

## CHAPTER 71 – ADULT AND FAMILY SUPPORT

### SUBCHAPTER 71A – PROTECTIVE SERVICES FOR ADULTS

#### SECTION - .0100 - GENERAL

##### 10A NCAC 71A .0101 INTRODUCTORY STATEMENT

Rules in this Subchapter govern the provision of protective services for adults with funds administered by the Division of Social Services. Included are requirements which must be met by county departments of social services in carrying out their responsibilities for the protection of disabled adults under Article 6, Chapter 108A of the General Statutes.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

##### 10A NCAC 71A .0102 DEFINITIONS

(a) "Immediately" as specified in G.S. 108A-103(d), shall mean responds with no delay as soon as a county department of social services receives a report that:

- (1) an adult is alleged to be disabled as defined in G.S. 108A-101(d);
- (2) an adult is alleged to be abused, neglected, or exploited as defined in G.S. 108A-101(a), (j), or (m); and
- (3) an adult is alleged to be in need of protective services as defined in G.S. 108A-101(e).

(b) "A life threatening situation" shall be considered an emergency as defined in G.S. 108A-101(g).

*History Note:* Authority G.S. 143B-153; S.L. 1999-334;  
Temporary Adoption Eff. September 28, 1999;  
Eff. July 17, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### SECTION .0200 - ACCEPTANCE AND EVALUATION OF PROTECTIVE SERVICES REPORTS

##### 10A NCAC 71A .0201 ACCEPTANCE OF REPORTS

(a) The county department of social services shall accept all reports alleging an abused, neglected, or exploited disabled adult is in need of protective services. This includes anonymous reports. If the county department determines that the address of the disabled adult given in the report is in another county, the department shall refer the person making the report to the appropriate county department. The county department receiving the original report shall follow up to make sure the appropriate county has received the report.

(b) The department of social services shall make arrangements for 24 hour coverage to receive calls and take appropriate action.

(c) Notwithstanding provisions in 10A NCAC 71A .0801 through .0803, the director may immediately tell the District Attorney's office and local law enforcement agencies when there is reason to believe that physical harm may occur to the disabled adult. This would include sharing evidence of abuse or neglect the agency has to date.

*History Note:* Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991; July 1, 1990;  
Temporary Amendment Eff. December 12, 1995;  
Amended Eff. April 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

##### 10A NCAC 71A .0202 RECEIPT OF ORAL REPORT

The worker receiving an oral report shall explain to the complainant (the person making the report) that the department will notify the complainant of the results of the evaluation. The worker shall determine from the complainant whether the complainant wants the notification to be oral or written.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0203 REPORTS REGARDING COUNTY OFFICIALS**

(a) When a report is received alleging abuse, neglect or exploitation of a disabled adult by a social services board member, department of social services staff member, county commissioner, or the county manager, the county department shall notify the regional office immediately. The regional office will assign the report to another county department for evaluation.

(b) In addition to specified instances in (a) of this Rule in which reports must be assigned to another county, the county department shall consult the regional office whenever it seems that evaluation of a report may present the appearance of a conflict of interest.

(c) If the evaluation does not substantiate the report, the department which conducted the evaluation will refer the case back to the county of residence so that alternative services may be offered.

(d) If the evaluation substantiates the report, the agency which conducted the evaluation will seek authorization for services, including petitioning the court when necessary. The petition shall be filed in the county of residence and shall include the reason for filing by an agency in another county.

(e) The agency which conducted the evaluation will act as case manager for protective services in coordination with the agency in the county of residence. The county of residence will be responsible for paying for services in accordance with rules in Section .0400 of this Subchapter, and for any expenses for medical, psychological or other examinations and legal services incurred by the county which conducted the evaluation.

*History Note:* Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0204 TIME FRAME TO INITIATE EVALUATION**

(a) Evaluation of reports involving an emergency as defined in G.S. 108A-101(g) shall be initiated within 24 hours of receipt of the report.

(b) Evaluation of other reports of a need for protective services shall be initiated within 72 hours after receipt of a report.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0205 INITIATION OF EVALUATION**

The evaluation is initiated by a visit to the adult about whom the report is made. If the adult cannot be located, efforts to locate the adult within the 24- or 72-hour time limit, as appropriate, shall be documented in the case record. Such efforts to locate the adult shall constitute initiation of the evaluation.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0206 STEPS IN EVALUATION**

The complete evaluation shall include:

- (1) The visit to the person, which means that the person must be seen by the worker. The worker will make as many visits as are necessary to determine whether the adult is disabled; abused, neglected or exploited; and in need of protective services;
- (2) Consultation with others who have knowledge of the facts of the situation. This includes individuals identified by the person making the report, as well as individuals mentioned by the disabled adult who may have information pertinent to the evaluation;
- (3) Medical, psychological or psychiatric evaluations when necessary to determine whether the adult is disabled; abused, neglected or exploited; and in need of services; and to determine what services are needed.

*History Note:* Authority G.S. 108A-103; 143B-153;  
 Eff. November 1, 1983;  
 Amended Eff. July 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0207 FOCUS OF EVALUATION**

The evaluation must determine:

- (1) whether or not the adult is disabled in accordance with the statutory definition in G.S. 108A-101(d);
- (2) whether or not the adult is abused, neglected or exploited as defined in G.S. 108A-101(a)(j) or (m);
- (3) whether or not the adult is in need of protective services as defined in G.S. 108A-101(e);
- (4) whether or not the adult lacks the capacity to consent to protective services.

*History Note:* Authority G.S. 143B-153;  
 Eff. November 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0208 CONDUCTING A THOROUGH EVALUATION**

A thorough evaluation of the protective services report shall include identifying indicators of abuse, neglect, or exploitation and the disabled adult's strengths and limitations by assessing the following functional areas:

- (1) physical health;
- (2) mental health;
- (3) social support;
- (4) activities of daily living and instrumental activities of daily living;
- (5) financial support; and
- (6) physical environment.

*History Note:* Authority G.S. 108A-103; 143B-153;  
 Eff. December 1, 1991;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0209 SUBSTANTIATION OF THE REPORT**

(a) Following completion of the evaluation a determination shall be made as to whether the report is substantiated.

(b) A report is substantiated when:

- (1) the adult is determined to be disabled as defined in G.S. 108A-101(d);
- (2) the adult is determined to be abused, neglected or exploited as defined in G.S. 108A-101(a), (j), or (m); and
- (3) the adult is determined to be in need of protective services as defined in G.S. 108A-101(e).

(c) A report is unsubstantiated if any one of the three conditions in Subparagraphs (b)(1), (2), and (3) of this Rule are not met.

*History Note:* Authority G.S. 108A-103; 143B-153;

*Eff. December 1, 1991;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0300 - UNSUBSTANTIATED REPORTS: SUBSTANTIATED REPORTS: REFUSAL OF SERVICES**

### **10A NCAC 71A .0301 UNSUBSTANTIATED REPORT: OFFER OF SERVICES**

When the evaluation of the report indicates that the allegations are not substantiated, an offer shall be made to the individual of any available and appropriate agency services. The worker shall explain such services to the individual. In addition, the worker shall provide information about other community services and shall offer to refer the person to such resources.

*History Note: Authority G.S. 143B-153;*  
*Eff. November 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71A .0302 SUBSTANTIATED REPORT: ADULT REFUSES SERVICES**

(a) When the evaluation of a report indicates that the allegations are substantiated and the disabled adult is capable of making responsible decisions and refuses the receipt of protective services, the worker must respect that decision and terminate contact with the adult. Prior to doing so, the worker shall explain the services available to the adult and that the adult may call the agency to request assistance, if needed.

(b) Documentation shall be made of the worker's explanation and offer of services and of the adult's refusal to accept services. The worker shall obtain from the adult a signed statement of his refusal of services or shall document in the record the attempt to obtain such a signed statement.

*History Note: Authority G.S. 143B-153;*  
*Eff. November 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0400 - PAYMENT FOR ESSENTIAL SERVICES**

### **10A NCAC 71A .0401 ESSENTIAL SOCIAL SERVICES**

(a) For essential social services that the county makes available, the individual's responsibility for payment shall be determined in accordance with rules in 10A NCAC 71R .0500.

(b) For essential social services that the county does not make available, an individual is deemed financially incapable of paying if his income is less than 60 percent of the state's established income as codified in 10A NCAC 71R .0500.

*History Note: Authority G.S. 108A-108; 143B-153;*  
*Eff. November 1, 1983;*  
*Amended Eff. July 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71A .0402 ESSENTIAL MEDICAL SERVICES**

For essential medical services, an individual is deemed financially incapable of paying if he meets the eligibility criteria for Title XIX (Medicaid). Essential medical services must be provided at no charge to a Medicaid - eligible person, whether or not the needed services are available under Medicaid.

*History Note: Authority G.S. 143B-153; 108A-108;*  
*Eff. November 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0500 - RESIDENTIAL CARE FACILITIES**

### **10A NCAC 71A .0501 GENERAL REQUIREMENT**

(a) In accordance with provisions of G.S. 108A-103 and the rules in Section .0200 of this Subchapter, the department of social services in the county in which the facility is located shall evaluate reports of abused, neglected, or exploited disabled adults in need of protective services who are specifically named patients or residents of nursing, combination, and residential care facilities. This includes reports regarding patients or residents who are placed from other counties.

(b) Complaints received by the county department of social services regarding general conditions or violations of standards in nursing and combination facilities and residential care facilities licensed under G.S. 122C shall be referred to the Division of Health Service Regulation.

(c) Complaints received by the county department of social services regarding general conditions or violations of standards in residential care facilities licensed under G.S. 131D-2 shall be followed up by the adult home specialist in accordance with the specialist's ongoing responsibility for supervision of these facilities.

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991; July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71A .0502 NOTICE TO ADMINISTRATOR**

(a) The county director will not inform the administrator prior to the first visit to the facility that a protective services report has been received, except in specific instances where the county director thinks the assistance of the administrator will be needed in conducting the evaluation.

(b) The county director shall provide the administrator of a nursing, combination, or residential care facility with a written summary of the nature of the protective services report, whether or not evidence of abuse, neglect or exploitation was found, and whether or not a need for protective services was substantiated. The written summary to the administrator shall be limited to the following:

- (1) acknowledgement that a protective services report was received on a specified patient or resident of the facility;
- (2) the specific allegations in the report (the complainant shall not be named);
- (3) whether or not evidence of abuse, neglect or exploitation was found;
- (4) whether or not the need for protective services was substantiated;
- (5) a general statement as to how the conclusion was reached (the names of persons who were contacted during the evaluation to obtain information shall not be given).

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991; July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71A .0503 REPORT TO REGULATORY AGENCIES**

(a) A copy of the written report required by Rule .0901 of this Subchapter shall be sent to the Division of Health Service Regulation, within 30 days of completion of the evaluation. If the identity of the person making the protective services report and the names of individuals who provide information about the disabled adult are needed by the Division of Health Service Regulation in order to carry out an investigation, that information shall be shared verbally with the Division on request.

(b) When evidence of financial exploitation is found in Medicaid - funded facilities, the county department of social services shall send a copy of the written report to the Division of Medical Assistance, as well as to the Division of Health Service Regulation.

(c) When, in the course of an evaluation, evidence of abuse, neglect or exploitation is found, the county director shall notify the Division of Health Service Regulation immediately by telephone. In addition the county director

shall inform the Division of Health Service Regulation as to whether or not the need for protective services will be substantiated.

(d) When, in the course of an evaluation, it appears that a report of a need for protective services will not be substantiated, but the county director finds violations of licensure standards, such violations shall be reported immediately to the appropriate supervisory agency. Reports of violations of standards in nursing and combination facilities and residential care facilities licensed under G.S. 122C shall be made to the Division of Health Service Regulation. Reports of violations of standards in residential care facilities licensed under G.S. 131D-2 shall be made to the adult home specialist in the county department of social services.

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991; July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71A .0504 INTER-COUNTY COORDINATION**

The department in the county in which a nursing, combination, or residential care facility is located has primary responsibility for providing protective services to adults in that facility. That department shall notify the department in the adult's county of residence when a protective services report on the adult is substantiated and shall inform the department in the county of residence of the plan for protective services. The department in the county of residence shall cooperate and assist to the extent possible in the provision of protective services.

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **SECTION .0600 - STATE MENTAL HEALTH: MENTAL RETARDATION: SUBSTANCE ABUSE SERVICES INSTITUTIONS**

#### **10A NCAC 71A .0601 EVALUATIONS OF ABUSE: NEGLECT AND EXPLOITATION**

(a) The county department of social services shall initiate its evaluation in accordance with the time frame in Rule .0204 of this Subchapter.

(b) When the report comes from a source other than the facility administration, the county department shall inform the chief administrator of the involved facility of the report as appropriate and of applicable state law.

(c) The county department shall notify the complainant that the department is making an evaluation.

(d) Upon completion of the evaluation, the department shall set forth its findings and proposed actions in writing to:

- (1) the chief administrator of the involved facility;
- (2) the disabled adult's legal guardian, if any.

*History Note: Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71A .0602 REPORTS OF NEED FOR MEDICAL TREATMENT FOR RESIDENTS**

(a) Rules in Section .0200 of this Subchapter shall be followed by the county department of social services in carrying out the evaluation of reports of need for medical treatment made in accordance with G.S. 108A-101(m).

(b) After completing the evaluation, if it is reasonably determined that the person needs protective services, the county department shall petition the district court and request a hearing on the matter. The petition must present the need for specific medical treatment, as well as other circumstances substantiating neglect and request that an individual or organization be designated to consent to the medical treatment. If an emergency exists, the department shall petition the district court for an order to provide emergency services.

(c) After the court's decision is made, the county department shall send to the institution the findings of the court.

(d) When the county department is designated by the court, the director or his designee shall verbally communicate to the institution consent for medical treatment. This shall be done immediately after the judgment is made, to be followed by written consent.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SECTION .0700 - INTER-COUNTY RESPONSIBILITY**

### **10A NCAC 71A .0701 COOPERATION IN COMPLETING EVALUATIONS**

The department of social services in the county in which a disabled adult is located shall cooperate in carrying out the evaluation of a protective services report when the department of social services in the adult's county of residence has received the report and is responsible for the evaluation. Cooperation shall include prompt performance of any activities within the scope of protective services necessary to insure the protection of the disabled adult. In such cases, the department in the county in which the adult is located shall inform the department in the county of residence in advance of any medical, psychological or other examinations necessary to complete the protective services evaluation. The county of residence shall be financially responsible for such examinations and for all necessary legal expenses incurred in providing protective services.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71A .0702 MOVEMENT OF ADULT TO ANOTHER COUNTY**

(a) If a disabled adult who moves to another county has consented to the provision of protective services and no court order is involved, the county department providing protective services shall ask the disabled adult to consent for information to be shared with the department in the new county of residence. If the adult does not consent, the department providing protective services shall not share information with the department in the new county of residence. If the adult consents, the department shall notify the department in the new county of residence of the disabled adult's situation. The department in the new county of residence shall contact the disabled adult to determine whether or not protective services continue to be needed and, if so, if the disabled adult consents to their provision.

(b) If the department in the original county of residence has been providing protective services under a court order, the department shall file a motion in the court to be relieved of responsibility because the disabled adult has moved to another county. The department shall make a protective services referral to the department in the new county of residence. The department in the new county of residence shall evaluate the adult's current situation to determine whether or not protective services are needed and, if so, shall request authority to provide services.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SECTION .0800 - CONFIDENTIALITY**

### **10A NCAC 71A .0801 COLLATERAL CONTACTS**

Collateral contacts with persons knowledgeable about a disabled adult's situation may be made without the adult or caretaker's consent when such contacts are necessary to complete a protective services evaluation.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;

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

#### **10A NCAC 71A .0802 IDENTITY OF COMPLAINANT AND OF INDIVIDUALS WHO HAVE KNOWLEDGE OF THE SITUATION**

The identity of the complainant and of individuals who have knowledge of the situation of the disabled adult shall be kept confidential unless the court requires that such persons' identities be revealed with the exceptions that:

- (1) the complainant's name and the names of individuals who have knowledge of the situation of the disabled adult may be given verbally to the Division of Health Service Regulation when requested by that agency in order to carry out its investigation, and
- (2) to the District Attorney's office and to law enforcement agencies which are prosecuting or conducting a criminal investigation of alleged abuse, neglect or exploitation of a disabled adult.

