another
14 county conduct the investigations.

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16 *History Note: Authority G.S. 143B-153; G.S. 7B;*
17 *Effective January 27, 1977;*
18 *Readopted Eff. October 31, 1977;*
19 *Amended Eff. February 1, 2017; September 1, 1994; July 1, 1993; June 1, 1990.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70B .0102

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

Pursuant to Rule 26 NCAC 02C .0108, please begin the line numbers on each page with "1" and insert page numbers. [See Rule 26 NCAC 02C .0108(1)(h) and (i).]

In (a)(1), line 6, do you need to retain "for any reason"?

Also on line 6, what is "specified"? Do you need this?

Is (a) stating that if the court places the child in foster care, the child is eligible for foster care assistance payments?

In (a)(2), line 9, is the entry of the voluntary placement agreement entered into with the county DSS?

Is (a)(2) the only place that you state that voluntary agreements can last only 90 days with a 90-day extension? If not, then why do you need the language on lines 9-12?

On lines 12 and 14, hyphenate "90 day"

On line 14, what agency? The county DSS?

How is (a)(3) different from (a)(1) and (2)?

In (a)(4)(B), line 22, and (a)(4)(C), line 24, I take it that the terms "child caring institution" and "group home" are known to your regulated public? I know they are both mentioned in the defined term "Residential Child-Care Facility" in G.S. 131D-10.2(13), but wanted to check.

On lines 22, 23, 24, 25, and 26, delete "which is"

In (a)(4)(B), (C), (D) and (F), you refer to "Title IV of the Civil Rights Act." Do you mean the Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d et seq? If so, please give a better citation. And have you incorporated this Act by reference using G.S. 150B-21.6 elsewhere? If not, you need to do so here.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

In (a)(4)(D), line 26, what does “under the auspices” mean? Does your regulated public know?

In (a)(4)(F), line 35, what is the “appropriate” procedure? Does your regulated public know?

On line 36, I believe you need to replace “and” with “or” Otherwise, you are requiring the child to live in all of (4)(A) through (G), and I believe you mean for only one to be required in order for the child to qualify.

In (a)(4)(G), line 37, what is an “allowable independent supervised living setting?” Is this a reference to G.S. 108A-48(d)?

§ 108A-48. State Foster Care Benefits Program.

(d) **(Effective January 1, 2017 - see note)** With monthly supervision and oversight by the director of the county department of social services or a supervising agency, an individual receiving benefits pursuant to subsection (c) of this section may reside outside a foster care facility in a college or university dormitory or other semi-supervised housing arrangement approved by the director of the county department of social services and continue to receive benefits pursuant to this section. (1981, c. 275, s. 1; 2015-241, s. 12C.9(a).)

In (a)(5), Page 2, line 38, replace “which” with “that”

Please end (a)(5) with an “and” assuming that (a)(1) through (6) must all occur for the child to qualify.

In (a)(6), I note this is mostly a recitation of G.S. 108A-48(c). I take it you need to retain the language here?

Assuming you do need to retain it, in (a)(6)(B), line 44, replace “which” with “that:

In (a)(6)(C), line 45, does your regulated public know what “remove barriers to” means? And please delete the comma after “promote”

In (a)(6)(D), line 47, typically “at least” is discouraged in rules, since rules set the minimum requirements. But I take it you need to retain “at least “here?

In (a)(6)(E), who will determine this?

In the History Note, why are you citing to G.S. 108-24, 108-49, and 131D-10.10?

G.S. 131D-10.10 is the authority for licensing maternity homes. Did you mean to cite to 131D-10.5? And since you are inserting this as new authority, you need to underline the citation.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70B .0102 is amended as published in 31:04 NCR 276 as follows:

2

3 **10A NCAC 70B .0102 ELIGIBILITY**

4 (a) A county department of social services may determine a child eligible for foster care assistance payments if the
5 following factors are established:

6 (1) The child has been removed for any reason from his or her own home or from the home of a specified
7 relative by a judicial determination and placed in foster care as a result of that determination;

8 (2) The placement of the child in foster care has occurred pursuant to a voluntary placement agreement
9 entered into by the parents or guardians of the child and such placement has not been in excess of
10 90 consecutive days unless there has been a judicial determination by a court of competent
11 jurisdiction (within the first 90 days of such placement) to the effect that such placement is in the
12 best interest of the child. If the voluntary placement agreement is continued for the second 90 day
13 period, a new voluntary placement agreement must be completed and signed by all parties. The
14 agency must file a juvenile petition and a hearing must be held before the end of the second 90 day
15 period, or the child must be returned home;

