

**10A NCAC 68 .0108      DECLARATORY RULINGS**

(a) All requests for declaratory rulings shall be by written petition as described in Paragraph (b) of this Rule and shall be submitted to:

Director

Division of Social Services

Department of Health and Human Services

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the petition relates;
- (3) a statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him or her; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Commission finds good cause exists to deny the request for declaratory ruling, the Commission shall deny the request to issue a declaratory ruling. The Commission's refusal shall be followed within 30 days of the receipt of the petition, by the issuance of written notification to the petitioner. The notice shall state the decision and the reasons therefore.

(d) Good cause for the denial of a declaratory ruling request shall include one of the following:

- (1) the person submitting the request is not a person aggrieved;
- (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division;
- (3) a situation where there has been a similar controlling factual determination in a contested case;
- (4) if the request for declaratory ruling involves a factual context that was considered upon adoption of the rule being questioned as evidenced by the rulemaking record;
- (5) the factual representations are not related to the statute or rule being questioned;
- (6) issuing the declaratory ruling will not serve the public interest; or
- (7) if circumstances stated in the request or otherwise known to the Commission show that a contested case hearing would be appropriate.

(e) Where the Commission issues a declaratory ruling, the declaratory ruling shall be issued within 45 days after Commission's decision to grant the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or other procedure as deemed appropriate by the Commission based upon whether the additional submitted information would assist the Commission in determining whether to grant or deny the petition.

(g) The Commission may issue notice to persons who might be affected by the ruling that written comments or oral presentations may be submitted at a scheduled hearing if the Commission determines additional comments or presentations can provide assistance to the Commission in determining whether to grant or deny the petition.

*History Note: Authority G.S. 143B-153; 150B-4;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. March 1, 1990;  
Readopted Eff. September 1, 2019.*