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991;  
Temporary Amendment Eff. December 12, 1995;  
Amended Eff. April 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71A .0803 SPECIFIC FINDINGS**

Specific findings of the evaluation shall be kept confidential and shall not be released without consent of the disabled adult or court order, except that the department of social services at its discretion may share information about the adult with other persons or agencies without the adult or caretaker's consent to the extent necessary to provide protective services. When evidence of abuse, neglect, or exploitation is found, and upon request of the district attorney or law enforcement agencies, such information shall be sent to help with a criminal investigation or prosecution of abuse, neglect or exploitation.

*History Note: Authority G.S. 143B-153; 108A-80(d);  
Eff. November 1, 1983;  
Temporary Amendment Eff. December 12, 1995;  
Amended Eff. April 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71A .0804 REFERRAL TO ANOTHER COUNTY**

When a client who is receiving protective services under court order moves from one county to another, a protective services referral may be made by the first county to the second county without the client's consent. When the second county requests information in order to conduct its evaluation, the first county shall provide the needed information, including all information about the protective services report, results of the evaluation, and services provided to remedy the protective services problem.

*History Note: Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71A .0805 RELEASE OF SPECIFIC FINDINGS TO OTHER GOVERNMENTAL AGENCIES**

Federal, state, and law enforcement agencies may be sent copies of the written report as specified in Rule .0901 of this Subchapter when the results of the adult protective services evaluation indicate violations of statutes, rules, or regulations enforced by these agencies.

*History Note: Authority G.S. 108A-103; 143B-153;  
Eff. December 1, 1991;*



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

#### **10A NCAC 71A .0806 ADULT PROTECTIVE SERVICES REGISTER**

(a) Information submitted by county departments of social services to the Adult Protective Services Register is confidential. Non-identifying statistical information and general information about the scope, nature and extent of adult abuse, neglect and exploitation in North Carolina is not subject to this Rule of confidentiality.

(b) Access to the Adult Protective Services Register is restricted to:

- (1) the county department of social services,
  - (A) in order to identify whether an adult who is the subject of an Adult Protective Services evaluation has been previously reported and evaluated under G.S. 108A, Article 6 in any county in the state; or
  - (B) in order to share client specific information with an out-of-state protective services agency to assure that protective services will be made available to an adult previously served in North Carolina as quickly as possible for the purpose of preventing further abuse, neglect or exploitation; or
  - (C) in order to share client specific information with law enforcement agencies to assure that protective services will be made available to an adult as quickly as possible;
- (2) the Division of Social Services staff,
  - (A) in order to perform duties pertinent to managing and maintaining the Register and monitoring, auditing, evaluating or facilitating the administration of other state and federal programs regarding Adult Protective Services based on information in the Register, or
  - (B) in order to share client specific information with an out-of-state protective services agency to assure that protective services will be made available to an adult previously served in North Carolina as quickly as possible for the purpose of preventing further abuse, neglect or exploitation; and
- (3) individuals who receive approval to conduct studies of cases in the Adult Protective Services Register.
  - (A) Such approval must be requested in writing to the Director, Division of Social Services. The written request will specify and be approved on the basis of:
    - (i) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices in the area of prevention, identification and treatment of adult abuse, neglect and exploitation;
    - (ii) a description of how the study will be conducted and how the findings will be used;
    - (iii) a presentation of the individual's credentials; and
    - (iv) a description of how the individual will safeguard the information.
  - (B) Access will be denied when in the judgment of the Director the study will have minimal impact on either knowledge or practice.

*History Note: Authority G.S. 108A-80; 108A-103; 143B-153; Eff. March 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **SECTION .0900 - DOCUMENTATION AND REPORTS**

##### **10A NCAC 71A .0901 WRITTEN REPORT OF THE EVALUATION**

(a) Written reports shall be completed when:

- (1) the adult protective services evaluation was conducted on a patient or resident of a facility as defined in G.S. 131E-101, 131D-2(a)(3), or 122C; or
- (2) evidence of abuse, neglect or exploitation is found.

(b) After completing the evaluation, the written report shall be compiled, including the following information:

- (1) the name, address, age and condition of the adult;

- (2) the allegations (the written report shall not include the identity of the person making the complaint);
- (3) the evaluation including the agency's findings and supporting documents (e.g. psychological, medical report);
- (4) conclusions;
- (5) recommendations for action.

*History Note:* Authority G.S. 108A-103; 143B-153;  
Eff. November 1, 1983;  
Amended Eff. December 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0902 CARETAKER INTERFERENCE: PETITION TO COURT**

In preparation for petitioning the court for an order enjoining a caretaker from interfering with the provision of protective services, the worker shall document:

- (1) the date, time and circumstances under which the disabled adult's consent for services was given; and
- (2) the attempts which were made to obtain the caretaker's consent including:
  - (a) the circumstances under which the caretaker's consent was requested; and
  - (b) the information provided to the caretaker before asking for the caretaker's consent.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0903 PROTECTIVE SERVICES PETITION TO COURT**

In preparation to petition the court for an order authorizing the provision of protective services, the worker must document the facts which show that:

- (1) the disabled adult is being abused, neglected, or exploited; and
- (2) the adult lacks the capacity to consent to such services.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0904 EMERGENCY PETITION TO COURT**

The information required by G.S. 108A-106(c) to be included in the petition shall be documented in the agency file.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71A .0905 FINANCIAL EXPLOITATION: PETITION TO COURT**

In preparation to petition the court under G.S. 108A-106(f), documentation must be made of specific information indicating that:

- (1) the adult lacks the capacity to consent;
- (2) the adult is in need of protective services;
- (3) the adult is being financially exploited; and
- (4) no one else is able or willing to arrange for protective services.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 1983;

*Amended Eff. July 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71A .0906 REPORT TO DISTRICT ATTORNEY**

Notification to the district attorney in accordance with G.S. 108A-109 shall be in written form and shall include the information specified in Rule .0901 of this Section.

*History Note: Authority G.S. 143B-153;*  
*Eff. November 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71A .0907 REPORT TO THE COMPLAINANT**

(a) The required notice to the complainant may be oral or in writing at the discretion of the complainant and shall be made immediately on completing the evaluation. It shall include a statement of whether or not the report was substantiated and, if so, a statement that the agency is providing continued services.

(b) Documentation shall be made of when and how the notice is given.

(c) In order to protect the client's confidentiality, the notice shall not include specific findings of the evaluation.

*History Note: Authority G.S. 143B-153;*  
*Eff. November 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71A .0908 CASE RECORD**

A separate record, or a separate section of an existing record, shall be established to contain information on protective services provided to an adult, including the following:

- (1) the report of a need for protective services;
- (2) the written report by the department;
- (3) any court documents about the case; and
- (4) other information relative to the evaluation of the report and the provision of protective services.

*History Note: Authority G.S. 108A-103; 143B-153;*  
*Eff. November 1, 1983;*  
*Amended Eff. December 1, 1991;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**SUBCHAPTER 71B – GUARDIANSHIP SERVICES**

**10A NCAC 71B .0101 DISINTERESTED PUBLIC AGENT AS GUARDIAN**

(a) When a disinterested public agent is appointed to serve as a guardian by the clerk of superior court, the appointed disinterested public agent is authorized and required to serve as guardian in accordance with the "Clerk's Order" and in accordance with the "guardian or guardians letters of appointment" issued pursuant to G.S. 35A-1210 through 1216.

(b) When a disinterested public agent is appointed as guardian, he shall carry out the following responsibilities in addition to duties identified in G.S. 35A-1210 through 1216:

- (1) after July 1, 1985, he shall have received or must obtain training as described in Rule .0102 of this Subchapter on the responsibilities of a guardian;
- (2) he shall see the ward as frequently as needed and appropriate and shall have contact related to the ward no less than once every 90 days;
- (3) he shall allow the ward to exercise independent decision making and to assume as much responsibility and independence as is reasonable considering the ward's abilities, limitation, functioning capability and scope of the guardianship;

- (4) when he ceases to qualify as a disinterested public agent, the guardian shall notify the clerk of superior court who will then appoint a successor guardian;
- (5) when the ward appears to be no longer incompetent, the guardian shall petition the clerk of superior court for restoration to competency; and
- (6) if a designated agency has not been appointed, the guardian shall petition the clerk of superior court for a designated agency to be appointed to receive status reports.

*History Note:* Authority G.S. 35A-1216;  
 Eff. July 1, 1984;  
 Amended Eff. November 1, 1989;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71B .0102 TRAINING REQUIREMENTS**

Any disinterested public agent appointed as guardian must have completed training provided or approved by the Department of Health and Human Services concerning the powers and responsibilities of a guardian. A disinterested public agent must complete the training prior to or within one year of the appointment as guardian.

*History Note:* Authority G.S. 35A-1216;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **SUBCHAPTER 71C – ADULT PLACEMENT SERVICES**

#### **SECTION .0100 - SERVICE REQUIREMENTS**

##### **10A NCAC 71C .0101 INTAKE AND SCREENING**

(a) The initial request or referral must be screened to determine whether the potential client appears to be in the target population codified in 10A NCAC 71R .0919, which is incorporated by reference, including subsequent amendments and editions. Copies of this Rule may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule. Documentation must reflect how the criteria in the target population were determined to be met.

(b) When Adult Placement Services are requested, an application must be made in accordance with 10A NCAC 71R .0400, which is incorporated by reference, including subsequent amendments and editions. Copies of this Rule may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule. An application is not required when the only services provided are information regarding placement options and procedures, referral to a more appropriate resource, or consultation with another service provider.

(c) If an application for Adult Placement Services has been made by a responsible party for an individual who then refuses these services, this refusal must be honored. The social worker must offer other services and accept an application or make a referral for other services as requested by the client. If, however, Adult Placement Services or other services are authorized by one of the following legal surrogate decision-makers or by a court order, the service will be provided as requested:

- (1) a legally appointed guardian of the person or general guardian;
- (2) an attorney-in-fact appointed in a durable Power of Attorney, which grants relevant duties and is in effect; or
- (3) a health care agent appointed in a Health Care Power of Attorney, which grants relevant duties and is in effect.

If there is reasonable cause to believe during the intake and screening, assessment, service planning or provision of any services that the individual is an abused, neglected or exploited disabled adult in need of protective services, an Adult Protective Services referral must be made. If there are indications that the individual may be incompetent as defined in G.S. 35A-1101(7) and needs a guardian to facilitate the provision of services, a social worker will explore

options with the referral source, family members or within the agency for facilitating incompetency proceedings and the appointment of a guardian.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0102 ASSESSMENT AND SUPPORTIVE COUNSELING**

(a) A thorough assessment must be conducted of the client's situation, including strengths and limitations in the following areas:

- (1) physical health;
- (2) mental health;
- (3) social system;
- (4) activities of daily living and instrumental activities of daily living;
- (5) economic and financial circumstances; and
- (6) environment.

(b) With the exception of the circumstances listed below the client must be seen personally by the social worker as many times as is necessary to do a thorough assessment in the six areas, but a minimum of one time. The personal contact may be in a setting other than the client's home, if the client or others can provide the necessary information for an assessment of the client's living environment, and, if during the course of the assessment, it does not appear that in-home services will be needed or appropriate as an alternative to placement or as an interim service plan.

(c) For the following situations, an assessment must be done as thoroughly as possible with information and resources available to the social worker, without requiring personal contact with the client to complete the assessment.

- (1) a client who is not currently living in the county in which the application is made;
- (2) a client who is in an emergency situation, where a placement is needed quickly and personal contact would be a barrier to achieving a quick placement;
- (3) a client whose case is being transferred within the agency or referred by another service provider or facility, and an assessment which addresses all six functional areas is available. This assessment must be updated to reflect current information.

(d) Documentation must reflect the reason the client was not seen personally in conducting the assessment.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. March 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0103 SERVICE PLANNING**

A service plan must be developed which addresses problems identified during the assessment and which takes into account client and family strengths and goals. The client must be involved in the service planning process as much as he is capable of doing so. The service plan must document activities to meet goals.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0104 PRE-PLACEMENT PROCEDURES**

(a) The county department of social services is responsible for facilitating the completion and prior approval of FL-2, MR-2 and Pre-Admission Screening and Annual Resident Review (PASARR) Level I screening forms for clients receiving Adult Placement Services by following procedures codified in 10A NCAC 13G .0702, 10A NCAC 22A .0101, 10A NCAC 22O .0108 and .0114, 10 NCAC 22B .0201 and .0202, and the regulations for Pre-Admission Screening and Annual Resident Review from the Omnibus Budget Reconciliation Acts (OBRA) of 1987 and 1990 published in the Federal Register, Volume 57, No. 230, pages 56450-56514, November 30, 1992. 10A NCAC 13G .0702, 22A .0101, 22O .0108 and .0114, 22B .0201 and .0202, and the regulations for Pre-Admission Screening and

Annual Resident Review are incorporated by reference, including subsequent amendments and editions. Copies of these Rules may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule. Copies of pages 56450-56514 of Volume 57, No. 230 of the Federal Register may be obtained from the Performance Reporting and Automation Branch, NC Division of Social Services, 325 N. Salisbury Street, 2415 Mail Service Center, Raleigh, NC 27699-2415, (919) 733-4530, at a cost of ten cents (\$.10) per page at the time of adoption of this Rule.

(b) The facilitation of FL-2, MR-2 and PASARR form completion can be accomplished by informing the client, family or other representative of procedures for getting the forms completed and following up to see that the procedures are followed. If the client is not able to follow the procedures and has no family or representative able or willing to do so, the social worker must work more directly with the physician or other health care provider to get the form(s) completed. This includes assisting the client in locating resources for completion of the form, including transportation and a physician.

(c) A Consent for the Release of Information must be obtained for every client who is receiving Adult Placement Services. The consent must be obtained according to rules codified in 10A NCAC 69, which are incorporated by reference, including subsequent amendments and editions. Copies of these Rules may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule.

(d) Social work staff must inform applicants for Adult Placement Services of the availability of State/County Special Assistance for Adults or Medicaid to cover the cost of care in a facility, and the procedures for making an application if they are interested and have not already applied.

(e) Local agency procedures must be established to assure that FL-2, MR-2, and PASARR (Level I screening or notice of final determination) forms are shared among income maintenance and social work staff when they have mutual clients.

(f) The social worker must coordinate with income maintenance staff regarding the eligibility of clients receiving Adult Placement Services, and must assist the client, family or representative in following procedures to establish eligibility for income maintenance programs as needed to facilitate placement or other services.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0105 LOCATING A BED AND SECURING PLACEMENT**

(a) Social workers in the county departments of social services are responsible for assisting clients who are receiving Adult Placement Services and their families or representatives to locate available beds in substitute homes, residential health care facilities, or independent housing in the community with services and charges suitable to their needs.

(1) County departments are not allowed to make referrals to or participate in plans for placing individuals in domiciliary homes, nursing facilities, or any other facility placement arrangements which do not comply with the Civil Rights Act of 1964, or to provide Adult Placement Services to individuals residing in those homes or facilities.

(A) A list of all licensed domiciliary homes, and group homes operated by or under contract with area mental health authorities which have signed a Civil Rights Compliance Statement are published quarterly by the Adult and Family Services Section of the Division of Social Services. This list may be obtained at no cost by contacting the Adult and Family Services Section at (919) 733-7145 or 325 N. Salisbury Street, 2405 Mail Service Center, Raleigh, NC, 27699-2405.

(B) A list of licensed health care facilities which are Medicaid or Medicare certified, and therefore have signed a statement of compliance with the Civil Rights Act of 1964, is available from the Certification Section of the Division of Health Service Regulation by request. This list may be obtained at no cost by contacting the Licensure and Certification Section at (919) 733-7461 or 2711 Mail Service Center, Raleigh, NC, 27699-2711.

(C) In addition to procedures in Parts (a)(1)(A) and (B) of this Rule, the inclusion of a statement of compliance with the Civil Rights Act of 1964 in the home or facility's

admissions policies, or the posting of a Medicaid or Medicare certification in a nursing home, will indicate compliance.

- (2) If the social worker cannot determine compliance with the Civil Rights Act of 1964 according to Parts (a)(1)(A), (B), or (C) of this Rule, referrals, planning for placement, and services to individuals in those homes or facilities must not be provided.