16 (3) Responsibility for care and placement of the child is designated to the county department of social
17 services by either the court order removing him or her from his or her home or by the voluntary
18 placement agreement signed by the parent or guardian;

19 (4) The child lives in:

20 (A) a foster care facility under the supervision of a county department of social services and
21 licensed by the Department of Health and Human Services;

22 (B) a private child caring institution which is licensed or approved by the Department of Health
23 and Human Services and which is in compliance with Title VI of the Civil Rights Act;

24 (C) a private group home which is licensed or approved by the Department of Health and
25 Human Services and which is in compliance with Title VI of the Civil Rights Act;

26 (D) a foster care facility which is under the auspices of a licensed or approved private child
27 caring institution, provided such foster care services program has been licensed by the
28 Department of Health and Human Services and is in compliance with Title VI of the Civil
29 Rights Act;

30 (E) a foster care facility under the supervision of a private child placing agency (including
31 those providing adoption services) and licensed by the Department of Health and Human
32 Services;

33 (F) a foster care facility located in another state, provided such facility is in compliance with
34 Title VI of the Civil Rights Act and is licensed or approved in the other state, and provided
35 such placement has been approved under the appropriate interstate placement procedure;

36 and

37 (G) an allowable independent supervised living setting for youth 18 or older;

- 38 (5) The child is in need of care which is not available in his or her own home or the home of a relative;
- 39 (6) ~~The child is less than 18 years of age and is a full time student in a secondary school, or in the~~
40 ~~equivalent level of vocational or technical training, and may reasonably be expected to complete the~~
41 ~~program before reaching age 19; or The child is less than 21 years of age and meets any of the~~
42 ~~following conditions:~~
- 43 ~~(A) Completing secondary education or a program leading to an equivalent credential;~~
- 44 ~~(B) Enrolled in an institution which provides post-secondary or vocational education;~~
- 45 ~~(C) Participating in a program or activity designed to promote, or remove barriers to~~
46 ~~employment;~~
- 47 ~~(D) Employed for at least 80 hours per month; or~~
- 48 ~~(E) Is incapable of doing any of the previously described educational or employment activities~~
49 ~~due to a medical condition.~~
- 50 ~~(7) The child is less than 21 years of age and is a full time student or has been accepted for enrollment~~
51 ~~as a full time student for the next school term pursuing a high school diploma or its equivalent, a~~
52 ~~course of study at the college level; or a course of vocational or technical training designed to fit~~
53 ~~him for gainful employment.~~

54 (b) Court action terminating parental rights shall not render a child ineligible for foster care assistance benefits if that
55 child is otherwise eligible. A child may be eligible for foster care assistance benefits until the final decree of adoption
56 is issued.

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58 *History Note:* Authority G.S. 108A-24; 108A-48; 108A-49; 131D-10.5; 143B-153.
59 Eff. July, 1982;
60 Amended Eff. February 1, 2017; April 1, 2003.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0402

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

Pursuant to Rule 26 NCAC 02C .0108, please begin the line numbers on each page with "1" and insert page numbers. [See Rule 26 NCAC 02C .0108(1)(h) and (i).]

In (a)(1), line 6, what is "legally clear"?

Also on line 6, replace "must have been" with "was"

In (a)(2), what is a "North Carolina agency authorized to place children for adoption"? Authorized by whom? I take it your regulated public knows?

In (a)(3), I think the intent of the new language is to state that after adoptions, children with special needs can still be eligible. But the way it is phrased now doesn't entirely flow with (a)(1), as that states that the child can be adopted and still be eligible. Is there a way to simplify (a)(3)?

Please replace "has been" with "was" on line 9 and "are" with "were" on line 10?

In (a)(4), line 12, what is "reasonable"?

In (a)(5), I think you are missing language here. What are you trying to say here – that if the youth is under age 21, so long as an adoption assistance agreement was put into place before the individual was 16, this will be valid? I believe you are trying to address G.S. 108A-49(e) here, but the language is not quite correct to do so.

§ 108A-49. Foster care and adoption assistance payments.

