

Burgos, Alexander N

Subject: FW: 10A NCAC 06T .0201 - Social Services Commission
Attachments: 10A NCAC 06T .0201.docx

From: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>
Sent: Friday, January 19, 2024 8:07 AM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Deal, Terrie <terrie.deal@dhhs.nc.gov>; Artis, Glenda <glenda.artis@dhhs.nc.gov>; Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>
Subject: FW: 10A NCAC 06T .0201 - Social Services Commission

Please find attached the final version of 10A NCAC 06T .0201 for January's RRC meeting. Thank you.

Misty L. Piekaar-McWilliams, JD
Legal Services Developer
Division of Aging and Adult Services
NC Department of Health and Human Services

Office: 919-855-4980
Mobile: 919-219-0528
Fax: 919-715-0364
Misty.Piekaar@dhhs.nc.gov

693 Palmer Drive, Taylor Building
2101 Mail Service Center
Raleigh, NC 27699-2101

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1 10A NCAC 06T .0201 is amended with changes as published in 38:08 NCAC 483-484 as follows:

2
3 **SECTION .0200 - STATE ADULT DAY CARE FUND**

4
5 **10A NCAC 06T .0201 NATURE AND PURPOSE OF STATE ADULT DAY CARE FUND**

6 (a) The State adult day care fund shall be used for adult day care and adult day health services provided through
7 county departments of social services for the purpose of enabling people to remain in or return to their own homes.

8 (b) The fund shall be used to increase ~~state~~State financial participation in the costs of this service.

9 (c) ~~The maximum rate for the purchase of adult day care services under contract not exceed thirty three dollars and~~
10 ~~seven cents (\$33.07) per day, per client. The maximum rate for the purchase of adult day health services under contract~~
11 ~~shall not exceed forty dollars (\$40.00) per day, per client. Adult day care services may be purchased] A county
12 department of social services or a designee of the board of county commissioners may purchase adult day care services
13 for an individual following a preadmission assessment as specified in 10A NCAC 06R .0501. Adult day health
14 services may only be purchased A county department of social services or a designee of the board of county
15 commissioners may purchase adult day health services for an individual following a preadmission health assessment
16 as specified in 10A NCAC 06S .0204(c)(2)(A) and a determination that the individual needs one or more services as
17 set forth in 10A NCAC 06S .0402(a).~~

18 (d) ~~The maximum reimbursement rate for transporting an adult day care client to an adult day care program not exceed~~
19 ~~one dollar and fifty cents (\$1.50) for a one way trip. If an adult day care or adult day health provider elects to provide~~
20 ~~or arrange for transportation services for the individual who attends the program, the county department of social~~
21 ~~services or a designee of the board of county commissioners may reimburse the adult day care or adult day health~~
22 ~~provider for transporting the individual to the adult day care or adult day health program.~~

23
24 *History Note:* Authority G.S. 143B-153(2a); 143B-153(6); S.L. 1981, c. 1048; [S.L. 2021-180;] S.L. 2023-65;
25 Eff. January 1, 1982;
26 Temporary Amendment Eff. July 27, 1994 for a period of 180 days or until the permanent rule
27 becomes effective, whichever is sooner;
28 Amended Eff. December 1, 1994; July 1, 1990;
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30 Amended Eff. March 1, 2007; April 1, 2005; April 1, 1999;
31 Readopted Eff. November 1, ~~2019-2019;~~
32 Amended Eff. February 1, 2024.

Burgos, Alexander N

Subject: FW: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Thursday, January 18, 2024 3:21 PM

To: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Deal, Terrie <terrie.deal@dhhs.nc.gov>; Artis, Glenda <glenda.artis@dhhs.nc.gov>

Subject: RE: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Hi Misty,

Thanks for sending this over. Looks good, and I will recommend approval at this month's meeting. Please send the final version of the Rule to oah.rules@oah.nc.gov, copying me and Alex Burgos, and we'll get this filed and posted to the online agenda for RRC's review.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting
Attachments: 10A NCAC 06T .0201.docx

From: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>
Sent: Wednesday, January 17, 2024 12:29 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Deal, Terrie <terrie.deal@dhhs.nc.gov>; Artis, Glenda <glenda.artis@dhhs.nc.gov>
Subject: RE: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Please see attached.