(b) When an available and appropriate placement for a client has been located, the social worker will assist the client and his family or representative in planning for and facilitating the admissions process. If the client, family or representative is not able or willing to follow admissions procedures, the social worker will provide more direct assistance as needed to facilitate the placement.

(c) The social worker must coordinate with income maintenance staff (if applicable) to assure that eligibility for State/County Special Assistance for Adults or Medicaid is established, assure that there is an understanding between the facility and client about how payment will be made, or assist the client in making alternate arrangements prior to the date of placement.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0106 POST-PLACEMENT ADJUSTMENT**

(a) County departments of social services are responsible for providing or facilitating services to assist clients receiving Adult Placement Services to adjust to their placements or independent settings. This includes clients for whom the county department has facilitated placement arrangements as well as clients already living in facilities who request or are referred for services.

(b) Adjustment services include psychosocial adjustment as well as assuring that supportive services and financial arrangements are in place.

(c) These services may be facilitated by assuring that another agency, facility staff member, family member or other representative is assisting the client with adjustment. If another agency, facility staff member, family member or representative is not assisting the client, the social worker will provide these services until a satisfactory adjustment has been made or until alternate services are in place for the client. The county department must provide or facilitate adjustment services a minimum of 30 days after the client's admission or relocation to a facility or other living arrangement.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71C .0107 TERMINATION OF ADULT PLACEMENT SERVICES**

(a) Prior to Adult Placement Services being terminated, the social worker must review available information and make contacts with significant persons to determine whether services need to be continued, and to reach closure with the client and involved parties. If there are no identifiable client needs that can be addressed by the agency, or those needs are being met by another party, Adult Placement Services may be terminated in accordance with policies codified in 10A NCAC 71R .0600, which is incorporated by reference, including subsequent amendments and editions. Copies of this Rule may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule. If Adult Placement Services have been ordered by the court under Adult Protective Services, services will terminate when the order expires.

(b) Contacts may be made in person, by telephone, or by letter but must allow for sufficient information to be obtained to make a determination about the need for services.

(c) Documentation must reflect the contacts which were made to make the determination.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71C .0108 COORDINATION WITH OTHER SERVICE PROVIDERS**

Documentation in the client's case record must include information about other agencies or service providers who are known to be involved with the client. If any of those parties are involved in placement, adjustment, or relocation services with the client, documentation must reflect how these services are being coordinated so as not to duplicate efforts. If the placement social worker in the department of social services is the most appropriate or only source of assistance, and the client meets the criteria in the target population in 10A NCAC 71R .0919, an application must be made in accordance with 10A NCAC 71R .0400 and Adult Placement Services provided. 10A NCAC 71R .0919 and .0400 are incorporated by reference, including subsequent amendments and editions. Copies of these Rules may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to ten pages and fifteen cents (\$.15) for each additional page at the time of the adoption of this Rule.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**SUBCHAPTER 71D – ADULT CARE HOME CASE MANAGEMENT SERVICES**

**SECTION .0100 – GENERAL POLICIES**

- 10A NCAC 71D .0101 AVAILABILITY**
- 10A NCAC 71D .0102 CASE MANAGEMENT ACTIVITIES**
- 10A NCAC 71D .0103 DESIGNATED AGENCIES**

*History Note:* Authority G.S. 131D-4.3; 143B-153;  
Temporary Adoption Eff. January 1, 1996;  
Eff. April 1, 1997;  
Expired Eff. June 1, 2017 pursuant to G.S. 150B-21.3A.

**SUBCHAPTER 71E - RESIDENT EVALUATION SERVICES FOR ADULTS**

**SECTION .0100 - GENERAL POLICIES**

- 10A NCAC 71E .0101 DEFINITIONS**
- 10A NCAC 71E .0102 AVAILABILITY OF THE SERVICE**
- 10A NCAC 71E .0103 DEFINITION OF THE SERVICES**
- 10A NCAC 71E .0104 TARGET POPULATION**
- 10A NCAC 71E .0105 RESIDENT EVALUATION INSTRUMENT**
- 10A NCAC 71E .0106 EVALUATION AND REFERRAL**
- 10A NCAC 71E .0107 TRAINING REQUIREMENTS FOR RESIDENT EVALUATORS**
- 10A NCAC 71E .0108 METHODS OF SERVICE PROVISION**
- 10A NCAC 71E .0109 CASE RECORD**

*History Note:* Authority G.S. 143B-153; S.L. 1999-237;  
Temporary Adoption Eff. January 1, 2000;  
Eff. April 1, 2001;  
Repealed Eff. July 1, 2012.

**SUBCHAPTER 71F – INDIVIDUAL AND FAMILY ADJUSTMENT SERVICES**



### **10A NCAC 71F .0101 NATURE AND SCOPE**

- (a) The definition of individual and family adjustment services is set forth in 10A NCAC 71R .0910.
- (b) Casework counseling is at the core of this service. In the context of this service casework counseling is a process between social worker and client based on a mutual exchange of ideas, opinions, information and consideration of alternatives intended to result in decisions and positive action on the part of the client which will contribute to resolution of or adjustment to identified problems.
- (c) Specialized counseling may be provided in the specified problem areas referred to in 10A NCAC 71R .0910.
- (d) Counseling as a part of this service is not psychotherapy nor is it treatment oriented.

*History Note: Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Amended Eff. July 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71F .0102 STAFF QUALIFICATIONS**

- (a) Casework counseling as a part of this service is to be provided by social workers who meet at least the minimum qualifications of a social worker trainee under state personnel regulations.
- (b) Social workers with the qualifications described in .0102(a) of this Rule may provide casework counseling as a part of this service without specialized training in the specified problem areas referred to in 10A NCAC 71R .0910 regardless of the nature of the client's problems.
- (c) County department of social services staff with qualifications less than the minimum required by state personnel regulations for a social worker trainee may be assigned to assist casework staff in the provision of this service as a part of a team approach when their activities in the case are supervised by the caseworker providing the individual and family adjustment services in the case.
- (d) Paraprofessional staff within a county department of social services may not carry case management responsibility for a service case.
- (e) In support of individually identified casework counseling objectives the supervising social worker may delegate paraprofessional staff to give certain information and instruction to clients, help arrange for and schedule client appointments with other resources, make follow-up contacts with client collaterals, or other service providers, and maintain with clients the kind of supportive relationship which can help keep them motivated to pursue achievement of their goals and assure continuity of service utilization within and outside the department of social services.
- (f) Homemaker services may be provided in conjunction with or in support of individual and family adjustment services, but homemakers may not provide this discrete service.
- (g) Specialized counseling in specified problem areas may be provided in county departments of social services only by staff with at least the minimum qualifications of a social worker trainee under state personnel regulations who have received training in the particular problem areas to which they are assigned.
- (h) County departments of social services must be able to document, if required to do so, that personnel assigned to deliver specialized counseling in the specified problem areas are appropriately qualified.
- (i) Staff providing social development through therapeutic group services must meet at least the minimum qualifications of a Social Worker I.

*History Note: Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Amended Eff. July 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71F .0103 METHODS OF PROVISION**

- (a) Individual and family adjustment services are to be made available by every county department of social services. This mandate does not require that specialized staff be made available for the purpose of providing specialized counseling aimed at dealing with the problems specifically identified in 10A NCAC 71R .0910. With respect to these problem areas, the mandate may be fulfilled by assisting individuals to recognize the need for and utilize community resources which provide specialized counseling.
- (b) Individual and family adjustment services may be provided directly by the county department of social services or purchased under contract. Camping experiences may be purchased also through direct and cash payments.

- (c) Contract provider staff delivering services directly to clients must have appropriate education, skill and experience to qualify them in the specific areas in which they are providing services.
- (d) Counseling may be provided in individual or group sessions.

*History Note: Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71F .0104 SOCIAL DEVELOPMENT THROUGH THERAPEUTIC GROUPS/DEFINITIONS**

- (a) "Structured Group" means a company of individuals brought together for a particular purpose with membership being selected purposefully on the basis of common characteristics, needs or problems that can be expected to be affected through group interaction.
- (b) "Therapeutic Group" means a structured company of individuals who meet together with a skilled leader for the purpose of:
  - (1) learning to copy with personal problems,
  - (2) developing capacities for more adequate social and personal function,
  - (3) relieving social isolation,
  - (4) increasing understanding between the group and the service agency.
- (c) "Handicapped" means impaired in mind or body with reasonable certainty that, because of the irremediable character of the impairment, the impairment cannot be improved, corrected or ameliorated and will continue at the same level of seriousness throughout the lifetime of the individual, and the individual must learn to function within the set parameters of the impairment.
- (d) "Developmentally Disabled" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological handicapping condition of any individual found to be closely related to mental retardation or to require treatment similar to that required by mentally retarded individuals.
- (e) "School Age" means age 5 through 15, or age 16 and older and attending or enrolled in school through grade 12.
- (f) "Family" means the basic unit consisting of one or more adults and children, if any, residing in the same household.
- (g) "Youth" means an individual who has not reached his or her eighteenth birthday.
- (h) "Delinquent Behavior" means behavior within the scope of the definition of delinquent juvenile in G.S. 7A-517.
- (i) "Undisciplined Behavior" means behavior within the scope of the definition of undisciplined juvenile in G.S. 7A-517.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71F .0105 SOCIAL DEVELOP/THERAPEUTIC GROUPS/CRITERIA/SERV PROVISION**

- (a) Social development through therapeutic group services is always provided for two or more individuals at the time.
- (b) The group must always be both structured and therapeutic as defined in (a) and (b) of Rule .0104 in this Subchapter.
- (c) The group must always be guided by a qualified leader who can be expected to direct group interaction towards the therapeutic goal. As a minimum, the leader must have the qualifications of a Social Worker I as shown in state personnel requirements and have experience or training providing social services by the group work method.
- (d) Recreational activities are allowable only to the extent that they are specifically supportive of the purpose of social development through therapeutic group services and must be consistent with the focus of other services provided as part of the service plan.
- (e) Day or residential camp is limited to school age children. School age may be verified by documenting that the child is attending school or enrolled to attend school in one of the grades of kindergarten through 12, or by birth

verification showing age 5 through 15. Age 16 and older must be attending or enrolled in school up through grade 12. Age must be verified by:

- (1) a birth certificate,
- (2) a hospital record or certificate,
- (3) social security records,
- (4) the client's notarized affidavit.

(f) Therapeutic camp is available to developmentally disabled or handicapped individuals and their families and to youths whose behavior is delinquent or undisciplined. The existence of a disability or a handicap must be established on the basis of professional diagnosis by a person or authority competent to make such a diagnosis. For purposes of determining initial eligibility, documentation of a diagnosis of disability made within the past 12 months is acceptable. The continuing existence of a disability must be redocumented at least every 12 months. With respect to handicaps, the record must document that a diagnosis of permanent impairment has been made. Reevaluation of a handicap is not required unless there is reason to believe that the character of the impairment may have changed. Verification of family may be established by the delinquent or undisciplined behavior may be determined by the statement of the youth's parent, guardian or custodian or by knowledge of the worker.

(g) Groups formed solely for the purpose of relieving social isolation are limited to aging or disabled or handicapped.

(h) Any building used in the provision of a therapeutic group must meet local or state, fire, sanitation, and safety building codes.

(i) Until the State of North Carolina establishes camp standards, American Camping Association camp standards must be followed.

(j) Reimbursement is allowable for staff time in arranging for or providing social development through therapeutic group services and for the use of facilities involved. Reimbursement is not allowable for the cost of refreshments, admission fees, or transportation.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SUBCHAPTER 71G - STATE ABORTION FUND**

### **10A NCAC 71G .0101 NATURE AND SCOPE**

#### **10A NCAC 71G .0102 ELIGIBILITY**

*History Note:* Authority G.S. 14-45.1; 143B-153; 1995 S.L., c. 324, s. 23.27;  
Eff. February 1, 1978;  
Amended Eff. February 1, 1986; January 1, 1983;  
Temporary Amendment Eff. August 13, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. November 1, 1995; December 1, 1993;  
Expired Eff. June 1, 2017 pursuant to G.S. 150B-21.3A.

#### **10A NCAC 71G .0103 RESERVED FOR FUTURE CODIFICATION**

### **10A NCAC 71G .0104 COUNTY DEPARTMENT OF SOCIAL SERVICES RESPONSIBILITIES**

*History Note:* Authority G.S. 14-45.1; 143B-153; 1985 S. L., c. 479, s. 93;  
Eff. December 1, 1990;  
Expired Eff. June 1, 2017 pursuant to G.S. 150B-21.3A.

## **SUBCHAPTER 71H – PERSONAL AND FAMILY COUNSELING**

### **10A NCAC 71H .0101 SERVICE STAFF QUALIFICATIONS**

Minimum qualifications have been established for personal and family counseling service staff to promote competence and accountability in the delivery of personal and family counseling services and to ensure that recipients will be protected from non-professional untrained practitioners who represent themselves to the public as qualified marriage and family counselors:

- (1) Counselors operating independently as private practitioners must meet the requirements in at least one of the following categories:
  - (a) Graduation with a master's degree from an accredited school of social work, eligible for or holding membership in the National Association of Social Workers, eligible for or holding membership in the Academy of Certified Social Workers, and five years of full-time experience in agencies providing supervision by professionally trained social workers, of which two years were consecutively in one agency under such supervision while giving direct service and using the method or methods to be used in private practice;
  - (b) Graduation with a doctoral degree in psychology from an accredited educational institution, two years of subsequent professional experience as a psychologist at least one of which involved providing direct services and using the method or methods to be used in private practice; and licensed as a practicing psychologist under the laws of North Carolina;
  - (c) Licensure and registration in North Carolina as a nurse, graduation from an accredited master's program in psych-mental health or behavioral science and five years of full-time clinical experience in agencies providing supervision by qualified psychiatric nurse practitioners, of which two years were consecutively in one agency under such supervision, while giving direct service and using the method or methods to be used in private practice;
  - (d) Graduation with a master's degree from an accredited educational institution in a related behavioral science field, mental health discipline or theology and eligible for or holding membership in the American Association of Marriage and Family Therapists, or the American Group Psychotherapy Association, or the American Association of Pastoral Counselors and five years of full-time experience in agencies providing supervision by professionally qualified individuals as defined in Subparagraph (3) of this Rule, of which two years were consecutively in one agency under such supervision while giving direct services and using the method or methods to be used in private practice;
  - (e) A privately practicing psychologist delivering this service must also be licensed at the practitioner level in compliance with G.S. 90-270.11.
- (2) With supervision, counselors may practice within a public (including department of social services) or private service agency if they meet the requirements in at least one of the following categories:
  - (a) master's degree from an accredited school of social work and two years of advanced full-time social work experience in a professional counseling program under the supervision of a qualified professional as defined in Subparagraph (3) of this Rule;
  - (b) master's degree from an accredited educational institution in an appropriate behavioral science field, mental health discipline or theology and three years of advanced full-time social work experience in a professional counseling program under the supervision of a qualified professional as defined in Subparagraph (3) of this Rule.
- (3) Personal and family counselor supervisors must meet the qualifications in one of the following categories:
  - (a) graduation with a master's degree from an accredited school of social work, eligible for holding membership in the Academy of Certified Social Workers, and five years of full-time experience in agencies providing supervision by professionally trained social workers, of which two years were consecutively in one agency under such supervision while giving direct service and using the method or methods to be used in private practice;
  - (b) graduation with a doctoral degree in psychology from an accredited educational institution, two years of subsequent professional experience as a psychologist at least one

of which involved providing direct services and licensed as a practicing psychologist under the laws of North Carolina;

- (c) licensure and registration in North Carolina as a nurse, graduation from an accredited master's program in psych-mental health or behavioral science and five years of full-time clinical experience in agencies providing supervision by professionally qualified psychiatric nurse practitioners, of which two years were consecutively in one agency under such supervision, while giving direct service and using the method or methods to be used in private practice;
- (d) graduation with a master's degree from an accredited educational institution in a related behavioral science field, mental health discipline or theology and eligible for or holding membership in the American Association of Marriage and Family Therapists, or the American Group Psychotherapy Association or the American Association of Pastoral Counselors and five years of full-time experience in agencies providing supervision professionally qualified of which two years were consecutively in one agency under such supervision while giving direct services and using the method or methods to be used in private practice.