(e) (Effective January 1, 2017) If all other eligibility criteria are met, adoption assistance payments may continue until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age of 16 but prior to reaching the age of 18. (1981, c. 275, s. 1; 1997-443, s. 12.10; 1999-190, s. 3; 2011-383, s. 1; 2015-241, s. 12C.9(b).)

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

In (a)(6), shouldn't this be by itself? On line 5, you state you are listing criteria but in (a)(6), you are saying that residence is not part of the criteria.

Also, I note that the terms "regular monthly cash assistance payment" and "vendor payment" is defined by Rule .0401 of the Section. I take it your regulated public knows this?

In (a)(7), line 21, why is "Adoption Assistance Payments" capitalized? It isn't elsewhere.

On line 22, why is "Adoption Assistance Agreement" capitalized?

On lines 22 and 23, replace "their" with "his or her" since the noun "child" is singular on line 21.

In (a)(7)(B), replace "which" with "that"

In (a)(7)(C), delete the comma after "promote" and what does "remove barriers to" mean?

In (a)(7)(D), line 28, I take it you need to retain "at least" here?

In (a)(7)(E), who will determine this?

In (b), Page 2, line 44, consider beginning the sentence "In order for ..."

On line 45, what is the "child's agency"? The adoption agency in (a)(2)?

In (c), line 49, delete "(1)" as you cannot have a one without a two.

On line 54, how is this documented?

Also on line 54, who determines this?

In the History Note, why are you citing to G.S. 131D-10.10? Also, since you are inserting this citation as a new law that is not currently in the History Note, underline the addition.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70M .0402 is amended as published in 31:04 NCR 276 as follows:

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

(a) The child shall meet the following eligibility criteria:

- (1) The child is legally clear for adoption, or must have been legally adopted;
- (2) The child is, or was, the placement responsibility of a North Carolina agency authorized to place children for adoption at the time of adoptive placement;
- (3) The child has special needs that create a financial barrier to adoption; or the child has been legally adopted and the child's special needs, though pre-existing, are detected after the adoption has been finalized and if known would have created a financial barrier to adoption;
- (4) Reasonable but unsuccessful efforts have been made to place the child for adoption without the benefits of adoption assistance;
- ~~(5) The child's special needs, though pre-existing, are detected only after his placement into an adoptive home;~~
- ~~(6)(5)~~ The child is under eighteen years of age; or the youth is under age 21, part of an adoption assistance agreement that is in effect that the youth had obtained 16 years before the agreement became effective;
- ~~(7)(6)~~ North Carolina residency of the child and adoptive parents is not a requirement for the child to be eligible to receive regular monthly cash assistance payments or vendor ~~payments-payments;~~ and
- ~~(7)~~ The child may continue to receive Adoption Assistance Payments after their eighteenth birthday until their twenty-first birthday if an Adoption Assistance Agreement was entered into on or after their sixteenth birthday and meets any of the following conditions:
 - ~~(A)~~ Completing secondary education or a program leading to an equivalent credential;
 - ~~(B)~~ Enrolled in an institution which provides post-secondary or vocational education;
 - ~~(C)~~ Participating in a program or activity designed to promote, or remove barriers to employment;
 - ~~(D)~~ Employed for at least 80 hours per month; or
 - ~~(E)~~ Is incapable of doing any of the previously described educational or employment activities due to a medical condition.

~~(b) The child's eligibility for Regular Monthly Cash Assistance Payments shall further be based on one or more of the following factors:~~

- ~~(1) The child is a member of a sibling group being placed together.~~
- ~~(2) The child could be placed for adoption with a known and approved family, but the circumstances of the family preclude assumption of full financial responsibility for the child.~~
- ~~(3) The child has special needs due to a handicapping condition.~~

37 ~~(4) — The child at the time adoption proceedings were initiated was eligible to receive regular monthly~~
38 ~~cash assistance payments under Title IV-E of the Social Security Act as:~~

39 ~~(A) — a dependent child who meets the requirements for Temporary Assistance for Needy~~
40 ~~Families (TANF) but for his removal from the home of a specified relative for placement~~
41 ~~in a foster care facility; or~~

42 ~~(B) — meeting the requirements of Title XVI of the Social Security Act with respect to eligibility~~
43 ~~for supplemental security income benefits.~~

44 (b) For the child to receive regular monthly cash assistance payments, the adoptive parents must have entered into an
45 agreement with the child's agency prior to entry of the Decree of Adoption. The agreement shall have set forth the
46 respective responsibilities of the agency and the adoptive parents during the time of the child's eligibility for this
47 assistance.