Misty L. Piekaar-McWilliams, JD
Legal Services Developer
Division of Aging and Adult Services
NC Department of Health and Human Services

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24 *History Note:* Authority G.S. 143B-153(2a); 143B-153(6); S.L. 1981, c. 1048; [S.L. 2021-180;] S.L. 2023-65;
25 Eff. January 1, 1982;
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Burgos, Alexander N

Subject: FW: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Tuesday, January 16, 2024 10:31 AM

To: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Deal, Terrie <terrie.deal@dhhs.nc.gov>; Artis, Glenda <glenda.artis@dhhs.nc.gov>

Subject: RE: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Hi Misty,

Thanks for getting back to me with this. Alex will—if he hasn't already—send an invite to Ms. Deal.

This may sound like quibbling, but I think I have a further concern.

The statute says that the county board of commissioners, not the county DSS, can name a designee. The rule, as written, says that the DSS or “their designee” may purchase adult day care services (in paragraph (c)) or make the reimbursement (in paragraph (d)). That suggests that the county DSS is empowered to make a designation, which 143B-153(2a) doesn't support. Is there another statute that allows the DSS to make a designation?

If not, I would suggest changing the language of the rule to say “A county department of social services, or a designee named by the county board of commissioners...”

Let me know if you have any questions.

Thanks!

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting
Attachments: 10A NCAC 06T .0201 Final (002).docx; 2024.01 - SSC - Request for Changes 10A NCAC 06T .0201 (002).docx

From: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>
Sent: Monday, January 8, 2024 3:07 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>; Deal, Terrie <terrie.deal@dhhs.nc.gov>; Artis, Glenda <glenda.artis@dhhs.nc.gov>
Subject: RE: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Brian-

Please find attached amended rule 10A NCAC 06T .0201 with changes. Let us know if this satisfies your concerns.

Finally, Terrie Deal (copied here) would like to attend virtually and Glenda Artis and I will be attending in person. Please let me/us know if this is feasible.

Thanks!

Misty

Misty L. Piekaar-McWilliams, JD
Legal Services Developer
Division of Aging and Adult Services
NC Department of Health and Human Services

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Mobile: 919-219-0528
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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 06T .0201

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024.

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (c), line 11, who may purchase adult day care services? The sentence is written in the passive tense. Please revise in the active tense and specify who makes the purchase. Done.

Same for (c), lines 12-13. Revise from the passive to the active tense and specify who may make the purchase. Done.

In (d), lines 17-18, would only the county department of social services make the reimbursement? Yes, the county DSS or designee is the only entity to reimburse because they are the only entity to enter into the contract with the provider. Yes, the county DSS (or designee) or designee of the board of county commissioners sets the reimbursement rate as stated by SL 2023-65 but the actual reimbursor is the county DSS or designee. SL 2023-65 changes G.S. 143B-153(2a) to say that the county DSS or a designee of the board of county commissioners may set the reimbursement rate, but I'm not sure that means either body can actually make the reimbursement itself.

In your History Note, there's no need to cite to SL 2021-180, as that language has been codified into 143B-153(2a), unless you're citing to Section 9A.3B.(c) of the session law. Done.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 3, 2024

1 10A NCAC 06T .0201 is amended with changes as published in 38:08 NCAC 483-484 as follows:

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20 services or designee may reimburse the adult day care or adult day health provider for transporting the individual to
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29 *Amended Eff. March 1, 2007; April 1, 2005; April 1, 1999;*
30 *Readopted Eff. November 1, 2019-2019;*
31 *Amended Eff. February 1, 2024.*

Burgos, Alexander N

From: Piekaar, Misty L
Sent: Thursday, January 4, 2024 10:01 AM
To: Liebman, Brian R
Cc: Burgos, Alexander N; Piekaar, Misty L
Subject: RE: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Thank you. Received. Upon responding to your request for changes, I will inform you of all attendees.

Again, thank you and enjoy the rest of your day.

Misty L. Piekaar-McWilliams, JD
Legal Services Developer
Division of Aging and Adult Services
NC Department of Health and Human Services

Office: 919-855-4980
Mobile: 919-219-0528
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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, January 3, 2024 4:51 PM
To: Piekaar, Misty L <Misty.Piekaar@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 10A NCAC 06T .0201 - Social Services Commission - Requests for Changes for January 2024 RRC meeting

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Commission for the January 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, January 31, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any

other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Wednesday, January 17, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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