*History Note:* Authority G.S. 143B-153;  
Eff. February 16, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990; July 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71H .0102 CASELOAD**

Personal and family counselors operating full-time within a county department of social services shall carry no more than 25 active cases, and shall limit actual counseling time to 25 hours a week.

*History Note:* Authority G.S. 143B-153;  
Eff. February 16, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71H .0103 MAXIMUM RATES AND REIMBURSEMENT**

- (a) Department of Social Service Staff. Reimbursement for personal and family counseling services delivered directly by the county department of social services staff may be claimed in accordance with procedures established by the controller.
- (b) Purchase Contracts. Reimbursement for personal and family counseling provided under a purchase of service contract will be made in accordance with the terms of each individual contract. Procedures for claiming reimbursement are established by the controller. Contract providers shall not charge or collect additional payment from clients for the delivery of services authorized by a county department of social services.
- (c) Vendor Agreements. Maximum rates have been set by the North Carolina Social Services Commission for the purchase of Personal and Family Counseling Services under contract. Information regarding the maximum rate is contained in policy material of the North Carolina Division of Social Services, Adult and Family Services Section, 325 North Salisbury Street, 2405 Mail Service Center, Raleigh, North Carolina 27699-2405.

*History Note:* Authority G.S. 143B-10; 143B-153;  
Eff. February 16, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990; January 1, 1984; October 19, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## SUBCHAPTER 71I - TRANSPORTATION SERVICES

### 10A NCAC 71I .0101 NATURE AND SCOPE

A description of the types of client transportation to be made available by a county department of social services as provided for within the definitions of the following services (10A NCAC 71R .0900) must be documented in the local transportation development plan or, in the absence of a transportation development plan, in the minutes of the county social services board reflecting board approval:

- (1) Community living services;
- (2) Day care services for adults;
- (3) Employment and training support services;
- (4) Health support services;
- (5) Transportation services.

*History Note: Authority G.S. 143B-153;  
Eff. February 16, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990; July 1, 1984; July 23, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### 10A NCAC 71I .0102 METHOD OF PROVISION

Transportation services may be provided directly by the county department of social services, or through purchase of service contracts, or by vendor payment, or by cash payment to the client, or through volunteers. The department of social services may choose to use one or more of these methods concurrently. The transportation resources chosen shall appropriately meet the clients' individual needs in the most cost effective manner possible.

- (1) Direct Provision.
  - (a) Driver Qualifications. All county departments of social services staff, including full-time drivers, volunteers, and other staff whose regular primary responsibilities include transporting clients to and from service resources must be at least 18 years of age and hold an appropriate operator's license as required by G.S. 20-7.
  - (b) Insurance Requirements. County departments of social services providing direct transportation services shall have sufficient liability and comprehensive insurance coverage to adequately protect the agency and the individuals transported. A guide for minimum coverage shall be the amount required for common carrier-passenger vehicles by the North Carolina Utilities Commission, Department of Commerce, 430 N. Salisbury Street, 4325 Mail Service Center, Raleigh, N.C 27699-4325.
- (2) Purchase Contracts and Vendor Agreements.
  - (a) Driver Qualifications. Drivers operating under a transportation services contract must be at least 18 years of age and must hold an appropriate operator's license as required by G.S. 20-7.
  - (b) Minimum insurance requirements for contracted services transportation services contractors must have liability and comprehensive insurance coverage no less than the minimum required for common carrier-passenger vehicles by the North Carolina Utilities Commission for each vehicle used to transport Social Services Block Grant (Title XX) eligible individuals.
- (3) Public Conveyance.
  - (a) Maximum Rates. Maximum rates and reimbursement for direct purchase of services by public conveyance is the established standard charge for taxi service, city bus fare, intercity bus tickets, railway passenger rates, tourist class air fare, etc. established by the controller.
  - (b) Driver Qualifications. Public conveyance operators must meet the statutory requirements for their classification and operator responsibilities.
  - (c) Minimum Insurance Requirements. Each public conveyance agency must have liability and comprehensive insurance coverage for its particular classification no less than the minimum required by the laws of North Carolina and where applicable by federal regulations.
- (4) Payment to Friends, Relatives and Others.

- (a) Maximum Rates and Reimbursement. A relative, friend or other nonrelated individual who provide transportation for a client may be paid up to the state's maximum travel allowance per vehicle mile for automobile expenses, as established in G.S. 138-6, and up to the federal minimum hourly wage for time spent providing the service.
  - (b) Driver Qualifications. An individual providing transportation under a vendor payment agreement as a relative, friend or other non-related individual must hold a valid operator's license, as required by law.
  - (c) Minimum Insurance Requirements. An individual providing transportation under a vendor payment agreement as a relative, friend or other nonrelated individual and using his own vehicle must have at least the minimum liability insurance coverage required by law on the vehicle used to transport the client.
- (5) Cash Payments. County departments of social services may provide transportation through cash payments in accordance with policies relating to cash payments issued by the Director of the Division of Health Service Regulation to eligible individuals who are capable of arranging and purchasing transportation for themselves.
  - (6) Volunteers. Volunteers attached to county department of social services, as members of volunteer service agencies or groups or as independent individuals may be used in various ways to support the transportation program. Volunteers whose regular responsibilities include driving clients to resources shall be at least 18 years of age, hold an appropriate operator's license as required by G.S. 20-7 and carry at least the minimum insurance coverage on the vehicle used to transport clients as is required by the North Carolina Utilities Commission for common carrier-passenger vehicles.

*History Note:* Authority G.S. 143B-153;  
 Eff. February 16, 1977;  
 Readopted Eff. October 31, 1977;  
 Amended Eff. July 1, 1990; February 1, 1986; July 1, 1984; July 23, 1979;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SUBCHAPTER 71J - HEALTH SUPPORT SERVICES**

### **10A NCAC 71J .0101 NATURE AND PURPOSE**

- (a) The definition of health support services is set forth in 10A NCAC 71R .0900.
- (b) Medical services (diagnosis, treatment and care) are limited to nontherapeutic sterilization.

*History Note:* Authority G.S. 143B-153;  
 Eff. March 1, 1977;  
 Readopted Eff. October 31, 1977;  
 Amended Eff. July 1, 1990; July 1, 1984; June 1, 1982; September 15, 1978;  
 Temporary Amendment Eff. October 21, 1996;  
 Amended Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71J .0102 METHODS OF PROVISION**

- (a) Health support services may be provided directly by the county department of social services or may be purchased.
- (b) In cases where the recipient is able to arrange for and obtain the resource items described in Rules .0108 (b), .0110 and .0111 of this Subchapter, the cash payment method of provision may be used.

*History Note:* Authority G.S. 143B-153;  
 Eff. March 1, 1977;  
 Readopted Eff. October 31, 1977;  
 Amended Eff. July 1, 1984;

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

### **10A NCAC 71J .0103 SCOPE OF SERVICES**

Health support services are casework services designed to motivate individuals and families to utilize information and resources which will promote and preserve their optimum level of health thus increasing their potential to be happy and productive citizens:

- (1) Helping individuals and families to recognize health needs includes the provision of counseling, individual or group instruction and educational materials focused on the following:
  - (a) basic health needs such as nutrition, exercise, rest, cleanliness, regular physical examinations, necessary immunizations, perinatal care, maternal and child health, and family planning;
  - (b) noticeable physical problems or developmental disabilities such as speech impediments, crossed eyes, hearing difficulties, orthopedic irregularities, disfiguring scars or birth marks, skin allergies, dental cares, need for dental plates or braces, obesity, cerebral palsy, muscular dystrophy, etc.;
  - (c) identifiable mental health related problems, such as mental retardation, mental illness, emotional disturbance, alcohol or drug abuse;
  - (d) suspected chronic disease such as arthritis, emphysema, heart disease, kidney disease, diabetes, cancer, etc.;
  - (e) communicable disease such as tuberculosis, measles, mumps, polio, venereal diseases, etc.;
  - (f) physical and occupational therapy;
- (2) Helping individuals and families secure needed health services includes the following:
  - (a) referring them to appropriate resources for services and treatment to meet their individual needs;
  - (b) providing help, as needed, with applying for assistance with the costs of medical and health care;
  - (c) arranging for supportive services such as transportation and child care to enable them to utilize available resources for diagnosis and treatment;
- (3) Counseling and planning with individuals, families and health providers to assure continuity of treatment and carrying out of health recommendation includes the following:
  - (a) counseling with individuals and families as needed, about accepting and adjusting to health limitations;
  - (b) counseling with individuals and families regarding the importance of adhering to prescribed treatment plans by following doctors' orders and meeting all appointments for check-ups, treatment and therapy;
  - (c) help to individuals and families in scheduling appointments for continued treatment and services and in arranging for supportive services to enable them to keep scheduled appointments;
  - (d) assistance as needed in having prescriptions for medication filled and refilled including exploration of resources available to help with the cost of medication;
  - (e) assistance in locating and utilizing ancillary services to support the health plan such as in-home aide services, day care, preparation and delivery of meals, services to meet the special needs of the elderly, disabled or handicapped, transportation, etc.;
  - (f) coordinated planning with health providers to identify needs, locate resources and develop strategies for motivating the individual and his family to carry out health recommendations;
  - (g) follow-up periodically with the individual and his family to assess progress toward reaching service goals and the need for continued health support services;
- (4) Helping individuals to secure admission to medical institutions and children to secure admission to other health facilities includes the following:
  - (a) counseling with the individual and his family to help them accept the need for the recommended level of care and to work through any negative feelings they may have about such a move;
  - (b) assistance in locating appropriate resources and applying for admission;



- (c) help in exploring resources available for assistance with the cost of care;
- (d) arranging for supportive services such as appliances, equipment, supplies, transportation, etc.;
- (e) follow-up after admission and continuation of health support services as needed.

*History Note:* Authority G.S. 143B-153;  
 Eff. March 1, 1977;  
 Readopted Eff. October 31, 1977;  
 Amended Eff. March 1, 1994; June 1, 1982;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**10A NCAC 71J .0104 MEDICAL SERVICES**

- (a) Medical services related to nontherapeutic sterilization as described in 10A NCAC 71R .0900 must be performed by licensed or certified medical providers.
- (b) Nontherapeutic sterilization is provided only for persons 21 years of age or older who are capable of giving informed consent. Nontherapeutic sterilization is any procedure or operation the primary purpose of which is to render an individual permanently incapable of reproducing.

*History Note:* Authority G.S. 143B-153; 42 C.F.R. 441.253;  
 Eff. June 1, 1982;  
 Amended Eff. July 1, 1990; July 1, 1984;  
 Temporary Amendment Eff. October 21, 1996;  
 Amended Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**10A NCAC 71J .0105 FUNDING FOR MEDICAL SERVICES**

- (a) Title XIX (medicaid) shall be utilized as the first funding option for medical services. County departments of social services electing to provide medical services as described in 10A NCAC 71R .0900 shall be responsible for the processing and payment of provider claims pursuant to those medical services authorized by the county.
- (b) If individuals have health insurance which will cover all or part of the bill for medical services, the amount allowed under Social Services Block Grant (Title XX) will be the difference between the insurance payment and the maximum amount which would be allowed at medicaid rates. If the individual's insurance pays more than the allowable medicaid rate no funds will be available from Social Services Block Grant (Title XX).
- (c) Provider claims for authorized medical services must be filed within six months of the date of service.

*History Note:* Authority G.S. 143B-153;  
 Eff. June 1, 1982;  
 Amended Eff. July 1, 1990; July 1, 1984; July 1, 1982;  
 Temporary Amendment Eff. October 21, 1996;  
 Amended Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**10A NCAC 71J .0106 OPTIONAL RESOURCES**

Optional resources as defined in 10A NCAC 71R .0900 may be used to support a service plan developed for individuals who are aging, disabled or handicapped. For purposes of the optional resources, the following definitions and rules apply:

- (1) "Aging" means age 60 years or older.
- (2) "Disabled" means unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be improved, corrected or ameliorated but which can be expected to last, or which has lasted, for a continuous period of not less than 12 months.
- (3) "Handicapped" means impaired in mind or body with reasonable certainty that, because of the irremediable character of the impairment, the impairment cannot be improved, corrected or

- ameliorated and will continue at the same level of seriousness throughout the lifetime of the individual, and the individual must learn to function within the set parameters of the impairment.
- (4) Under these definitions a disability may be temporary in that, although it has existed or is expected to exist at least 12 months, there is the expectation that the impairment can be restored to some extent. Also, a disability may be total during the time that it does exist, i.e., the individual is unable to perform any substantial part of his ordinary activities. By contrast, a handicap is an impairment that is permanent and is not expected to be restored, but it may or may not be disabling to the individual in terms of his being able to perform his ordinary activities.
  - (5) An individual may be handicapped in terms of having an irremediable impairment but may also be considered disabled for purposes of impairments that can be improved, corrected or ameliorated. The two conditions are not mutually exclusive.
  - (6) "Own Home" means that the service recipient is living in a residence he maintains for himself or, with respect to an adult or child for whom a county department of social services or licensed child-placing agency has legal responsibility, a family care home for adults or a foster family home for children. "Own Home" does not include any group care beyond these particular family care arrangements, any institution as defined by law, a home for the aged (HA), skilled nursing facility (SNF) or an intermediate care facility (ICF).
  - (7) "Homebound" means that the individual lacks the mental or physical capacity to leave his home without assistance.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71J .0107 SPECIFIC ELIGIBILITY FOR OPTIONAL RESOURCES**

(a) In addition to meeting basic eligibility criteria, under the Social Services Block Grant (Title XX), as described in 10A NCAC 71R an individual must, in order to be eligible for the optional resources described in 71J .0108 - .0111 also be determined to be either aging, disabled or handicapped in accordance with the specified definitions.

(b) Age must be verified by:

- (1) a birth certificate,
- (2) a hospital record or certificate,
- (3) social security administration records, or
- (4) the client's notarized affidavit.

(c) The existence of a disability or handicap must be established on the basis of a professional diagnosis by a person or authority competent to make such a diagnosis. For purposes of determining initial eligibility, documentation of a diagnosis of disability made within the past 12 months is acceptable. Documentation that the individual is receiving supplemental security income benefits is sufficient for establishing the existence of a disability. The continuing existence of a disability must be re-documented every 12 months unless medical evidence would indicate the need to redocument more often. With respect to handicaps, the record must document that a diagnosis of permanent impairment has been made. Re-evaluation of a handicap is not required unless there is reason to believe that the character of the impairment may have changed.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71J .0108 OPTIONAL RESOURCES/COMPONENT 1**

(a) Interpreters may be provided for deaf persons to enable them to communicate their needs and to utilize and benefit from services and community resources that are otherwise unavailable to them because of communication problems.

- (1) Interpreter service is provided for individuals who have a hearing impairment that necessitates reliance upon the use of sign language for communication.