48 (c) A child's eligibility for vendor payments shall further be determined on the basis of documentation ~~of~~ of

49 (1) a known and diagnosed medical, mental, or emotional condition that will require periodic treatment
50 or therapy of a medical or remedial ~~nature; or~~ nature.

51 ~~(2) — a potential handicap due to hereditary tendency, congenital problem, birth injury, or other~~
52 ~~documented high risk factor leading to substantial risk of future disability.~~

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

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59 *History Note: Authority G.S. 108A-49; 108A-50; 131D-10.10; 143B-153.*
60 *Eff. July 1, 1982;*
61 *Amended Eff. February 1, 2017; July 18, 2002; July 1, 1991; March 1, 1990.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70M .0603

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

On line 4, replace "will" with "shall"

In Item (1), who will determine? And based upon what guidance?

In (2)(b), just so I'm clear – you deleted similar language from Rule .0402(b)(1). This won't be an issue here, will it?

In Item (3), line 12, what is "reasonable"?

On line 13, who will determine if this is against the best interest?

On line 15, define "significant emotional ties"

In (a)(4), line 16, you refer to "final order of adoption" but in Rule .0403(b), it is "Decree of Adoption" Which one is correct?

In the History Note, why are you citing to G.S. 131D-10.10? Do you mean 131D-10.5? And also, since you are inserting this new citation, you need to underline it.

Also in the History Note, the correct citation is G.S. 143-153. As that is the citation currently in the Code, you do not need to show restoring it as a change.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70M .0603 is amended as published in 31:04 NCR 276 as follows:

2

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

4 The non-recurring expenses of a person who adopts a child with special needs will be reimbursed up to the maximum
5 allowable amount based on the following criteria:

6 (1) The child cannot or should not be returned to the home of his or her parents.

7 (2) The child has been determined by a county department of social services to have special needs due
8 to one or more of the following:

9 (a) a physical, mental, or emotional disability, or high risk factor for such due to background
10 history; or

11 (b) is a member of a sibling group being placed together.

12 (3) Reasonable but unsuccessful efforts have been made to place the child into an adoptive home
13 without providing adoption assistance, except when it would be against the best interests of the child
14 to seek a family other than the one with which he or she has been living as a foster child and with
15 whom he or she has established significant emotional ties.

16 (4) On or before entry of the final order of adoption a written agreement concerning reimbursement of
17 non-recurring costs is entered into between a county department of social services and a person who
18 adopts a child with special needs. ~~Exceptions to this requirement include:~~

19 ~~(a) those whose adoptions were completed prior to January 1, 1987 but the non-recurring~~
20 ~~adoption expenses were paid after January 1, 1987; and~~

21 ~~(b) those whose adoptions were completed between January 1, 1987 and on or before June 14,~~
22 ~~1988.~~

23

24 *History Note: Authority G.S. 108A-49; 108A-50; 131D-10.10; 143B-15;*
25 *Eff. July 1, 1991;*
26 *Amended eff February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70P .0101

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

Why do you need this Rule? What is the purpose?

Assuming you need to retain it, on line 5, replace "which" with "that"

On line 6, delete "by county departments of social services in carrying out their responsibilities" since that just repeats line 4.

In the History Note, are you referring to G.S. 143-153(2)(c)? And why not cite to the Session Law that establishes the fund and expressly creates the rulemaking?

Session Law 2015-241, Section 12C.4:

SECTION 12C.4. Of the funds available for the provision of foster care services, the Department of Health and Human Services, Division of Social Services, may provide for the financial support of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for legal guardianship, and (iii) otherwise unlikely to receive permanency. No additional expenses shall be incurred beyond the funds budgeted for foster care for the Guardianship Assistance Program (GAP). The Division of Social Services shall design the Guardianship Assistance Program (GAP) to include provisions for extending guardianship services for individuals who have attained the age of 18 years and opt to continue to receive guardianship services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing the educational or employment requirements of this section due to a medical condition or disability. The Guardianship Assistance Program rates shall reimburse the legal guardian for room and board and be set at the same rate as the foster care room and board rates in accordance with rates established under G.S. 108A-49.1.

