REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: All rules in Title 10A

DEADLINE FOR RECEIPT: Friday, December 13, 2013

***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:

*On all Submission for Permanent Rule forms, you indicate that the hearing was held September 6, 2013. Both the Notice of Text and your website state the hearing took place on September 16, 2013. I assume this is a typographical error, so please resubmit all forms with the correct hearing date. If this is not an error, and the hearing was held early, please submit proof that you properly noticed the changed date.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43H .0111

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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:

*Who is the “Program Supervisor” referenced on lines 4 and 5? And what will he or she use in determining that the services are related to sickle cell disease? Clinical judgment?*

*Why is “Program” capitalized on line 7, when it’s not on line 9?*

*Fix the formatting to indent on lines 7, 10-13, 16-17 and 20.*

*In Item (1), are you saying that the total number of days per year for emergency room visits per individual shall not exceed triple the program average for each of the last two years? Or are you saying that this is the total number for the program?*

*Also in Item (1), you speak of a year, which I read as a calendar year. In Item (7), you refer the fiscal year. Is Item (1) supposed to be fiscal year, as well? Even if it’s not, I think you should state “calendar year” on line 6.*

*In Item (2), I take there is not a limit on the number of physician office visits per year?*

*I think Item (3) would look better further broken down into Sub-Items (a), (b), etc.*

*End the sentence on line 13 with a semicolon. And is the document only available by writing the agency to request it, or is it also available on the website? If it is on the web, I think it would be great to put that in the Rule.*

*Why not rewrite Item (5) as*

*(5) dental care, including:*

*(a) preventive dentistry, including… X-rays;*

*(b) remedial dentistry, including… prevention; and*

*(c) emergency dental care… treat infection;*

*Rewrite Item (6) as “(when the Division of Services for the Blind…)”*

*I don’t think you need the first two words on line 19. I think you can just use the sentence on lines 19 through 20 and be clear about what the Rule is saying.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0101

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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:

*You need to clarify the language on lines 4 and 5 to make it clear that the Subchapter does not establish uniform policies and procedures for the administration of all DHHS payment programs. (I take the Commission is not trying to write rules for Medicaid payments, which does not seem to be within their authority.) I believe you mean to state “all programs governed by this Chapter(s)” or something along those lines. The History Note refers to four programs. Do you mean this Rule governs payments for only those programs? If so, then state that.*

*What is the purpose of the language on lines 5-7? I don’t think it is necessary.*

*In (b), what conflicts are you seeing that require this language? “Payment program” is defined in .0102 as Department activities, which presumably mean they have rules that were approved by the Department and thus, shouldn’t conflict. Is this not the case?*

*In (c), you are deleting the way that someone can be on the interested persons mailing list for this Subchapter. Is there an alternative rule that would allow someone to be on the mailing list for this Subchapter somewhere else in the Code?*

*Remove the reference to 150B-1.2(b) from the History Note; it was repealed in 2003.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0102

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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 use correct line spacing between lines 4 and 5.*

*Item (7) needs to be moved to be the first Item and thus, have the definitions in alphabetical order.*

*In current Item (4), I think you should mirror Item (3) language and state “administered to a person”*

*In current Item (5), when you reference “other agencies” on line 13, do you mean state or federal agencies or both?*

*On your Submission for Permanent Rule form, the Commission states it is amending the Rule to remove programs no longer provided. However, you are removing the Sickle Cell Program, which the Department probably still provides (given the amendment to Rule 10A NCAC 43H .0111 this month). Other programs, such as the HIV Medications Program and Cancer Program, remain in statute and other rules you are seeking to amend this month. Thus, I don’t believe you intended to remove all of the listed programs from the Rule. I think you need to give examples of what a payment program is to ensure these rules are clear. If you did intend to strike all of the programs, then the entire Subchapter becomes unclear.*

*Remove the extra line space on line 24.*

*In Item (7), is authorization given to the provider or to the individual? I take it the authorization is given to the provider after such provider makes the request on behalf of the individual, but wanted to check.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0202

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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:

*Further amend the Submission for Permanent Rule form to give the correct rule citation in 9B.*