- (2) Selection of an interpreter is based on the client's need and the availability of individuals who can provide interpreter services.
  - (3) Prior to the provision of the service, a vendor agreement must be made covering the duties of the provider and the rate of pay. The amount of time provided is based on the recipient's needs; however, if the client will need an on-going or extended period of service, prior approval may be given but not to exceed the individual's period of eligibility.
  - (4) Allowable Costs and Reimbursement. Maximum rates have been set by the North Carolina Social Services Commission for purchase of interpreters for deaf persons under vendor agreements. Information regarding maximum rates is contained in policy material issued by the division and is available in accordance with 10A NCAC 71R .0302. When included in a vendor purchase agreement, payment may also be made for round trip travel by the interpreter between his work station and the deaf person needing services. Reimbursement for such travel payment is available up to the state's maximum travel allowance per vehicle mile for automobile expenses.
- (b) Telephones may be provided when not otherwise available for aging, disabled or handicapped individuals who are alone and homebound, or who have a health or medical condition which necessitates ready access to or frequent use of a telephone in their own home.
- (1) Telephones that adequately meet the needs of individuals at the lowest cost are sufficient.
  - (2) Installation costs, monthly costs or both may be provided, according to the individual's need.
  - (3) Long distance calls and toll charges require prior approval by the county department of social services or other provider agency.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71J .0109 OPTIONAL RESOURCES/COMPONENT 2**

- (a) Installation of ramps, rails, and other safety measures may be provided to increase mobility and enable a person to follow gainful activity in his own home without the threat of seriously damaging or injuring his health. Apparatuses in this category include bars, tub seats, grab bars, raised toilet seats, flexible shower heads, rails of all sorts, monkey bars, litters, drips, ramps, and other apparatuses which are affixed in a nonportable condition.
- (1) Reimbursement not to exceed reasonable and necessary costs is allowable for apparatuses and their installation and for periodic adjustment and repair. Installations must conform with local and state building codes.
  - (2) When the installation of an apparatus provided under this component involves substantial physical alteration or structural change to the premises, prior written approval must be obtained from the owner or authorized agent for the house in which the item is to be installed.
  - (3) When satisfactory use of an apparatus depends upon adequate instructions to the individual, the provider agency must ensure the provision of such instructions.
  - (4) Any apparatus provided through this component is purchased for the individual recipient. Therefore, the provider agency holds no ownership and may not reclaim the item. However, the recipient may make an agreement to donate the item to the agency for another client's use when he ceases to need it.
  - (5) When a particular apparatus is donated back to the agency by a previous user, reimbursement for the cost of the item may not be claimed again when it is provided to another client. However, reasonable and necessary charges for renovations and repairs may be claimed and reimbursed as a cost of service to the second recipient.
- (b) Escort service to health facilities and other needed resources is provided when aging, disabled or handicapped persons need to make use of a health or social resource but are either physically or mentally incapable of obtaining the service unaccompanied.
- (1) The specific reason it is believed that client is unable to travel and wait alone must be recorded in the case file. For purposes of this service, "unable to travel and wait alone" means the client's well-being would be endangered if he traveled and waited unaccompanied.
  - (2) Escort service requires prior approval by the county department of social services or other provider agency as applicable including the rate of reimbursement. In cases where service is

needed on an on-going basis, prior approval may cover a period of time not to exceed the client's period of eligibility.

- (3) Escort service may be provided through the use of volunteers.
- (4) Escort service is exempt from the minimum wage and overtime pay requirements of the Fair Labor Standards Act; however, reimbursement for paid escort time is available up to the minimum hourly wage.
- (5) Reimbursement for the cost of escort travel incurred when accompanying a client to needed resources is allowable as a part of this service at the same maximum rate established by the Social Services Commission for transportation services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71J .0110 OPTIONAL RESOURCES/COMPONENT 3**

Friendly visitors or companions may be arranged for or provided for part of a day to assist individuals who, because of frailty, physical or mental disability or social isolation have limited contacts with other people.

- (1) The provision of friendly visitors or companions requires prior approval by the county department of social services or contract provider in terms of hours of service and rate of pay where costs of the service are to be reimbursed.
- (2) It is appropriate to provide this service without cost through the use of trained volunteers.
- (3) Reimbursement for mileage is allowable at the maximum rate established by the Social Services Commission for transportation services.
- (4) Reimbursement is available for hours spent providing service based on rates agreed upon prior to the provision of the service. Companionship service is exempt from the Fair Labor Standards Act. The maximum allowable cost is the current minimum wage. Reimbursement is allowable for this service when a written vendor purchase agreement has been completed.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71J .0111 OPTIONAL RESOURCES/COMPONENT 4**

The special health needs component allows for the provision of necessities which constitute an imperative health need of an individual because of health deterioration or because the need is specific to the correction, improvement or amelioration of a disability, and the provision of such necessities will enable the individual to continue to live in his own home.

- (1) Reimbursement is allowable at costs not to exceed an amount reasonable and necessary to ensure quality products and to provide for periodic adjustment and repair.
- (2) The following items or services are specifically excluded from the scope of this resource component:
  - (a) diagnostic assessment or reassessment procedures;
  - (b) special food or diet regimen;
  - (c) clothing other than special apparel prescribed or advised by a physician;
  - (d) any furniture not in the nature of an adaptive device;
  - (e) supplies, appliances and equipment of a cosmetic nature unless the person cannot do without the item and continue to remain in his own home;
  - (f) services, equipment, supplies or appliances available under medicaid or medicare to the individual in his own home;
  - (g) x-rays -- diagnostic or treatment;
  - (h) a physician's care, physical, speech or occupation therapy;
  - (i) prescription drugs;
  - (j) non-prescription medicine except as advised or prescribed by a physician.

- (3) An item may be rented only if it is unavailable otherwise or the expected duration of need makes renting more cost-effective. Any item provided through this component is purchased for the individual recipient. Therefore, the provider agency holds no ownership and may not reclaim the item. However, the recipient may make an agreement to donate the item to the agency for another client's use when he ceases to need it.
- (4) When a particular item is donated back to the agency by a previous user as described in this Rule, reimbursement for the cost of the item may not be claimed again when it is provided to another client. However, reasonable and necessary charges for renovations and repairs may be claimed and reimbursed as a cost of service to the second recipient.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SUBCHAPTER 71K – PROBLEM PREGNANCY SERVICES**

### **SECTION .0100 – GENERAL**

#### **10A NCAC 71K .0101 METHODS OF PROVISION** **10A NCAC 71K .0102 FREEDOM OF CHOICE**

*History Note:* Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Repealed Eff. August 1, 2021.

## **SUBCHAPTER 71L – MATERNITY HOME FUND**

### **10A NCAC 71L .0101 NATURE AND SCOPE**

- (a) "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services> for an individual needing out-of-home care during pregnancy must be submitted by a county department of social services or a North Carolina licensed private adoption agency to the North Carolina Division of Social Services for review and approval.
- (b) The State Maternity Fund may assist with residential housing costs for up to 183 days, including up to two weeks of post-partum care for the mother only.
- (c) The State Maternity Fund shall not be utilized for hospitalization and delivery services or other medical services. All medical services for State Maternity Fund clients residing in alternate living arrangements must be provided through other resources.
- (d) The State Maternity Fund may be used to pay for residential care for a pregnant minor who is in the protective custody of a county department of social services when the minor is placed in a facility that is not approved to receive foster care funds.
- (e) Living arrangements for which State Maternity Fund payments may be utilized to pay for the cost of residential care include:
  - (1) A maternity home licensed by or meeting the maternity home standards of the State of North Carolina;
  - (2) A foster family home for children licensed in North Carolina and used in accordance with the license issued for that home;
  - (3) The home of a non-legally responsible relative in North Carolina jointly approved for a specific client by the North Carolina Division of Social Services and the agency requesting State Maternity Fund payments; or

- (4) For individuals 18 and over, a boarding arrangement in North Carolina jointly approved for a specific client by the North Carolina Division of Social Services and the referring agency.

*History Note: Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Amended Eff. July 1, 1990; January 1, 1983;  
Readopted Eff. September 1, 2021.*

#### **10A NCAC 71L .0102 APPROVAL CRITERIA**

- (a) A county department of social services or a North Carolina licensed private adoption agency shall provide information, develop a service plan, and coordinate services for pregnant clients for whom they are requesting State Maternity Fund payments.
- (b) Marital status and age shall not affect eligibility for State Maternity Fund payments.
- (c) The client must be a resident of the State of North Carolina to be eligible for State Maternity Fund payments.
- (d) State Maternity Fund payments shall supplement any other funds available from applicants, county departments of social services, families or private agencies. The agency requesting State Maternity Fund payments must review all financial resources available to the client. The agency must establish that resources available to the client are not adequate to meet residential costs.
- (e) State Maternity Fund payments to licensed maternity homes is based on the actual per diem cost of care. A maternity home shall maintain a valid maternity home license for a consecutive one year period and submit an audited financial statement to the North Carolina Department of Health and Human Services, Controller's Office (2019 Mail Service Center, Raleigh, NC 27699-2019) before the per diem rate is assigned. A licensed maternity home is eligible for reimbursement from maternity home funds in the second year of operation if this criteria is met and maternity home funds are available.
- (f) State Maternity Fund payments for care in a foster home is the North Carolina standard board rate for foster care assistance set by the General Assembly.
- (g) State Maternity Fund payments for care in the home of a non-legally responsible relative or in a boarding arrangement shall be the same as the North Carolina standard board rate for foster care assistance.

*History Note: Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Amended Eff. November 1, 2009; July 1, 1990; January 1, 1983;  
Readopted Eff. September 1, 2021.*

#### **10A NCAC 71L .0103 APPLICATION PROCESS**

- (a) County departments of social services and North Carolina licensed private adoption agencies shall submit applications on behalf of an eligible individual for the State Maternity Fund in writing on the "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>. The original must be submitted to the State Maternity Fund Coordinator, Family Support and Child Welfare Services Section, Division of Social Services and shall include the following information:
- (1) the reasons the client cannot remain in her own home (own home includes a foster care facility in which a child resides);
  - (2) a description of the client's financial resources;
  - (3) household gross monthly income(s), names and ages of other minor children in household, and statement of US citizenship or immigration status;
  - (4) a description of the recommended living arrangement and why it is appropriate;
  - (5) the proposed plan of services for the biological parents and the child;
  - (6) an explanation of why the necessary services cannot be obtained for the client in a community-based living arrangement;
  - (7) a tentative agreement to accept the client by the individual responsible for maintaining the recommended living arrangement; and
  - (8) the anticipated date of admission and the expected date of delivery (month, day, and year for both).
- (b) Applications shall not be delayed because the actual admission date has not been confirmed. The service agency must notify the North Carolina Division of Social Services when the admission date is confirmed so that review and action on the application can be completed. Incomplete applications will not be processed.

- (c) Applications that do not contain all information required by this Rule shall not be processed.
- (d) Funds shall not be approved to offset residential costs incurred prior to the North Carolina Division of Social Services' receipt of the actual application with original signatures.
- (e) Upon receipt of notice that funds have been approved, unless the placement is to be in a licensed maternity home, the agency requesting funds must negotiate with the individual responsible for maintaining the living arrangement a written agreement setting out mutually agreed upon responsibilities.
- (f) Payments shall not exceed the amount initially approved.

*History Note:* Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Amended Eff. January 1, 1983;  
Readopted Eff. September 1, 2021.

#### **10A NCAC 71L .0104 ADDITIONAL REQUIREMENTS FOR THE PRIVATE AGENCY**

*History Note:* Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Amended Eff. January 1, 1983; March 1, 1982;  
Repealed Eff. August 1, 2021.

#### **10A NCAC 71L .0105 PROCEDURE FOR APPROVAL AND PAYMENT**

- (a) All State Maternity Fund forms, correspondence, and monthly billing statements shall be addressed to the State Maternity Fund Coordinator, whose contact information can be found on the "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>.
- (b) Upon receipt of a completed "Application for State Maternity Fund" Form DSS-6187, the North Carolina Division of Social Services shall make a decision regarding approval for State Maternity Fund payments and the recommended type of living arrangement per the application. Notice of action taken shall be communicated to the county department of social services or to the private adoption agency submitting the application with a copy routed to the applicable maternity home, or the approved living arrangement.
- (c) County departments of social services and North Carolina licensed private adoption agencies shall submit notification to the Division of Social Services when the client is admitted to or discharged from the approved living arrangement.
- (d) If the approved living arrangement is other than a maternity home, the service agency shall submit a completed copy of the "State Maternity Fund Residential Care Provider Agreement" Form DSS-6189 negotiated with the individual responsible for maintaining the living arrangement, to the North Carolina Division of Social Services before payment may be made to the residential care provider.
- (e) At the end of each month the State Maternity Fund Coordinator will generate a monthly reimbursement worksheet for each maternity home or alternate living arrangement. An authorized individual from the maternity home or authorized living arrangement shall review, correct, and certify information reported. The authorized individual shall then mail the worksheet to the North Carolina Division of Social Services for a signature by the State Maternity Fund Coordinator for approval and submission to the North Carolina Department of Health and Human Services Controller's Office (2019 Mail Service Center, Raleigh, NC 27699-2019).

*History Note:* Authority G.S. 143B-153;  
Eff. April 1, 1978;  
Amended Eff. January 1, 1983;  
Readopted Eff. September 1, 2021.

#### **10A NCAC 71L .0106 DEVELOPMENT OF SERVICE PLAN**

- (a) The Pregnancy Services caseworker shall complete a needs assessment. If during the process of assessing the needs of a pregnant minor, abuse or neglect is suspected, the Pregnancy Services caseworker shall notify the agency's Child Protective Services Unit. After the assessment is completed, the caseworker and the client shall jointly finalize a specific plan for services, building in time frames for action and identifying channels for accessing resources to be provided by outside agencies.

(b) The service agency's plan for providing services to the client and her child shall be transmitted to the North Carolina Division of Social Services as part of the "Application for State Maternity Fund" Form DSS-6187, which may be accessed at <https://policies.ncdhhs.gov/divisional/social-services>.

(c) As needed and appropriate, the plan shall address the following:

- (1) Counseling needs;
- (2) Medical Care;
- (3) Medical Assistance;
- (4) Nutritional Needs;
- (5) Residential or Housing needs;
- (6) Educational needs;
- (7) Employment Training;
- (8) Parenting Education;
- (9) Financial planning;
- (10) Child Care; and
- (11) Family Planning.

(d) While the client is in residential care, the supervising agency shall maintain contact with the client.

*History Note: Authority G.S. 143B-153;  
Eff. September 1, 2021.*

#### **10A NCAC 71L .0107 ASSESSING THE APPROPRIATENESS OF ALTERNATIVE TYPES OF LIVING ARRANGEMENTS FOR INDIVIDUAL CLIENTS**

(a) The Pregnancy Services caseworker shall evaluate the appropriateness of any community living arrangement based upon the aspects set forth in Paragraph (c) of this Rule for which the State Maternity Fund is requested, whether it is a boarding arrangement, the home of a non-legally responsible relative, or a licensed family foster home.

(b) When residential care in a family foster home is being considered for a minor, the Pregnancy Services caseworker shall request the assistance of the Foster Care Services staff in determining whether a home is available, and complete an assessment of the placement for the pregnant client and for all other persons residing in the home. A decision shall be reached by the Foster Care worker and the Pregnancy Services caseworker as to the individual assuming responsibility for case management.

(c) The following aspects of a community living arrangement shall be explored in determining the appropriateness for individual placements:

- (1) Location and surroundings;
- (2) Physical environment;
- (3) Emotional environment;
- (4) Stability of living arrangement; and
- (5) Emergency transportation.

(d) Living arrangements for an expectant mother for whom the State Maternity Fund is being requested shall be selected on the basis of an assessment of the client's individual circumstances and service needs.

*History Note: Authority G.S. 143B-153;  
Eff. September 1, 2021.*

### **SUBCHAPTER 71M – COMMUNITY LIVING SERVICES**

#### **10A NCAC 71M .0101 SPECIAL ELIGIBILITY REQUIREMENTS**

In addition to basic eligibility requirements, it must be documented that the individual is either mentally retarded or severely physically disabled.

- (1) For purposes of defining and classifying mental retardation, the criteria of the American Association on Mental Deficiency shall be employed. The diagnosis of mental retardation shall be determined by a duly licensed physician, psychiatrist, practicing psychologist, or a psychological associate under the supervision of a psychiatrist or practicing psychologist; each of the former shall have expertise in the area of mental retardation. Documentation verifying a diagnosis of



mental retardation by specified appropriate professionals shall be obtained by local departments of social services for certification of eligibility for services. A signed statement shall contain the level of retardation that best describes client functioning. For purposes of determining initial eligibility for community living services, documentation of a prior diagnosis of mental retardation is acceptable if it were determined and undersigned by any of the persons stipulated in this Subsection. Re-evaluation of mental retardation is not required unless there is reason to believe that the condition has changed or suspected to have been diagnosed erroneously. There may also be a need for an evaluation more complete than the initial one in order to determine the most appropriate services for the client. Documentation of mental retardation shall include behavioral descriptions as well as levels of intellectual and adaptive functioning as determined (if at all and to any degree possible) by standard tests.