The Social Services Board shall adopt rules establishing a Guardianship Assistance

Amanda J. Reeder
Commission Counsel

Date submitted to agency: January 3, 2017

Program to implement this section, including defining the phrase "legal guardian" as used in this section.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70P .0101 is adopted as published in 31:04 NCR 276 as follows:

2

3 **10A NCAC 70P .0101 SCOPE**

4 This Subchapter contains guardianship assistance standards for county departments of social services, the public
5 agencies in North Carolina mandated to provide guardianship services. Included are requirements which shall be met
6 by county departments of social services in carrying out their responsibilities under Chapter 7B of the General Statutes
7 and in administration of the Guardianship Assistance Program.

8

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

10 *Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70P .0102

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

So that I'm clear – the youth who are not being “adopted or reunified” means the individual is unlikely to achieve permanency, as set forth in Section 12.4?

Also, on line 6, reunified with what/whom?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70P .0102 is adopted as published in 31:04 NCR 276 as follows:

2

3 **10A NCAC 70P .0102 PURPOSE**

4 The Guardianship Assistance Program (GAP) provides financial assistance to caregivers who assume legal
5 guardianship of a child in foster care as a means to achieve permanence for youth who are not being adopted or
6 reunified.

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

9 Eff. February 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70P .0103

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Please put these terms in alphabetical order. In order to do so, you do not need to move the text. Instead, you can simply delete the number and replace it. For example:

(1) ~~(5)~~ "Agency" means a child placing agency as defined in G.S. 131D-10.2(4) that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes.

In Item (1), line 6, where is this set forth? Can you insert a cross-reference?

In Item (2), you are mostly reciting the definition in G.S. 7B-600. Do you need to have that recitation here?

On line 11, insert a comma after "forces"

In Item (3), replace "is" with "shall be"

End Sub-Items (3)(a) through (c) with semicolons, not commas.

Who will make the determination in (3)(b) and (c)?

In Item (4), line 22, does your regulated public know what is "permanently"?

In Item (5), just so I'm clear – the term as defined in G.S. 131D-10.2(4) also includes "residential group care." I take it you intentionally left this out here?

In Item (6), line 32, I recommend inserting "under which" before "guardianship assistance."

In Item (7), you have defined "licensed home" but not "licensed facility." Does your regulated public know what that is?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: January 3, 2017

1 10A NCAC 70P .0103 is adopted as published in 31:04 NCR 276 as follows:

2
3 **10A NCAC 70P .0103 DEFINITIONS**

4 The following definitions apply to this Chapter:

- 5 (1) "Guardianship Assistance" means a monthly cash assistance payment no greater than the graduated
6 amount set by the General Assembly from the Guardianship Assistance Program.
- 7 (2) "Legal Guardian" means an individual as defined in G.S. 7B-600 who is appointed by the court to
8 serve as the guardian of the person for a juvenile. The guardian shall have the care, custody, and
9 control of the juvenile or may arrange a suitable placement for the juvenile and may represent the
10 juvenile in legal actions before any court. The guardian may consent to certain actions on the part
11 of the juvenile in place of the parent including marriage, enlisting in the armed forces and enrollment
12 in school. The guardian may also consent to any necessary remedial, psychological, medical, or
13 surgical treatment for the juvenile.
- 14 (3) "Legal Guardianship" is a legal relationship created when a person or persons are assigned by the
15 court to take care of the minor child. This relationship is terminated only in the following
16 circumstances:
- 17 (a) the court finds that the relationship between the guardian and the juvenile is no longer in
18 the juvenile's best interest,
- 19 (b) the guardian is unfit,
- 20 (c) the guardian has neglected a guardian's duties, or
- 21 (d) the guardian is unwilling or unable to continue assuming a guardian's duties.
- 22 (4) "Licensed Home" means the private residence of one or more individuals who permanently reside
23 as members of the household who have met all requirements for family foster home licensing in
24 their state of residence and have been issued a license number in the state of North Carolina that
25 remains active at the time of legal guardianship.
- 26 (5) "Agency" means a child placing agency as defined in G.S. 131D-10.2(4) that is authorized by law
27 to receive children for purposes of placement in foster homes or adoptive homes.
- 28 (6) "Guardianship Assistance Agreement" is a binding agreement between the county DSS and legal
29 guardian that establishes responsibilities of the agency and of the legal guardian during the time of
30 the child's eligibility for guardianship assistance, specifies the monthly amount of guardianship
31 assistance and the manner in which the payment may be provided to the legal guardian, and the
32 circumstances guardianship assistance may be terminated.
- 33 (7) "Placement responsibility" is authority granted to the county DSS by the court to place a child in
34 DSS custody in a licensed home or facility or any unlicensed home or facility approved by the court.
- 35 (8) "County DSS" means a county department of social services.

