

**10A NCAC 70M .0402 ELIGIBILITY REQUIREMENTS FOR STANDARD MONTHLY CASH ASSISTANCE PAYMENTS OR VENDOR PAYMENTS**

(a) Adoption assistance in the form of standard monthly cash assistance payments based on graduated rates set by the General Assembly and vendor payments may be made when the child meets the following eligibility criteria:

- (1) The child was legally adopted;
- (2) The child meets at least one of the following criteria:
  - (A) is not an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(i). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(i)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate;
  - (B) shall be an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(ii). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(ii)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate; or
  - (C) the requirements set forth in 42 USC 673(a)(2)(C); and
- (3) An applicable child is not eligible if he or she meets the conditions in 42 U.S.C. 673(a)(7)(A)(i) through (iii), unless 42 U.S.C. 673(a)(7)(B) is applicable and the public adoption agency makes the requisite determination for the State.

(b) For vendor payments, in addition to the criteria in Paragraph (a) of this Rule, the child shall also meet the following criteria:

- (1) at or prior to the issuance of the adoption decree, have a diagnosed medical, mental, or emotional condition that is documented by a medical professional, who is qualified through licensing or credentialing to make a diagnosis, that will require ongoing treatment or therapy of a medical or remedial nature; or
- (2) after the issuance of the adoption decree but while still under the age of 18, have been determined by the public adoption agency administering adoption assistance benefits to have a medical, mental, or emotional condition, congenital problem, birth injury, or other documented problem that is determined by a medical professional, who is qualified through licensing or credentialing to have been preexisting at the time of his or her placement into an adoptive home.

(c) The prospective adoptive parents shall meet the following criteria:

- (1) Have a child placed with them in accordance with applicable State and local laws for purposes of an adoption who meets the requirements in Paragraph (a) of this Rule;
- (2) be legally responsible for the support of the child and is providing support to the child, if the child is under the age of 18;
- (3) enter into an adoption assistance agreement with the public adoption agency prior to issuance of the decree of adoption. The adoption assistance agreement shall identify the specific services for the child that the parents want to be covered by vendor payments;
- (4) Shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 43-3-309;
- (5) Shall provide the public adoption agency with the results of the criminal back history investigation;
- (6) Shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file; and
- (7) For vendor payments when the child meets the criteria in Subparagraph (b)(2) of this Rule, shall enter into an adoption assistance agreement amendment on a form provided by the Department ("North Carolina Division of Social Services Adoption Assistance Agreement Amendment" Form DSS-5307, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that identifies and includes supporting documentation of the child's preexisting condition and allows the parents to be reimbursed for vendor services related to the child's preexisting condition.

(d) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent is

unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.

(e) Prior to the adoption, all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed check of the North Carolina's Responsible Individuals List and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.

(f) Upon adoption, the adoptive parents shall comply with all the terms of the adoption agreement assistance and notify the public adoption agency they are no longer legally or financially responsible for the adopted child, address, or contact information.

(g) The public adoption agency shall:

- (1) prior to the adoption, make a determination as to whether the requirements of this Rule have been met on a form created by the Department ("Adoption Assistance Eligibility Checklist" Form DSS-5012, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reasons that the eligibility requirements have been met and inform the prospective adoptive parents of the right to appeal the decision.
- (2) maintain a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home.
- (3) after the adoption:
  - (A) annually send to the adoptive parents a letter reminding them to report any changes in their legal or financial responsibility of the adopted child;
  - (B) issue to the adoptive parents a notice if the adoption assistance payments are to be suspended ("North Carolina Division of Social Services Adoption Assistance Suspension Notice" Form DSS-5306, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the suspension and how to appeal the suspension; and
  - (C) issue to the adoptive parents a notice if the adoption assistance payments are to be terminated ("North Carolina Division of Social Services Adoption Assistance Termination Notice" Form DSS-5308, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the termination and how to appeal the termination.
- (4) in order for vendor services to be reimbursed, the vendor must obtain prior approval by submitting to the public adoption agency completed and signed forms provided by the Department ("Adoption Assistance Vendor Payment Request Form" Form DSS-5112 and "Adoption Assistance Vendor Payment Instructions for Providers" Form DSS-5115, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that includes documentation of the child's diagnosis, the child's special needs related to the diagnosis, how the is service related to the special needs, what goals the service is intended to accomplish, how achievement of goals be measured, the projected duration of treatment or service, the projected total cost, and two copies of the provider's bill after all health insurance claims have been processed.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;  
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