*What do you mean when you refer to “income scales” on line 5? The named income scale in the Rule is in the now deleted Paragraph (d). I thought you meant federal poverty levels, but you clearly don’t given the language on line 7 (referring to the HIV Medications Program). If you do mean the federal poverty level, why not state that on lines 5 and 7?*

*Does your regulated public know where to find the federal poverty level?*

*In Paragraph (a), to be consistent with the language in (b), amend line 6 to read, “annual net family income.” I take it on line 9 you mean the “annual net family income”?*

*On page 1, lines 6 and 7 and page 2, line 23, it should read “Rule XXXX of this Section”*

*Throughout this Rule, who is making the determinations? The Department, the local health department, the local DSS? I’m specifically looking to find clarification for the language in current Paragraph (j), which requires annual redetermination. Who will do that?*

*In Paragraph (c), why is “Program” capitalized throughout?*

*On lines 10 and 12, I think you should state, “July 1, the beginning of each fiscal year…”*

*What are you saying in Subparagraph (c)(2)? Do you have individuals enrolled during the year that aren’t also enrolled at the time of the eligibility level? This language seems redundant to me, but I don’t know the mechanisms of the program, so maybe it is not. Please explain.*

*As I read it, (c)(2) is not an exception to Paragraph (c). Instead, it’s like a contingency. Overall, I think the rule could be restructured altogether. Why not lump all of the Paragraphs relating to the HIV Medication Program (Paragraphs (c) and (k)) together and rework them to make it clear the financial eligibility requirements for the program, the way the program will send notice of change in the eligibility (beside regular rulemaking, of course), what will happen if a client becomes financially ineligible and how long they remain eligible.*

*Do you need the language on lines 19 through 20? I don’t think you do, but if you want to emphasize this, why not just make the first sentence read, “If the program’s financial eligibility level is changed, all clients enrolled in the program during the most recent year… shall continue to be enrolled and served in the program, even if the clients financial status exceeds the new eligibility level.”*

*Remove the “or” at the end of lines 22 and 23.*

*Rewrite the language beginning on line 27 to state, “The program shall provide notice of changes relating to the financial eligibility or status to interested parties within North Carolina’s HIV community…via electronic or print mechanisms.”*

*What is the “status” you refer to on line 27?*

*On Page 2, please be mindful that you would need to rename the Paragraphs, beginning on line 11, if you keep the current structure of the Rule. Further, in Paragraph (j), you’d need to change the reference from Paragraph (k) to (d). (But I really think you should change it altogether.)*

*On Page 2, Subparagraph (i)(2), you reference Rules 10A NCAC 43C .0200. That set of rules does not exist and has apparently never existed; it is reserved for future codification. Please insert the correct reference and use a comma to separate it, not a semicolon.*

*In Paragraph (j), you state an individual, once determined eligible, will remain so for one year after the date of application. Not the date of determination? Is this to allow for the payment of benefits rendered while the application was pending?*

*Further in (j), line 23, add a reference to Rule .0203, which defines the financial resources and expenses. Make the same change to (k), line 30.*

*Does Paragraph (l) apply to all programs? And I take it you are only referring to approval of an authorization request relating to finances and not determinations of medical necessity?*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0204

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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 – “step” doesn’t count for financial eligibility unless the patient has step-children who earn money or the biological parent lives in the home and makes money?*

*Why don’t “step” individuals count in this determination? Is it because there is no legal responsibility to provide or receive provisions from them?*

*End the sentence online 14 with a period.*

*On line 15, what do you mean by “temporarily”? Do you mean someone attending school but uses the home as the permanent address?*

*The language on lines 19 and 20 appears to be new (or at least, newly placed) and should be underlined.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0302

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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:

*Amend the language in Item (3) to read, “If the Department requests additional information, this information... or within 30 days after the date of the request”*

*In Item (4), does your regulated public know what “necessary” information is?*

*So that I understand – Items (1) through (4) speak to the authorization request. Items (5) through (7) speak to authorizations that were granted, thus leading to claims for payment? (Hence, the reference to “authorization approval” on line 15?) It might be helpful to restructure the Rule into Paragraphs to state this. Thus:*