36
37 *History Note: Authority G.S. 143B-153;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70 .0104

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

Please put these Rules in 1.5 line spacing. [See Rule 26 NCAC 02C .0108(1)(g)]

Please note, the name of a Rule is not part of the Rule. Therefore, I recommend inserting on line 4 language such as “The following eligibility criteria shall be met in order to receive Guardianship Assistance.”

In Item (1), I suggest stating “A determination...”

In Item (2), line 7, replace “shall have been” with “was”

Also on line 7, this won't apply to a child in a licensed facility? I am only asking because if the language in Rule .0103(7).

In Item (4), lines 10 and 11, please define “demonstrates a strong attachment to”

In Item (4), line 10, what is the authority to restrict the age to over 14 years old?

In Item (5), line 13, define “strong commitment”

On lines 13 and 14, replace “and; The prospective legal guardian shall have” with “and has”

In Item (6), lines 17 and 19, replace “they” with “he or she” since the noun is “child”

On line 19, state “meets”

In Sub-Item (6)(b), line 21, replace “which” with “that”

In Sub-Item (6)(c), line 22, delete the comma after “promote” and does your regulated public know what “remove barriers to employment” means?

In Sub-Item (6)(d), I take it you need to retain “at least”?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

In Sub-Item (6)(e), who will determine this?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70P .0104 is adopted as published in 31:04 NCR 276 as follows:

2
3 **10A NCAC 70P .0104 GUARDIANSHIP ASSISTANCE PROGRAM ELIGIBILITY**

4 The following eligibility criteria shall exist:

- 5 (1) Determination by the Court that reunification and adoption are not appropriate permanency options
6 for the child;
- 7 (2) The child shall have been placed in the licensed home for a minimum of 6 months;
- 8 (3) The child is the placement responsibility of a North Carolina county department of social services
9 at the time of entry into the Guardianship Assistance Program;
- 10 (4) The child is at least age 14 years but not older than age 18 years and demonstrates a strong
11 attachment to the prospective guardian and has been consulted regarding the guardianship
12 arrangement;
- 13 (5) The prospective legal guardian has a strong commitment to caring permanently for the child and;
14 The prospective legal guardian shall have entered into a guardianship assistance agreement with the
15 county department of social services who holds custody of the child prior to the order granting legal
16 guardianship; and
- 17 (6) If the child was placed in a legal guardianship arrangement at the age of 16 years or 17 years, they
18 remain eligible to receive Guardianship Assistance until 21 years of age if, upon turning 18 years of
19 age, they meet any of the following conditions:
- 20 (a) Completing secondary education or a program leading to an equivalent credential;
- 21 (b) Enrolled in an institution which provides post-secondary or vocational education;
- 22 (c) Participating in a program or activity designed to promote, or remove barriers to
23 employment;
- 24 (d) Employed for at least 80 hours per month; or
- 25 (e) Is incapable of doing any of the previously described educational or employment activities
26 due to a medical condition.

27
28 *History Note: Authority G.S. 143B-153;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70P .0105

DEADLINE FOR RECEIPT: Friday, January 13, 2017

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:

In (a), line 4, replace "in which" with "that"

In (b), line 7, where is this reimbursement process set forth in Rule or law?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 3, 2017

1 10A NCAC 70P .0105 is adopted as published in 31:04 NCR as follows:

2

3 **10A NCAC 70P .0105 GUARDIANSHIP ASSISTANCE PROGRAM REQUIREMENTS**

4 (a) Guardianship Assistance benefits for a child shall become effective the first month following the month in which
5 legal guardianship is approved by the court.

6 (b) Claims for monthly GAP assistance shall be reimbursed in accordance with the Department of Health and Human
7 Services county department of social services reimbursement process.

8

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

10 *Eff. February 1, 2017.*