

1 (l) In cases in which the ~~decision~~ clinical review decision upholds the ~~previous~~ original UR decision, the LME shall
2 inform ~~appellants~~ the client, or the client's legally responsible person, in writing of the opportunity to appeal a ~~decision~~
3 ~~regarding a non-Medicaid service~~ the clinical review decision to the State Division of Mental Health, Developmental
4 Disabilities and Substance Abuse Services ~~Non-Medicaid Appeals Panel~~ according pursuant to 10A NCAC 271 ~~.0600~~
5 ~~and G.S. 143B-147(a)(9)~~. .0600.

6
7 *History Note: Authority G.S. 122C-112.1(a)(29); 143B-147;*

8 *Eff. July 1, 2008;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20,*

10 *~~2019~~ 2019;*

11 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0601 is amended as published in 38:12 NCR 811 as follows.**

2

3 **10A NCAC 27I .0601 SCOPE**

4 (a) The rules of this Section shall govern appeals made to the Division of decisions made by an area authority or
5 county program affecting a non-Medicaid eligible client.

6 (b) A non-Medicaid eligible ~~client~~ client, or the client's legally responsible person, may appeal to the Division Director
7 the clinical review decision of an area authority or county program to deny, reduce, suspend, or terminate a non-
8 Medicaid state funded service.

9 ~~(c) An appeal shall be filed with the Division only after a client has received a review decision from the area authority~~
10 ~~or county program.~~

11 ~~(d)(c)~~ Nothing in these Rules shall be interpreted as granting a non-Medicaid eligible client the right to appeal
12 decisions of third party payers to the Division.

13 ~~(e)(d)~~ Non-Medicaid services shall be provided in accordance with G.S. 122C-2. As set forth in G.S. 143B-147(a)(9),
14 nothing in these Rules shall be interpreted as granting a non-Medicaid eligible client the right to appeal the findings
15 of the Division by requesting a contested case hearing pursuant to G.S. 150B.

16 ~~(f)(e)~~ There shall be no reprisal or retaliation to anyone who is a party to an appeal.

17 ~~(g)(f)~~ The area authority or county program may authorize interim services until the final written decision as set forth
18 in Rule .0609 of this Section is reached.

19

20 *History Note: Authority G.S. 143B-147;*

21 *Eff. October 1, 2006;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*

23 *~~2017.~~ 2017.*

24 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0602 is amended as published in 38:12 NCR 811 as follows.**

2

3 **10A NCAC 27I .0602 DEFINITIONS**

4 As used in the rules in this Section, the following terms shall have the meanings specified:

5 (1) "Director" means the Director of the Division of Mental Health, Developmental Disabilities and
6 Substance Abuse Services.

7 (2) "Division" means the Division of Mental Health, Developmental Disabilities and Substance Abuse
8 Services.

9 (3) "Legally Responsible Person" means the same as defined in G.S. 122C-3.

10 (4) "Within Available Resources" means the same as defined in G.S. 122C-2.

11

12 *History Note: Authority G.S. 143B-147;*

13 *Eff. October 1, 2006;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
15 *~~2017.~~ 2017.*

16 *Amended Eff. May 1, 2024.*

17

1 10A NCAC 27I .0605 is amended as published in 38:12 NCR 811 as follows.

2
3 10A NCAC 27I .0605 DIVISION'S INITIAL RESPONSE TO A DMH/DD/SAS NON-MEDICAID
4 APPEAL

5 (a) The Director shall screen the request for appeal to the Division to determine:

- 6 (1) if the appeal was reviewed by the area authority or county program according to the area authority
7 or county program policy and procedures; ~~and~~
8 (2) if the appeal includes the denial, reduction, suspension or termination of a non-Medicaid state
9 funded ~~service.~~ service;
10 (3) if the appeal falls within the scope of Rule .0601 of this Section; and
11 (4) if the appeal was filed in accordance with the requirements of Rule .0603 of this Section.

