



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF SOCIAL SERVICES
SOCIAL SERVICES COMMISSION

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AND COUNTY OPERATIONS

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DREW T. PLEDGER
CHAIR

June 7, 2017

Ms. Abigail Hammond
Commission Counsel
Rules Review Commission
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-6714

Dear Ms. Hammond:

Pursuant to 26 NCAC 05.0204, this letter requests an extension for submission of the periodic review Report required by N.C. Gen. Stat. § 150B-21.3A(c)(1) for subchapters D and M of 10A NCAC 70.

The Rules in 10A NCAC 70 subchapters A through H were initially scheduled to undergo periodic review pursuant to N.C. Gen. Stat. 150B-21.3A by August 2016. However, the General Assembly enacted Session Law 2015-241, Section 12C.9, which mandated that the Department establish a State Foster Care Benefits Program with appropriations by the General Assembly for the purpose of providing assistance to children who are placed in foster care facilities by county departments of social services in accordance with the rules and regulations of the Social Services Commission. Therefore, certain Rules in 10A NCAC 70 had to be amended in order to conform with that law. Those required Rule amendments had to be completed and implemented by the January 1, 2017 deadline established by that law. Since these Rules had to be amended and implemented by this deadline, and because the Social Services Commission did not have sufficient resources both to accomplish this task and the tasks required for periodic review, on January 13, 2016, the Social Services Commission requested an extension for submitting the periodic review Report for the Rules contained in 10A NCAC 70, subchapters A through H. The RRC approved that extension, and the remainder of the Rules in 10A NCAC 70, subchapters A through H have proceeded with periodic review according to the schedule established therein. However, the Social Services Commission has experienced a delay in reviewing the Rules contained in 10A NCAC 70, subchapters D and M.

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As work on the periodic review of 10A NCAC 70, subchapters A through H progressed, cross-communication regarding responsibility for the review of subchapters D and M resulted in a failure by DSS Child Welfare to complete the task according to essential timelines. This oversight was immediately corrected and the review of subchapters D and M was completed; however, the delay had already created a situation whereby these subchapters were not available, and the initial determination required by N.C. Gen. Stat. § 150B-21.3A(c)(1) could not be completed by the March, 2017 meeting of the Social Services Commission.

As of April 1, 2017, seven of the thirteen Social Services Commission member's appointments had expired. The Governor of North Carolina is charged with the appointment of individuals to fill these positions. Additionally, several of the remaining members of the Commission experienced serious illnesses which prevented the Commission from conducting a meeting with the quorum necessary to approve the results of the initial determination prior to posting them for public notice and comment. A meeting has been scheduled for June 14, 2017 in order to approve the results of the initial determination. Once those results are approved, they will be posted for public notice and comment pursuant to N.C. Gen. Stat. § 150B-21.A(c)(1). However, even if they are posted immediately following the June 14, 2017 meeting, there will not be sufficient time to review and respond to public comments and prepare a report to send to the Rules Review Commission in advance of its August meeting.

The initial report for the Rules set forth in 10A NCAC 70D, which is on the agenda for the June 14, 2017 Social Services Commission meeting, classifies those Rules as "unnecessary," pursuant to N.C. § Gen. Stat. 150B-21.3A. Because approval of this initial determination will likely result in elimination of these Rules as "obsolete, redundant, or otherwise not needed," and because this would be a second request for an extension for those Rules, the Social Services Commission understands that the RRC may decline to grant an extension with respect to those Rules. However, with respect to the Rules set forth in 10A NCAC 70M, the Social Services Commission has not previously requested an extension. Furthermore, these Rules, which the Social Services Commission categorized as necessary with substantive public interest, are vital to child welfare in North Carolina. 10A NCAC 70M .0101 defines the scope of the Rules contained in subchapter M, and states:

Rules in this Subchapter contain adoption standards for county departments of social services, which are the public agencies in North Carolina mandated by law to provide adoption services. Included are requirements which shall be met by county departments of social services in carrying out their responsibilities under Chapter 48 of the General Statutes and in the administration of the Adoption Assistance Program under G.S. 108A 49 and 108A 50, a funding program to facilitate the adoption of certain children with special needs.

Because of the subject matter addressed therein, these Rules are absolutely essential to ensure the proper regulation of adoption services in North Carolina, as well as to provide for the appropriate distribution of financial assistance for certain eligible adoption services.

The Social Services Commission deeply regrets that the initial determination for these Rules was unavailable for review and approval at the Commission's March 2017 meeting. However, the inability by the Commission to conduct a meeting in order to approve these Rules in the time since that March meeting was unavoidable, and was caused by illnesses and vacancies which were beyond the control of the Commission. The Social Services Commission has made its best efforts

to comply in as timely a fashion as these circumstances have allowed. Pursuant to 26 NCAC 05 .0204, we respectfully request that the re-adoption of these two subchapters be extended until December 2017.

If you have any questions, please do not hesitate to contact the Rules Review Coordinator, Carlotta Dixon at (919) 527-6421 or the Director of the Division of Social Services, Wayne Black at (919) 527-6336.

Thank you for your consideration of this request.

Sincerely

A handwritten signature in cursive script that reads "Drew T. Pledger". The signature is written in dark ink and is positioned above the printed name.

Drew T. Pledger