- (a) The American Association on Mental Deficiency defines mental retardation as "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." "General intellectual functioning" refers to results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose, i.e., a standardized individual intelligence test. "Existing concurrently with" emphasizes the two-dimensional nature of the definition -- significantly subaverage intellectual functioning, and deficits in adaptive behavior. "Significantly subaverage" refers to performance which is more than two standard deviations below the mean of a standardized general intelligence test. This is a guideline rather than a rigid limit since assessment of IQ is subject to some variation because of technical factors. The judgment of a qualified professional (as defined in this Rule) is required to determine the validity of a given test score. A significantly subaverage IQ is a necessary, but not alone sufficient, condition for a diagnosis of mental retardation. "Adaptive behavior" is the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his age and cultural group. It is a product of the interactions of an individual's abilities and skills with the expectations of society and of the opportunities to learn. Deficits are difficult to measure precisely and the rating scales from which levels are inferred show lower reliability than measurements of intelligence. The judgment of a qualified professional (as defined in this Rule) that the diagnostic criteria are met is required for each individual. "Developmental period" is defined as the period of time between birth and the eighteenth birthday.
- (b) Generally accepted classifications of mental retardation are as follows:
  - (i) Mild mental retardation is used to describe the degree of mental retardation present when intelligence testing scores range between two and three standard deviations below the norm (52 to 67 on the Stanford-Binet and 55 to 69 on the Wechsler Scales); many educable retarded individuals function at this level; such children usually can master basic academic skills while adults at this level may maintain themselves independently or semi-independently in the community.
  - (ii) Moderate mental retardation is used to describe the degree of mental retardation when intelligence testing scores range between three and four standard deviations below the norm (36 to 51 on the Stanford-Binet and 40 to 54 on the Wechsler Scales); many trainable individuals function at this level; such persons usually can learn self-help, communication, social, and simple occupational skills but only limited academic or vocational skills.
  - (iii) Severe mental retardation is used to describe the degree of mental retardation when intelligence testing scores range between four and five standard deviations below the norm [20 to 35 on the Stanford-Binet and 25 to 39 on the Wechsler Scales (extrapolated)]; such persons require continuing and close supervision but may perform self-help and simple work tasks under supervision.
  - (iv) Profound mental retardation is used to describe the degree of mental retardation present when intelligence testing scores are more than five standard deviations below the norm [19 and below on the Stanford-Binet and 24 and below on the Wechsler Scales (extrapolated)]; such persons require continuing and close

supervision but some persons may be able to perform simple self-help tasks; profoundly retarded persons often have other handicaps and require total life support systems for maintenance.

- (2) The existence of a severe physical disability must be established on the basis of a professional diagnosis by a person or authority competent to make such a diagnosis. For purposes of determining initial eligibility, documentation of a diagnosis of severe physical disability made within the past 12 months is acceptable. The continuing existence of a severe physical disability must be re-documented at least every 12 months. Disabled means unable to engage in any substantial gainful activity by reason of a medically determinable physical impairment which can be improved, corrected, or ameliorated but which can be expected to last, or which has lasted, for a continuous period of not less than 12 months. Specifically, severe physical disability means a person:
- (a) who has a severe physical disability which seriously limits his functional capabilities, or
  - (b) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunctions, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and end stage renal disease, and
  - (c) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.

*History Note:* Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Transferred from T10.43I .0202 Eff. July 1, 1983;  
Amended Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71M .0102 METHODS OF SERVICE PROVISION**

Community living services shall be provided directly or may be purchased through contractual arrangements.

*History Note:* Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Transferred from T10.43I .0203 Eff. July 1, 1983;  
Amended Eff. June 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71M .0103 CRITERIA**

- (a) The client must be at a developmental level which will permit appropriate utilization of services.
- (b) Individualized treatment plans shall be formulated, recorded, and updated by the service provider.
- (c) When the service is purchased, a progress report on each client shall be sent to the county department of social services at the time of recertification.
- (d) If the service is offered in conjunction with other programs in either institution or community, activities of the clients, personnel, and program expenditures shall be recorded so that reimbursements from Social Services Block Grant (Title XX) of the Social Security Act are identifiable and justifiable.
- (e) A community facility housing the service shall meet safety, sanitation, and staffing requirements approved by the Department of Health and Human Services for adult developmental activities programs.
- (f) All intrinsic elements identified in the service must be offered to clients as needed and appropriate to the particular person. All elements identified in the primary service definition as optional may be provided at the option of the provider.
- (g) Even though the community living services program may be housed in the facility of another service program, it shall have its own service providers and provide them direct supervision and professional direction.
- (h) The service must be provided for reasons specified in the definition and must be based on the individual needs of the client who cannot function independently in social situations.
- (i) Periodic evaluation of the client and of the program must occur.
- (j) There must be ongoing staff development for service providers.

- (k) By virtue of special training, caregivers must be capable of providing community living services.
- (l) Remedial services shall focus on highly specific, limited portions of behavior for the purpose of correcting, overcoming, or adjusting to difficulties in functioning.
- (m) Any work activity training provided shall focus on those things which prepare an individual for employment. Employment itself is not considered work activity training.
- (n) When speech therapy is offered, it shall be based on an individualized plan for the client designed by a speech therapist, which assists in the learning and development of appropriate speech and language patterns.
- (o) When physical therapy is offered, it shall be based on an individualized plan for the client designed by a physical therapist, which assists in the learning and development of fine and gross motor skills.

*History Note: Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Transferred from T10.431 .0204 Eff. July 1, 1983;  
Amended Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71M .0104 LIMITATIONS**

- (a) The enrollment plan of a client in a non-institutional community living services program shall be based on the individual needs and capabilities of the client for participation in the variety of activities contained in the service definition. The enrollment plan and the basis for the plan shall be documented in the individual client record maintained by the community living services program. In order to accommodate the range of individual enrollment needs, non-institutional community living services programs shall be required to operate a minimum of six hours per day, five days per week.
- (b) Client work participation and other habilitative activities shall be based on individual needs as determined by comprehensive evaluation to establish individual objectives in all service elements. Provided they are habilitative, work activities can range from none to a full day. All work and other habilitative activities shall be based on a comprehensive and individual evaluation that establishes individual objectives in all elements included in the service and shall be relevant to client needs identified in the evaluation. Program generated income can be used for wages. Reimbursement for service provision under Social Services Block Grant (Title XX) of the Social Security Act is discontinued when earnings from work activities exceed one-half the federal minimum wage for two consecutive months.
- (c) Medical expenses cannot be budgeted for in this service.
- (d) Transportation can be included as a program cost only when it is necessary to provide services, i.e. make it possible for clients to participate in program related activities. All costs of transporting clients to and from the services program are considered as transportation costs rather than program costs.
- (e) Under no circumstances may a fee be assessed for an intrinsic element of the primary service. Fees for optional elements and for transportation may be assessed if no portion of these costs are included in the purchased rate.
- (f) No optional elements nor the optional component of this service can be contracted for separately under Social Services Block Grant (Title XX) outside the purchase rate established for the individual facility.
- (g) Staff members of community living services programs may act as liaison between the programs and other community resources but shall not provide direct services not included in the service definition.
- (h) Reimbursement for client participation cannot be made for enrollment in more than one community living services program at the same time.
- (i) When a client has benefited from community living services to a degree of adequate functioning in social situations (e.g., is employable in a structured situation), he shall be discharged from the program and transferred to one more appropriate.

*History Note: Authority G.S. 143B-153;  
Eff. July 23, 1979;  
Amended Eff. January 1, 1980;  
Transferred from T10.431 .0205 Eff. July 1, 1983;  
Amended Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## SUBCHAPTER 71N – EMPLOYMENT AND TRAINING SUPPORT SERVICES

### 10A NCAC 71N .0101 METHODS OF PROVISION

- (a) Employment and training support services as defined in 10A NCAC 71R .0905 and funded by Social Services Block Grant (Title XX) of the Social Security Act, may be provided directly by county departments of social services or may be purchased under contract.
- (b) The following elements of the service may be purchased through cash or vendor payment:
- (1) tuition, supplies and rental or purchase of books for training in technical institutes and community colleges;
  - (2) lunches, uniforms, tools and other equipment necessary to enable individuals to accept training or employment;
  - (3) transportation to enable individuals to make application and interview for employment and to participate in training leading to employment.
- (c) If employment and training support is included in a county's service plan, the county is expected to provide or purchase all elements of the service as needed for eligible individuals. If after development of an individual employability plan and exploration of available resources, it is discovered that certain elements of the service cannot be provided or purchased within the accessible area, this shall be documented in the client's record and alternate resources should be considered.
- (d) When employment and training support services are purchased under contract, the contract provider must provide all elements included in the service definition except assistance in meeting the usual expenses of attending technical institutes and community colleges which may be provided only through direct payments by county departments of social services.
- (e) The counseling elements of employment and training support services may be provided in individual and group sessions.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## SUBCHAPTER 71O – REGUGEE ASSISTANCE SERVICES

### 10A NCAC 71O .0101 SERVICES AVAILABILITY

### 10A NCAC 71O .0102 SERVICE GOALS

### 10A NCAC 71O .0103 METHODS OF SERVICE PROVISION

*History Note: Authority G.S. 143B-153;  
Eff. March 22, 1980;  
Amended Eff. May 1, 1990; January 1, 1983;  
Repealed Eff. September 1, 2021.*

### 10A NCAC 71O .0104 ELIGIBILITY

- (a) For purposes of this Subchapter, 8 U.S.C. 1522, 45 CFR 400.5, 45 CFR 400.154, 45 CFR 400.155, and 45 CFR 400.156 are hereby incorporated by reference including any subsequent amendments and editions, and may be accessed at [www.gpo.gov](http://www.gpo.gov) or [www.congress.gov](http://www.congress.gov) at no charge.
- (b) For purposes of assistance and services as set forth in 8 U.S.C. 1522, the individual:
- (1) must be a Refugee, admitted under INA 207;
  - (2) Asylees, granted asylum under INA 208;
  - (3) Cuban and Haitian Entrants, as defined under federal regulations (45 CFR 401.2);
  - (4) Certain Amerasians; Trafficking Victims who have been issued an Office of Refugee Resettlement certification letter;

- (5) Special Immigrant Visa holders from Iraq and Afghanistan; or
  - (6) Legal Permanent Residents (LPR) who were admitted originally as one of the previous statuses.
- (c) The State Division of Social Services, through its State Refugee Office, is the State agency responsible for funding and the development of a State Plan for refugee assistance and services, pursuant to 45 CFR 400.5
- (d) Refugee service providers may be public or private, not-for-profit agencies that provide direct services pursuant to 45 CFR 400.154 through 45 CFR 400.156. Eligibility for refugee assistance and services may be determined by county departments of social services, the State Division of Social Services, or by provider agencies from which the Division is purchasing services under a purchase agreement or contract which specifies the provider agency's responsibility for eligibility determination. The agency that determines eligibility shall be responsible for case management for refugee assistance and services and for meeting program requirements for reporting and case documentation.
- (e) Refugee service providers shall:
- (1) Provide assistance and services that are defined and designated to facilitate self-support and self-sufficiency;
  - (2) Provide assistance and services that are linguistically and culturally appropriate;
  - (3) Assist refugees in obtaining the skills to achieve economic self-sufficiency, including job readiness, skills training, vocational education, job placement employment follow-up, and other employment services;
  - (4) Provide training in English language instruction;
  - (5) Provide social adjustment services such as case management, cultural orientation, health management, and support services such as interpretation, translation, and transportation; and
  - (6) Offer assessment services and development of an individual employability plan as a component of employment services which may be provided without regard to family income to any unemployed refugee who is 16 years of age or older and who is not a full-time student in elementary school or secondary school.
- (f) For purposes of determining eligibility, "family" is defined as one or more adults and children, if any, related by blood, or law, and residing in the same household. Emancipated minors and children living under the care of individuals not legally responsible for that care are considered one person families. Where adults reside together, each may be considered a separate family, or all adults, living in the same household may be considered as a family unit, whichever is more beneficial to refugees in determining their eligibility on the basis of family size and income; provided that spouses must be considered a family unit.

*History Note:* Authority G.S. 143B-153; 8 U.S.C. 1522; 45 CFR 400.5; 45 CFR 400.154; 45 CFR 400.155; 45 CFR 400.156;  
Eff. March 22, 1980;  
Amended Eff. May 1, 1990;  
Readopted Eff. September 1, 2021.

## **SUBCHAPTER 71P - STATE/COUNTY SPECIAL ASSISTANCE FOR ADULTS**

### **SECTION .0100 - GENERAL PROVISIONS**

#### **10A NCAC 71P .0101 SUPERVISION**

The Department of Health and Human Services, Division of Aging and Adult Services, Adult Services Section, is responsible for supervising the administration of the State/County Special Assistance Program. The section is located at 693 Palmer Drive, 2101 Mail Service Center, Raleigh, North Carolina, 27699-2101. The office is open during regular business hours.

*History Note:* Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **10A NCAC 71P .0102 DEFINITIONS**

For purposes of this Chapter are the following definitions:

- (1) "Adult Care Facility" for purposes of this Subchapter shall mean group residential care facilities for persons who cannot remain in their own homes and who reside in facilities licensed by the Department of Health and Human Services defined in the following statutes and rules:
  - (a) Adult Care Homes - G.S. 131D-2.1-10, 10A NCAC 13F .0200, and 10A NCAC 13G .0200;
  - (b) Facilities for persons with mental illness and developmental disabilities - G.S. 122C-21, 10A NCAC 27G .5601(c)(1) and (3);
  - (c) For persons aged less than 18 who are legally blind, facilities licensed pursuant to 10A NCAC 27G .2101.
  - (d) Combination Homes in Nursing Facilities - G.S. 131E-101(1) and (1a);
  - (e) Combination Facilities in Hospitals - 10A NCAC 13B .1902(6); and
  - (f) Hospice Residential Care Facilities - G.S. 131E-201(5a).
- (2) "Adult Care Facility Rate" shall mean the maximum monthly rate for residents in an Adult Care Facility as established by the General Assembly.
- (3) "Authorized Representative" shall mean a person who is legally authorized or designated in writing by the applicant or recipient to act on his or her behalf.
- (4) "Budget Unit" shall mean, for the purposes of the State/County Special Assistance for the Certain Disabled Program, a spouse or Essential Person who resides with the recipient and whose income, combined with the income of the recipient, is considered in determining the monthly payment.
- (5) "Case Manager" for the State/County Special Assistance In-Home Program shall mean the social work staff member of the County Department who conducts the functional assessment and determines the actual payment amount, pursuant to G.S. 108A-47.1 and to Rule .0306 of this Subchapter.
- (6) "Caseworker" shall mean the staff member of the County Department who evaluates the applicant's eligibility for State/County Special Assistance, processes the application, and reviews the case for continuing eligibility pursuant to the rules in this Subchapter.
- (7) "Change in Situation" shall mean the changes in an applicant's or recipient's circumstances as set forth in 20 C.F.R. 416.708 that could affect his or her eligibility or payment amount.
- (8) "Countable Monthly Income" shall mean the amount of monthly income after applying all allowable deductions pursuant to 20 C.F.R. 416.1102-1104.
- (9) "County Board" shall mean the county board of social services as set forth in G.S. 108A-1 and G.S. 108A-9.
- (10) "County Department" shall mean the county department of social services as set forth in G.S. 108A-12, G.S. 108A-14(a)(3), G.S. 108A-14(b), and G.S. 108A-15.1.
- (11) "Division of Aging and Adult Services" shall mean the Division of Aging as defined in G.S. 143B-181.1.
- (12) "Essential Person" shall mean, for the purposes of the State/County Special Assistance for the Certain Disabled Program, a person who is not a spouse and who is living in the recipient's home, rendering services without which the recipient would not be able to remain in his or her home.
- (13) "Maintenance Amount" shall mean the Adult Care Facility Rate plus the Personal Needs Allowance.
- (14) "Personal Needs Allowance" shall mean, for the purposes of this Subchapter, the monthly sum of money that a recipient of the State/County Special Assistance Program may retain from his or her personal income for clothing and other personal needs and expenses as described in 42 C.F.R. 435.832(c)(1). The monthly Personal Needs Allowance for the State/County Special Assistance Program is established by the General Assembly.
- (15) "State/County Special Assistance Program" is authorized and established by G.S. 108A-25(a)(2) and G.S. 108A-40 through G.S. 108A-47.1. The State/County Special Assistance Program provides to eligible individuals an Optional State Supplementary payment to the federal Supplemental Security Income Program (SSI), pursuant to 42 U.S.C. 1382e and 20 C.F.R. 416.2001
- (16) "State/County Special Assistance for the Certain Disabled Program" is authorized and established by G.S. 108A-41(d), G.S. 108A-42(b), and G.S. 108A-45 for persons in an in-home living arrangement who meet the eligibility criteria set forth in Rule .0805 of this Subchapter.