12 (b) The Director shall send an acknowledgement letter to the ~~client~~ client, or the client's legally responsible person,
13 and the area authority or county program within 5 business days of receipt of the request for appeal to the Division.

14 (c) The acknowledgement letter shall specify whether the appeal has been accepted or not. The Division shall accept
15 an appeal if it meets the standards as set forth in Paragraph (a) of this Rule.

16 (d) The Director shall notify the area authority or county program and the ~~client~~ client, or the client's legally
17 responsible person, whose appeal is accepted for review to forward all documentation considered during the area
18 authority or county program review to the Division no later than 10 calendar days from the date of the
19 acknowledgement letter. The acknowledgment letter shall advise the parties that a ~~panel will be convened to~~ Hearing
20 Officer will conduct a hearing.

21 (e) An appeal that does not meet the criteria as set forth in Paragraph (a) of this Rule shall be returned to the client as
22 ~~disqualified~~ denied with an explanation of the basis for ~~disqualification.~~ denial.

23 (f) If the appeal is denied on the basis of Subparagraph (a)(1) of this Rule, the ~~The~~ area authority or county program
24 shall review the ~~appeal, if the appeal made to the Division is disqualified on the basis of not having been reviewed~~
25 ~~according to the area authority or county program's policy and procedures.~~ appeal in accordance with the requirements
26 of Rule 10A NCAC 27G .7004.

27 (g) The client shall have 11 calendar days from the date of the area authority or county program clinical review
28 decision to resubmit the appeal to the Division.

29
30 *History Note: Authority G.S. 143B-147;*

31 *Eff. October 1, 2006;*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
33 *2017. 2017;*

34 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0606 is amended as published in 38:12 NCR 811 as follows.**

2
3 **10A NCAC 27I .0606 HEARING SCHEDULE AND COMPOSITION OF THE PANEL**

4 (a) The Director shall ~~convene a five member panel to conduct a hearing for an~~ ensure the Hearing Officer conducts
5 appeal that is accepted in accordance with the requirements of Rule .0605 of this Section.

6 ~~(b) The panel members shall consist of the following:~~

7 (1) ~~a provider agency representative who meets the following requirements:~~

8 (A) ~~the representative shall be from a provider agency that is not be a party to the appeal; and~~

9 (B) ~~the representative shall have clinical expertise in the disability area pertinent to the appeal;~~

10 (2) ~~an employee of an area authority or county program who meets the following requirements:~~

11 (A) ~~the employee shall be from an area authority or county program that is not a party to the~~
12 ~~appeal; and~~

13 (B) ~~the employee shall have clinical expertise in the disability area pertinent to the appeal;~~

14 (3) ~~two individuals who are members of a consumer and family advisory committee who is not a party~~
15 ~~to the appeal; and~~

16 (4) ~~an employee of the Division.~~

17 ~~(e)(b) The Hearing Officer shall be an employee of the Division. Division shall serve as the chairperson of the panel~~
18 ~~and shall be a voting member in the case of a tie.~~

19 ~~(d)(c) The Director shall forward the record on appeal and all supplemental documentation to the Hearing Officer~~
20 ~~chairperson of the panel within five days of receipt thereof.~~

21 ~~(e)(d) The Director shall provide a copy of applicable law and rules to the Hearing Officer. chairperson of the panel.~~

22 ~~(f)(e) The Hearing Officer chairperson shall schedule a panel hearing including designation of a time and place.~~

23 ~~(g)(f) The Hearing Officer chairperson shall notify the client, or the client's legally responsible person, other panel~~
24 ~~members and the area authority or county program of the time and place no less than 15 calendar days prior to the~~
25 ~~date of the hearing.~~

26 (g) The hearing may be conducted in person or virtually taking into account reasonable accommodations, including
27 but not limited to, the following:

28 (1) compliance with HIPAA requirements;

29 (2) accommodation needs of the client;

30 (3) State mandated travel restrictions.