1. *The following time frames apply to authorization requests:*
2. *Current Items (1) through (4)*
3. *The following timeframes apply to claims payment:*
4. *Current Items (5) through (7)*
5. *Authorization Requests and claims for payment shall … (Current Item 8).*

*On line 16, who generates corrections to claims and requests for payment adjustment – the Department or the provider?*

*In Item (7), does your regulated public know what a “completed” claim is?*

*In Item (8), do you mean “approved” or “created” by the Department? If it’s approved, you need to state what standards you use to approve them. Also, how does a provider get the form?*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0303

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*In (a), the reference is to “Payment program payments” and in (b), you speak of “payment program benefits.” I take it the first reference is for payments and the second speaks to the available benefits for the program. Is this correct?*

*Insert an opening parenthesis before “c)” on line 14.*

*Where is your authority on lines 15 and 16 to mandate patients apply for Medicaid and Medicare? I understand the nature of state funds and federal entitlement programs, so I know it’s a good idea. But what authority do you have to require this?*

*On line 23, there appears to be an extra space between “on” and “Title”*

*On line 23, do you mean to state “Title 34”?*

*What are the “reasonable measures” providers will take on line 28? Does the regulated public know what that is?*

*I think the language beginning on page 1, line 29 would be better placed in Rule .0102.*

*In (c)(7), what is CHAMPUS?*

*I take it in (d), you are saying the Department will not pay Medicaid co-payments for the services governed by this Subchapter?*

*In Paragraph (e), line 8, change the reference to “Section .0400 of this Subchapter” (which is consistent with the language on lines 12 and 13 of the same page).*

*In Paragraph (g), are you saying on lines 17 and 18, are you trying to say that the individual will reimburse the Department for the actual amount spent? I think you can simplify this language.*

*Further, what is the authority to seek this recovery under Paragraph (g) and (i)?*

*In Paragraph (i), what will happen if the provider fails to remit within 45 days?*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0401

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*In Paragraph (a), you need to add language to make it clear that you are governing the payment for services under programs governed by the Commission. Perhaps reference Chapter 43?*

*In (b), line 6, you reference Rules 10A NCAC 43C .0200. That set of rules does not exist and has apparently never existed; it is reserved for future codification. Please insert the correct reference.*

*In (b), I’d prefer the sentence to read, “[program], as set forth in 10A NCAC XXXX”*

*On line 10, I believe “Medicaid” should be capitalized.*

*Where does one find the “Medicaid rate of reimbursement”? Does this need to be fully incorporated by reference per G.S. 150B-21.6?*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0402

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*Strike the (a) on line 3, as there is no (a) without a (b).*

*In the new language on lines 11-12, you mean the Medicaid rate for programs governed by the Commission, right?*

*Again, where is the Medicaid rate found? And does it need to incorporated by reference?*

*You are striking the Cancer Program, which is established and required by G.S. 130A-205. So it should still exist. Where are the rules for this, if not here?*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0403

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*On line 5, the first reference to “Department” cannot be underlined and struck through. You did not publish “Department.” so I think you can just remove it.*

*In (a), you mean the Medicaid rate for programs governed by the Commission, right?*

*Again, where is the Medicaid rate found? And does it need to incorporated by reference?*

*On line 12, strike through “(c).”*

*I thought the Commission no longer administered the Cancer Program (the reference to it was struck in the previous Rule)? Should the language that is in current Paragraph (b) remain here? Given my comments for the Rule above, I think it should.*

*If the language should remain, then I don’t think Paragraph (a) has “requirements.” Why not just state, “For professional and outpatient services under the Cancer Program, there shall be a per claim payment…”?*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0404

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*I think this rule would make more sense with a different title. Maybe “Reimbursement for Services That Do Not Have Medicaid Reimbursement Rates”?*

*Does your regulated public know what the following terms mean: 1. mobility systems; 2. environmental control units; 3. custom seating systems?*

*On line 12, which program director are you referring to? And what guidelines will they use to determine if a procedure is “comparable”?*

*Does your regulated public know where to find the Medicaid rates and fees?*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 45A .0405

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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

*The Rule Name is not a binding part of the Rule. Therefore, you need to retain or add some language within the rule text that the provider cannot bill the patient after taking payment from the Department, which I believe is the intent of this Rule.*

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

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