- (17) "State/County Special Assistance In-Home Program" is authorized and established by G.S. 108A-47.1 for persons living in an in-home living arrangement who meet the eligibility criteria in Rules .0803 and .0804 of this Subchapter. For purposes of this Subchapter, the State/County Special Assistance Program shall also include the State/County Special Assistance In-Home Program unless otherwise noted.
- (18) "Substitute Payee" shall mean an Authorized Representative who is responsible for receiving and disbursing State/County Special Assistance Program payments to meet the recipient's needs.

*History Note:* Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; June 1, 1990; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71P .0103 STATE/COUNTY SPECIAL ASSISTANCE PROGRAM PROCEDURES**

The following general procedures shall be applicable to the State/County Special Assistance Program:

- (1) Notice and hearing rules set forth in 10A NCAC 67A .0200 shall apply to the State/County Special Assistance Program.
- (2) Confidentiality rules set forth in 10A NCAC 69 shall apply to the State/County Special Assistance Program.

*History Note:* Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **SECTION .0200 - ADULT CARE**

#### **10A NCAC 71P .0201 MAXIMUM RATES**

The County Department may negotiate rates lower than the maximum rates with operators of Adult Care Facilities. Maximum rates are established by the General Assembly and are available on the Department of Health and Human Services website at [www.dhhs.nc.gov](http://www.dhhs.nc.gov) and in each County Department.

*History Note:* Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71P .0202 LICENSED FACILITIES**

- (a) Adult Care Facilities that accept State/County Special Assistance Program payments from recipients residing in such facilities as set forth in G.S. 108A-41(a) and Rule .0102(1) of this Subchapter shall have signed a civil rights compliance statement and have submitted it to the Division of Aging and Adult Services pursuant to 42 U.S.C. 2000d and 45 C.F.R. 80.2.
- (b) Adult Care Facilities shall be licensed by the Department of Health and Human Services.
- (c) This Rule does not apply to the State/County Special Assistance In-Home Program or to the State/County Special Assistance for the Certain Disabled Program.

*History Note:* Authority G.S. 108A-40; 108A-41; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **SECTION .0300 - BUDGETING PRINCIPLES**

**10A NCAC 71P .0301 MINIMUM PAYMENT**

The minimum State/County Special Assistance Program payment is one dollar (\$1.00).

*History Note: Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71P .0302 RECIPIENT IN AN ADULT CARE FACILITY**

The monthly State/County Special Assistance Program payment computation shall comply with 42 C.F.R. 435.232(b)(2). The payment shall be computed by:

- (1) Determining the Maintenance Amount, as defined in Rule .0102(13) of this Subchapter;
- (2) Subtracting the recipient's Countable Monthly Income from the Maintenance Amount; and
- (3) Rounding the difference to the nearest dollar.

*History Note: Authority G.S. 108A-40; 108A-41; 143B-153; 42 C.F.R. 435.232(b)(2);  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71P .0303 RECIPIENT IN DOMICILIARY CARE WITH SPOUSE AT HOME**  
**10A NCAC 71P .0304 RECIPIENT/DOMICILIARY CARE: SPOUSE/NOT RECEIVING ASSIST.**

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Repealed Eff. June 1, 2016.*

**10A NCAC 71P .0305 CERTAIN DISABLED CASES**

The minimum payment for Certain Disabled cases is five dollars (\$5.00). The following budgeting principles apply:

- (1) An individual applicant/recipient's special assistance payment is computed by allowing one hundred twenty-seven dollars (\$127.00) for maintenance; subtracting net income from needs; and rounding the difference to the nearest dollar.
- (2) If an applicant or recipient has a needy spouse or other essential person residing in his own home, the recipient's special assistance payment shall be computed by allowing one hundred sixty-five dollars (\$165.00) for maintenance; subtracting their combined net income from their needs; and rounding the difference to the nearest dollar.

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71P .0306 RECIPIENT IN AN IN-HOME LIVING ARRANGEMENT**

(a) The State/County Special Assistance In-Home Program maximum payment for recipients living in an in-home living arrangement and not in an Adult Care Facility shall be computed by:

- (1) determining the Maintenance Amount as set forth in Rule .0102(13) of this Subchapter;
- (2) subtracting the recipient's Countable Monthly Income from the Maintenance Amount; and
- (3) rounding the difference to the nearest dollar.

(b) The County Department Case Manager shall determine the actual State/County Special Assistance In-Home Program payment by conducting a comprehensive functional assessment pursuant to G.S. 108A-47.1(a) and shall include the areas related to health and safety as set forth in 10A NCAC 71A .0208. The State/County Special



Assistance In-Home Program payment may be authorized up to the maximum determined in Paragraph (a) of this Rule.

*History Note:* Authority G.S. 108A-47; 108A-47.1; 143B-153;  
Eff. June 1, 2016.

#### **SECTION .0400 - MIXED BUDGETING: WHEN OTHER BUDGET MEMBERS ARE RECIPIENTS**

**10A NCAC 71P .0401** MINIMUM PAYMENT  
**10A NCAC 71P .0402** RECIPIENT/DOMICILIARY CARE: SPOUSE/CHILDREN RECEIVING AFDC  
**10A NCAC 71P .0403** RECIPIENT/DOMICILIARY CARE: SPOUSE/CHILDREN RECV'G AFDC-MA  
**10A NCAC 71P .0404** RECIPIENT/DOMICILIARY CARE: SPOUSE/RECV'G MEDICAL ASSIST.  
**10A NCAC 71P .0405** RECIPIENT/SPOUSE BOTH RECEIVING SPECIAL ASSISTANCE  
**10A NCAC 71P .0406** RECIPIENT/DOMICILIARY CARE: SPOUSE: NURSING/INTERMED. FAC.

*History Note:* Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Repealed Eff. June 1, 2016.

#### **SECTION .0500 - PAYMENT PROCEDURES**

##### **10A NCAC 71P .0501** SUBSTITUTE PAYEE

- (a) The recipient shall be payee for his or her own State/County Special Assistance Program payment unless the recipient or his or her Authorized Representative designates an Authorized Representative to serve as a Substitute Payee.
- (b) The administrator or a staff member of an Adult Care Facility shall not act as Substitute Payee for State/County Special Assistance Program payments for recipients who reside at the Adult Care Facility that employs such administrator or staff member, as set forth in 10A NCAC 13F .1103.
- (c) The director of the County Department may invoke the procedures set forth in G.S. 108A-37 when he or she determines that a recipient is unwilling or unable to manage his or her State/County Special Assistance Program payments to the extent that deprivation or hazard to himself or herself or others results.
- (d) State/County Special Assistance Program payments shall not be issued to persons or entities designated in G.S. 108A-47.

*History Note:* Authority G.S. 108A-25; 108A-37; 108A-40; 108A-47; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

##### **10A NCAC 71P .0502** PAYMENT AUTHORIZATION

- (a) State/County Special Assistance Program payments for any recipient shall not be authorized prior to the month of application.
- (b) If SSI approval is pending at the time of application, the State/County Special Assistance Program payment may be authorized retroactive to the month SSI was approved if the recipient was in an Adult Care Facility and had applied for the State/County Special Assistance Program during the month that such assistance was approved.
- (c) If a recipient enters an Adult Care Facility or meets the North Carolina residency requirement for the State/County Special Assistance Program after the first day of the month and all other eligibility criteria are met, the recipient shall be eligible only for a partial payment for that month from the date of entry or the date the recipient meets the residency requirement to the end of the month. The payment shall be computed without considering income.
- (d) If a recipient's level of care is determined to no longer be Adult Care Facility level and a bed is not readily available under the Medicaid Program, the State/County Special Assistance Program payments shall continue until a bed at the appropriate level of care is available for the recipient.

*History Note:* Authority G.S. 108A-40; 108A-41(b); 143B-153;

*Eff. January 1, 1983;*  
*Amended Eff. July 1, 1988;*  
*Temporary Amendment Eff. October 28, 1997;*  
*Amended Eff. June 1, 2016; April 1, 1999;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0503 CORRECTION OF UNDERPAYMENTS**

Retroactive adjustment for any underpayment that results from administrative errors shall be made, but the correction shall not be made for any underpayment that was made more than 12 months before the corrective action is taken by the eligibility specialist.

*History Note: Authority G.S. 143B-153;*  
*Eff. January 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0504 CORRECTION OF OVERPAYMENTS**

(a) An overpayment caused by an error by a Department of Health and Human Services staff member in interpreting program regulations shall be charged to the State.

(b) If an overpayment is caused by failure of the recipient or his or her Authorized Representative to report a Change in Situation as set forth in Rule .0602(b)(5)(C) of this Subchapter, and if fraud is not suspected, the County Department shall direct the recipient to refund the overpayment.

(1) If the recipient refuses to refund the overpayment, the State/County Special Assistance Program monthly payment may be reduced up to 10 percent if he or she has:

(A) disregarded earned income determined pursuant to 20 U.S.C 416.1112; or

(B) countable resources, as defined in Rule .0904 of this Subchapter, greater than the amount of the overpayment.

(2) If the recipient has no disregarded earned income or excess resources, the recipient shall be asked to agree in writing to repay the amount of the overpayment to the State and County Department if he or she acquires income or resources greater than the amount of the overpayment while he or she is a recipient of the State/County Special Assistance Program.

(c) An overpayment caused by an error by a County Department staff member shall be charged to the County Department.

*History Note: Authority G.S. 108A-40; 143B-153;*  
*Eff. January 1, 1983;*  
*Amended Eff. June 1, 2016;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0505 ISSUANCE OF PAYMENTS**

(a) The County Department shall authorize State/County Special Assistance Program payments based on the eligibility determination decision of the Caseworker.

(b) All payments shall be issued by the electronic method requested by the recipient or Substitute Payee.

(c) Payments may be replaced up to 12 months after initial issuance.

*History Note: Authority G.S. 108A-40; 108A-43; 143B-153;*  
*Eff. January 1, 1983;*  
*Amended Eff. June 1, 2016;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0506 RECEIPT AND USE OF CHECKS**

*History Note: Authority G.S. 143B-153;*

*Eff. January 1, 1983;*  
*Repealed Eff. June 1, 2016.*

#### **10A NCAC 71P .0507 LOST: STOLEN AND FORGED CHECKS**

*History Note: Authority G.S. 143B-153; 108A-40;*  
*Eff. January 1, 1983;*  
*Amended Eff. June 1, 2016; May 1, 1988;*  
*Expired Eff. June 1, 2017 pursuant to G.S. 150B-21.3A.*

#### **10A NCAC 71P .0508 FRAUD**

(a) Definitions: Fraud and Misrepresentation.

- (1) For the purposes of this Subchapter, an applicant or recipient engages in fraud when he or she willfully and knowingly with the intent to deceive:
  - (A) makes a false statement or misrepresentation;
  - (B) fails to disclose a material fact; or
  - (C) does not report any Change in Situation that affects the amount of the State/County Special Assistance Program payment; and as a result obtains or continues to receive a payment.
- (2) Misrepresentation:
  - (A) Intentional misrepresentation: An applicant or recipient engages in intentional misrepresentation when he or she gives incorrect or misleading information in response to either oral or written questions which the applicant or recipient knows is incorrect, misleading, or incomplete.
  - (B) Unintentional misrepresentation: An applicant or recipient engages in unintentional misrepresentation when he or she gives incomplete, incorrect, or misleading information because he or she does not understand the eligibility requirements or his or her responsibility to provide the County Department with required information and there is no proof that the applicant or recipient acted willfully and knowingly to obtain more State/County Special Assistance Program payments than those to which he or she was entitled.

(b) Fraud Prevention.

- (1) When interviewing an applicant or recipient as set forth in Rules .0601 and .0602 of this Subchapter, the Caseworker shall:
  - (A) Obtain the correct social security number for the applicant or recipient;
  - (B) explain the obligation of the applicant, recipient, or Authorized Representative to report any Change in Situation within five calendar days after they occur;
  - (C) inform the applicant, recipient, or Authorized Representative of the consequences of failing to report a Change in Situation, stressing the penalties for fraud and misrepresentation;
  - (D) provide the applicant, recipient, or Authorized Representative with a copy of the pamphlet entitled Public Assistance Fraud, available at all County Departments, and explain to the applicant, recipient, or Authorized Representative the meaning of fraud as described in this Rule;
  - (E) inform the applicant, recipient, or Authorized Representative how to report a Change in Situation; and
  - (F) ask the recipient or Authorized Representative about any Change in Situation since the application or last review.
- (2) Documentation and Verification. The Caseworker shall verify and document in detail the information given during the interview.

(c) Detection. The Caseworker shall check online verification systems as designated and made available by the State to verify personal eligibility requirements of the applicant or recipient. If information that could affect an applicant's or recipient's eligibility or payment amount is received from any source, the County Department shall investigate.

(d) Investigation. County Department responsibilities.

- (1) When a County Department discovers evidence that an applicant or recipient obtained State/County Special Assistance Program payments to which he or she was not entitled or received an overpayment, the Caseworker shall assess whether the County Department determined eligibility and documented eligibility information according to the rules set forth in this Subchapter. The County Department shall obtain and document all evidence necessary to determine whether the applicant or recipient intended to defraud and whether the overpayment was due to the applicant's or recipient's intentional or unintentional misrepresentation.
  - (2) The County Department director or his or her designee shall review each case after receiving the Caseworker's evaluation. If there is sufficient evidence to suspect fraud, the director shall refer the case for a decision to the County Board or make the decision if the County Board has designated that he or she do so.
  - (3) If the director of the County Department determines that the case should go before the County Board, a summary shall be prepared which contains:
    - (A) the name of the applicant or recipient and his or her date of birth and social security number;
    - (B) a description of the suspected fraudulent act;
    - (C) a description of the evidence substantiating the applicant's or recipient's intent to defraud;
    - (D) a description of the evidence substantiating the amount of the overpayment; and
    - (E) background information, such as the applicant's or recipient's current situation, educational background, and competency.
- (e) County Board of Social Services Responsibilities.
- (1) The County Board or its designee shall review the suspected fraud case to determine if there is a basis for suspected fraud and determine the appropriate course of action to take. While fraud may be suspected, the County Board may decide that the applicant's or recipient's circumstances preclude prosecution and/or repayment. The County Board shall determine if the applicant or recipient:
    - (A) willfully and knowingly misstated or provided incorrect or misleading information in response to oral or written questions;
    - (B) willfully and knowingly failed to report a Change in Situation affecting eligibility for the State/County Special Assistance Program or the amount of payment; or
    - (C) willfully and knowingly failed to report the receipt of payments to which the recipient knew he or she was not entitled.
  - (2) If the County Board determines that an applicant or recipient engaged in intentional misrepresentation, it shall direct the County Department to pursue one or more of the following:
    - (A) Administrative action:
      - (i) the recipient's State/County Special Assistance Program payment shall be reduced up to 10 percent of the payment;
      - (ii) the recipient's voluntary agreement that his or her State/County Special Assistance Program payment may be reduced; or
      - (iii) the recipient will voluntarily return the State/County Special Assistance Program overpayment in part or in full;
    - (B) Civil court action;
    - (C) Criminal court action;
    - (D) Take no action for unusual or hardship circumstances, as set forth in 20 C.F.R. 404.508(a) and 20 C.F.R. 416.553(a), in which a payment reduction would deprive the recipient of necessary income for:
      - (i) fixed living expenses, such as paying for food and shelter including payment to the Adult Care Facility;
      - (ii) medical, hospitalization, and other such expenses;
      - (iii) expenses for the support of others for whom the individual is legally responsible; or
      - (iv) other expenses which are reasonable as part of the recipient's standard of living.
- (f) County Department Follow-Up.
- (1) Administration action:
    - (A) Involuntary payment reduction. Payment reduction shall be required only if the recipient has disregarded earned income determined as set forth in 20 C.F.R. 416.1112 or

resources greater than the overpayment amount. The amount of the payment reduction shall not exceed the amount available as disregarded earned income or resources greater than the overpayment amount. If the recipient has no resources, the County Board shall direct the County Department to require the recipient to sign a statement that he or she will repay the overpayment if he or she acquires resources in the future, pursuant to Rule .0504(b) of this Subchapter.