31
32 *History Note: Authority G.S. 143B-147;*

33 *Eff. October 1, 2006;*

34 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
35 *2017. 2017;*

36 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0607 is amended as published in 38:12 NCR 811 as follows.**

2

3 **10A NCAC 27I .0607 PANEL HEARING PROCEDURES**

4 (a) ~~The chairperson of the panel:~~ Hearing Officer:

5 (1) shall convene the hearing at the prearranged time and place;

6 (2) may afford the opportunity for rebuttal and summary comments to either of the presenting parties;
7 and

8 (3) shall conduct proceedings in an orderly manner.

9 (b) ~~The panel:~~ Hearing Officer:

10 (1) may limit the total number of persons presenting for the client and area authority or county program;
11 and

12 (2) may impose time limits for presentations.

13 (c) Either party may be represented by a person or attorney of their choice.

14 (d) Prior to the hearing, the client and the area authority or county program shall:

15 (1) specify by name and position all individuals who will be present for the hearing;

16 (2) provide the ~~panel~~ Hearing Officer with requested information; and

17 (3) when applicable, ensure that representatives of the parties shall be present at the hearing.

18 (e) ~~Any member of the panel~~ The Hearing Officer may address questions to either party.

19 (f) ~~The panel~~ Hearing Officer may obtain any form of technical assistance or consultation relevant to the appeal.

20 (g) No transcript shall be made and no party shall be allowed to record the proceeding. ~~The panel~~ Hearing Officer
21 may choose to record the proceeding for ~~its~~ his or her own use. A tape so made shall be destroyed after the ~~panel~~
22 Hearing Officer issues ~~its~~ the Hearing decision.

23 (h) Witnesses shall not be sworn before testifying.

24

25 *History Note: Authority G.S. 143B-147;*

26 *Eff. October 1, 2006;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
28 *2017. 2017;*

29 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0608 is amended as published in 38:12 NCR 811 as follows.**

2
3 **10A NCAC 27I .0608 PANEL HEARING OFFICER DECISION FINDINGS AND DECISION**

4 (a) The ~~panel~~ Hearing Officer's findings and decisions are based on the record and any new evidence that would be
5 material to the issues on appeal.

6 (b) The standard of review for the ~~panel~~ Hearing Officer is whether the decision of the LME-MCO, area authority or
7 county program is supported by evidence presented.

8 ~~(c) The panel shall vote on each specific item being appealed. The Hearing Officer shall consider all issues under~~
9 appeal.

10 ~~(d) Findings and decisions of the panel shall be by majority vote.~~

11 ~~(e)(d)~~ Any decision may be rescheduled for a subsequent meeting if the ~~panel~~ Hearing Officer determines that ~~it~~ he
12 or she lacks sufficient information to render a decision at the initial hearing.

13 ~~(f)(c) All panel~~ The Hearing Officer's findings and decisions shall be reached and sent in writing to the client or the
14 client's legally responsible person, and to the LME-MCO, area authority or county program Director within 60
15 calendar days of the written request for ~~appeal to the client, the area authority or county program and the Director.~~ an
16 appeal.

17
18 *History Note: Authority G.S. 143B-147;*

19 *Eff. October 1, 2006;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
21 *2017. 2017;*

22 *Amended Eff. May 1, 2024.*

1 **10A NCAC 27I .0609 is amended as published in 38:12 NCR 811 as follows.**

2

3 **10A NCAC 27I .0609 FINAL WRITTEN DECISION**

4 (a) Upon receipt of the ~~panel's~~ Hearing Officer's findings and decisions, the LME-MCO, area authority or county
5 program shall issue a final decision based on those ~~findings~~. ~~The LME area authority or county program shall issue the~~
6 ~~decision in writing~~ findings within 10 business days of receipt of the ~~panel's~~ Hearing Officer's findings and decisions.

7 (b) Neither the ~~panel~~ Hearing Officer's findings and decisions nor the LME-MCO, area authority or county program
8 final decision shall be interpreted as an agency decision granting a non-Medicaid eligible client the right to appeal by
9 requesting a contested case hearing pursuant to G.S. 150B.

10 (c) The Division shall report annually to the Commission for Mental Health, Developmental Disabilities and
11 Substance Abuse Services the number of appeals filed and conducted.

12

13 *History Note: Authority G.S. 143B-147;*

14 *Eff. October 1, 2006;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
16 *~~2017.~~ 2017;*

17 *Amended Eff. May 1, 2024.*

1 10A NCAC 28F .0101 is adopted as published in 38:12 NCR 814.

2
3 **10A NCAC 28F .0101 REGIONS FOR DIVISION INSTITUTIONAL ADMISSIONS**

4 (a) Except as otherwise provided in rules codified in this Chapter and Chapters 26 through 29 of this Title and except
5 for State-wide programs and cross-regional admissions approved by the Division Director based upon the clinical
6 need of the individual or for the purpose of accessing available beds or services, a person seeking admission to a
7 regional institution of the Division shall be admitted only to the institution which serves the region of the state which
8 includes the person's "county of residence" as defined in G.S. 122C-3.

9 (b) For state operated ~~facilities~~, hospitals and developmental centers, the regions of the state and the counties which
10 constitute the regions are as follows:

11 (1) Western Region: Broughton Hospital, ~~Julian F. Keith Alcohol and Drug Abuse Treatment Center~~
12 ~~(ADATC)~~, and J. Iverson Riddle Developmental Center shall serve Alleghany, Alexander, Ashe,
13 Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson,
14 Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell,
15 Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Union,
16 Watauga, Wilkes, Yadkin, and Yancey County;

17 (2) Central Region: Central Regional Hospital, Murdoch Developmental Center, ~~R. J. Blackley~~
18 ~~ADATC~~, Whitaker ~~School~~, Psychiatric Residential Treatment Program (PRTF), and Wright School
19 shall serve Alamance, Anson, Caswell, Chatham, Davie, Durham, Forsyth, Franklin, Granville,
20 Guilford, Halifax, Harnett, Hoke, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond,
21 Rockingham, Stokes, Vance, Wake, and Warren County; and

22 (3) Eastern Region: Cherry Hospital, Caswell Developmental Center, and ~~Walter B. Jones ADATC~~
23 shall serve Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven,
24 Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Hertford, Hyde, Johnston, Jones,
25 Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender,
26 Perquimans, Pitt, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson County.

27 (c) For state-operated Alcohol and Drug Abuse Treatment Centers (ADATCs) the regions of the state and the counties
28 which constitute the regions are as follows:

29 (1) Western Region: Julian F. Keith ADATC shall serve Alexander, Alleghany, Anson, Ashe, Avery,
30 Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson, Davie,
31 Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon,
32 Madison, McDowell, Mecklenburg, Mitchell, Montgomery, Polk, Randolph, Rowan, Rutherford,
33 Stanly, Stokes, Surry, Swain, Transylvania, Union, Watauga, Wilkes, Yadkin, and Yancey County;

34 (2) Eastern Region: Walter B. Jones ADATC shall serve Alamance, Beaufort, Bertie, Bladen,
35 Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland,
36 Currituck, Dare, Duplin, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett,
37 Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Moore, Nash, New Hanover,

1 Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Richmond,
2 Robeson, Rockingham, Sampson, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne,
3 and Wilson County.

4
5 *History Note: Authority G.S. 122C-3; 143B-147; S.L. 2023-3;*

6 *Eff. February 1, 1976;*

7 *Amended Eff. June 1, 2009; April 1, 1990; July 1, 1983;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,*
9 *~~2019.~~ 2019;*

10 *Amended Eff. May 1, 2024.*

11