- (B) Voluntary State/County Special Assistance Program payment reduction and voluntary recipient refund. The amount of the voluntary payment reduction shall not exceed the amount available as disregarded earned income or resources greater than the overpayment amount.
- (2) Criminal court action. The County Department shall assist the prosecutor by:
  - (A) providing a clear and concise summary of the suspected fraud case;
  - (B) compiling information gathered during the investigation;
  - (C) explaining the specific eligibility factors involved in the case;
  - (D) explaining in detail how the overpayment amount was computed and the time requirements on the County Department's actions, such as the notice requirement as set forth in Rule .0705 of this Subchapter and the five calendar day Change in Situation reporting requirement as set forth in Rule .0602(5)(c) of this Subchapter; and
  - (E) if necessary, appearing as a witness.
- (3) Regardless what the County Board or its designee decides or what action is taken by the court, the County Department shall continue to provide State/County Special Assistance Program payments. The applicant or recipient shall be notified in writing within one business day of any action taken in the case. If the applicant or recipient remains eligible, the State/County Special Assistance Program payment shall not be terminated solely because fraud is suspected.
- (4) If the County Board or its designee suspects fraud, the County Department's findings and action shall be reported to the Adult Services Section of the Division of Aging and Adult Services.
- (5) The County Department shall retain all State/County Special Assistance Program documentation, evidence, or summaries in accordance with the Medicaid Program retention requirements found in the Record Retention and Disposition Schedule for Grants published by the Controller's Office of the Department of Health and Human Services on the website at <http://www.ncdhhs.gov/control>.

*History Note:* Authority G.S. 108A 25.3; 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SECTION .0600 - APPLICATION PROCESS**

### **10A NCAC 71P .0601 ACCEPTANCE OF APPLICATION**

A County Department shall accept an application for the State/County Special Assistance Program as set forth in this Rule.

- (1) An applicant shall be allowed to apply on the same day the applicant appears at any County Department.
- (2) The applicant shall be informed, orally and in writing, that:
  - (a) he or she may apply on the same day he or she appears at any County Department;
  - (b) a decision shall be made concerning his or her application within the time standards set forth in Rule .0604 of this Subchapter; and
  - (c) the applicant shall receive a written decision from the County Department concerning the application.
- (3) The County Department in the applicant's county of residence shall be responsible for processing the application. For the purpose of submitting an application, the applicant or his or her Authorized Representative may appear at the County Department where he or she currently resides in an Adult Care Facility or at another County Department that is conveniently located for the Authorized Representative. The applicant shall not be required to travel to the county he or she resided in prior to entering an Adult Care Facility.

- (4) The date of the application shall be the date the signed application is received by the County Department; however, if the applicant is a patient of a State mental health facility listed in G.S. 122C-181, the date of application shall be the date the referral from the mental health facility is received by the County Department.
- (5) If an applicant requests to apply for the State/County Special Assistance Program by mail or electronic submission to the County Department, the letter or electronic submission shall be considered a request to apply. A follow-up contact or electronic response shall be sent within three business days after the request is received by the County Department. The follow-up letter or electronic response shall request that the applicant come to the County Department for an interview or contact the County Department so that other arrangements can be made. The County Department's response to the applicant requesting the State/County Special Assistance Program shall specify that if the County Department does not hear from the applicant within 15 calendar days of the date of the follow-up letter or electronic response, the County Department shall deem the request for the State/County Special Assistance Program application to have been withdrawn.
- (6) If an applicant requests to apply for the State County Special Assistance Program by telephone or electronic submission, the applicant or his or her Authorized Representative shall be advised that he or she shall apply in person at the County Department at any time during regular business hours. If the applicant requests a specific time, an application interview appointment shall be scheduled.
- (7) The application form shall:
  - (a) consist of questions specifically related to eligibility pursuant to 20 C.F.R. 416.2001(a); 416.2001(b), 416.202, Rules .0804, .0805, and Section .0900 of this Subchapter; and
  - (b) contain the applicant's rights and responsibilities set forth in Rule .0602(4) and .0602(5).
  - (c) require a signature of the applicant or his or her Authorized Representative that he or she has provided truthful information and that he or she understands his or her rights and responsibilities.
- (8) A blank application form shall be available for public review at each County Department.
- (9) An application for the State/County Special Assistance In-Home Program shall require a comprehensive functional assessment to determine whether the monthly payment amount will be sufficient to both meet the needs of the recipient in the home and help prevent placement in an Adult Care Facility. The comprehensive functional assessment shall be conducted by the Case Manager and shall include the areas related to health and safety as set forth in 10A NCAC 71A .0208.

*History Note: Authority G.S. 108A-40; 108A-43; 108A-47.1; 143B-153; Eff. January 1, 1983; Amended Eff. June 1, 2016; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0602 INITIAL APPLICATION**

- (a) The Caseworker shall explain that eligibility for the State/County Special Assistance Program provides:
  - (1) a cash payment; and
  - (2) Medicaid as set forth in 42 C.F.R. 435.232 and 10A NCAC 23D .0102(2). Neither 42 U.S.C. 1382e, 20 C.F.R. 416.2001, 42 C.F.R. 435.232, nor 10A NCAC 23D .0102(2) shall apply to the State/County Special Assistance In-Home Program nor to the State/County Special Assistance for the Certain Disabled Program.
- (b) The Caseworker shall explain the eligibility requirements for the State/County Special Assistance Program and the applicant's rights and responsibilities. The Caseworker shall inform the applicant of the following:
  - (1) The applicant shall provide the name of collateral sources of information such as landlords, employers, and others who can substantiate or verify the applicant's eligibility information.
  - (2) It is the County Department's responsibility to use collateral sources to substantiate or verify information necessary to establish eligibility. Collateral sources of information include knowledgeable individuals, business organizations, public records, and documentary evidence. If the applicant does not wish the County Department to contact such collateral sources, he or she may withdraw the application. If the applicant denies permission for the County Department to

contact such collateral sources and does not withdraw his or her application, the application shall be denied.

- (3) The County Department staff shall verify the applicant's residence.
  - (4) The applicant has the right to:
    - (A) receive the State/County Special Assistance Program payments if he or she is found eligible for such assistance;
    - (B) be protected against discrimination on the ground of race, color, or national origin by Title VI of the Civil Rights Act of 1964: if the applicant believes he or she was a victim of such discrimination, he or she may file a civil rights complaint in writing to the United States Department of Health and Human Services, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or by calling (202) 619-0403 (voice) or (202) 619-3257 (TTY). Further information can be found on the U.S. Department of Health and Human Services website "How to File a Civil Rights Complaint" at: <http://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process>;
    - (C) designate a Substitute Payee as set forth in Rule .0501 of this Subchapter;
    - (D) have any person or his or her Authorized Representative participate in the application process and receive notices;
    - (E) have any information given to the County Department kept in confidence;
    - (F) appeal, if:
      - (i) his or her State/County Special Assistance Program application is denied;
      - (ii) the applicant believes that the payment is incorrect based on the county's interpretation of State regulations; or
      - (iii) if the applicant's request for a review of his or her eligibility decision was delayed more than 30 calendar days;
    - (G) reapply at any time, if found ineligible; and
    - (H) withdraw the application at any time or withdraw from the State/County Special Assistance Program at any time.
  - (5) The applicant's responsibilities. The applicant or Authorized Representative shall:
    - (A) provide the County Department with the collateral sources from which the County Department can locate and obtain information needed to determine eligibility, including furnishing his or her social security number;
    - (B) not provide false statements or withhold information that relates to the applicant's eligibility;
    - (C) report to the County Department any Change in Situation, within five calendar days of such change, that may affect his or her eligibility for the State/County Special Assistance Program payment;
    - (D) cooperate with the County Department in support of any right of subrogation the State may have pursuant to State or federal law; and
    - (E) report within five business days to the County Department the receipt of a payment which the recipient knows to be erroneous, such as two payments for the same month or a payment in the wrong amount. If the recipient does not report such payments, he or she may be required to repay any overpayment.
- (c) The application for the State/County Special Assistance Program shall include:
- (1) the applicant's full name;
  - (2) the applicant's address;
  - (3) the signature of the applicant or his or her Authorized Representative. The signature shall assure that he or she understands his or her rights and responsibilities as set forth in Rule .0602 of this Subchapter; and
  - (4) sufficient information as set forth in Rule .0601(7) of this Subchapter in order for the Caseworker to determine eligibility for the State/County Special Assistance Program. For the State/County Special Assistance In-Home Program, the application shall also include the results of the comprehensive functional assessment that shall include the areas set forth in 10A NCAC 71A .0208.

*History Note: Authority G.S. 108A-40; 108A-41(b); 143B-153; Eff. January 1, 1983;*

*Temporary Amendment Eff. October 28, 1997;  
Amended Eff. June 1, 2016; April 1, 1999.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0603 ELIGIBILITY DETERMINATION PROCESS**

The following steps shall be followed by the County Department in determining eligibility for the State/County Special Assistance Program:

- (1) each eligibility factor as set forth in Rules .0804 and .0805 of this Subchapter shall be reviewed;
- (2) the Caseworker shall verify the applicant's residence in a licensed Adult Care Facility or the Case Manager shall verify the applicant's residence in an in-home living arrangement;
- (3) the applicant shall be asked whether he or she receives SSI benefits. If the applicant's income is less than the Federal Benefit Rate for SSI pursuant to 20 C.F.R. 416.1101, the individual shall also apply for SSI benefits in order to be eligible for the State/County Special Assistance Program. If he or she has not applied for SSI prior to his or her application for the State County Special Assistance Program, he or she shall be asked to apply. The State/County Special Assistance Program application shall not be approved or denied until a decision on the SSI application is received; and
- (4) for applicants of the State/County Special Assistance In-Home Program, the Case Manager shall conduct a comprehensive functional assessment that shall include the areas set forth in 10A NCAC 71A .0208. This assessment shall determine whether the State/County Special Assistance In-Home Program payment and case management services provided by the Case Manager will be sufficient to meet the needs of the recipient in the home and help prevent placement in an Adult Care Facility. The applicant shall agree to accept case management to be approved for the State/County Special Assistance In-Home Program. The case management services shall be consistent with Individual and Family Adjustment Services pursuant to 10A NCAC 71R .0910(a).

*History Note: Authority G.S. 108A-40; 108A-41; 143B-153;  
Eff. January 1, 1983;  
Temporary Amendment Eff. January 1, 2000;  
Amended Eff. June 1, 2016; July 17, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0604 TIME STANDARD**

(a) Unless otherwise provided in this Rule, complete applications as set forth in Rule .0602(b) and .0602(c) of this Subchapter shall be processed and a notice approving or denying the application stating the effective date of the payment shall be mailed:

- (1) within 45 calendar days from the date the application form is signed for persons aged 65 and older; and
- (2) within 60 calendar days from the date the application form is signed for persons aged less than 65.

(b) The time standard defined in Paragraph (a) of this Rule shall apply unless a decision for SSI eligibility or disability determination is pending from the Social Security Administration. In the case of a pending SSI application or disability decision, the decision regarding the State/County Special Assistance Program application may be delayed for no more than 12 months.

(c) If the applicant's eligibility cannot be determined by the beginning of the 12th month after the date of application, the applicant shall be notified that his or her application will be denied unless the SSI decision is received by the end of the 12th month after the date of application.

*History Note: Authority G.S. 108A-40; 108A-79; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0605 RECOMMENDATION**



When all information necessary for an eligibility determination has been obtained, the eligibility specialist shall recommend whether to approve or to deny assistance. The recommendation shall be based on reliable, relevant information. If the authority to approve assistance has been delegated by the county board of social services to the county director, the recommendation may be made to the county director. The eligibility staff shall have no authority to approve or reject an application.

*History Note: Authority G.S. 108A-43; 143B-153;  
Eff. January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0606 DISPOSITION**

Disposition of the application shall complete the application process and shall consist of one of the following actions:

- (1) Authorization of assistance;
- (2) Denial of assistance;
- (3) Voluntary withdrawal of application. Withdrawal shall be by the applicant or his representative and shall be voluntary. The eligibility specialist shall attempt to make sure that the applicant or representative understands the nature of his action and understands that he may reapply at any time.

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0607 REPORT OF DISPOSITION**

Using the same form used to notify the state office of the processing of an application, the county shall report the disposition of the application. This form shall be used to initiate assistance if the application is approved.

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0608 NOTICE TO APPLICANT**

The director of the County Department or his or her designee shall notify the applicant or his or her Authorized Representative or any designated person, in writing of the disposition of the application. The notification for approval must include the effective date of eligibility for the State/County Special Assistance Program.

*History Note: Authority G.S. 108A-40; 108A-79; 143B-153;  
Eff. June 1, 2016.*

### **SECTION .0700 - REDETERMINATION OF ELIGIBILITY**

#### **10A NCAC 71P .0701 TIME AND CONTENT**

All eligibility factors as set forth in Rules .0804 and .0805 of this Subchapter that are subject to change shall be reviewed at least once every 12 months, before the recipient receives the 13th State/County Special Assistance Program payment. The eligibility factors subject to change include:

- (1) place of residence;
- (2) level of care;
- (3) income;
- (4) resources; and
- (5) change in household composition.

The Caseworker shall also evaluate the effect on eligibility of any Change in Situation reported by the recipient, his or her Authorized Representative, or made known to the Caseworker by another method.

*History Note: Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0702 VERIFICATION OF FACILITY RESIDENCE**

The Caseworker shall verify the Adult Care Facility residence for each recipient in all cases due for a review each month. This Rule shall not apply to recipients eligible for the State/County Special Assistance for the Certain Disabled Program and State/County Special Assistance In-Home Program.

*History Note: Authority G.S. 108A-40; 108A-41; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0703 INTERVIEW AND RECOMMENDATION**

- (a) The recipient's rights and responsibilities shall be explained as specified in 10A NCAC 71P .0602.
- (b) Following the interview the eligibility worker shall recommend action.

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71P .0704 RE-EVALUATION**

*History Note: Authority G.S. 143B-153; S.L. 1999-237;  
Temporary Adoption Eff. January 1, 2000;  
Eff. July 17, 2000;  
Repealed Eff. June 1, 2016.*

#### **10A NCAC 71P .0705 NOTICE TO RECIPIENT OF INTENDED ACTION**

The director of the County Department or his or her designee shall notify the recipient and his or her Authorized Representative or any designated person, in writing of any intended action to terminate or modify the recipient's State/County Special Assistance Program payment, as follows:

- (1) Notice shall be sent no later than 10 business days before the proposed action becomes effective, as authorized by 108A-79(b).
- (2) Notwithstanding the requirements of Item (1) of this Rule, an action to modify or terminate the payment shall be effective immediately, as authorized by G.S. 108A-79(b), 10A NCAC 67A .0202, and 42 CFR 431.213(a) through 42 CFR 431.213(f), in the following circumstances:
  - (a) the County Department terminates the State/County Special Assistance Program payment based on verification of the death of the recipient;
  - (b) the recipient is admitted to a public institution and no longer qualifies for assistance;
  - (c) the recipient signs and dates a written request to have the State/County Special Assistance Program terminated or reduced;
  - (d) the recipient is placed in skilled nursing care, intermediate care, or long-term hospitalization;
  - (e) the recipient's whereabouts are unknown and agency mail has been returned by the post office indicating no known forwarding address; or
  - (f) the modification is beneficial to the recipient.
- (3) All notices of action shall contain information set forth in G.S. 108A-79(c).

*History Note: Authority G.S. 108A-40; 108A-79; 143B-153;  
Eff. June 1, 2016.*

## **SECTION .0800 - COVERAGE**

**10A NCAC 71P .0801 AA-SA: GROUP I**  
**10A NCAC 71P .0802 AD-SA: GROUP I**  
**10A NCAC 71P .0803 SAA**

*History Note: Authority G.S. 108A-41(b);143B-153;  
Eff. January 1, 1983;  
Temporary Amendment Eff. October 28, 1997;  
Amended Eff. April 1, 1999;  
Repealed Eff. June 1, 2016.*

### **10A NCAC 71P .0804 PERSONS WHO ARE ELIGIBLE FOR THE STATE/COUNTY ASSISTANCE PROGRAM**

The State/County Special Assistance Program shall be provided only for persons who:

- (1) meet one of the following age or disability requirements:
  - (a) are aged 65 or older;
  - (b) are aged less than 65 and are disabled or legally blind, pursuant to G.S. 108A-42(a) and the Social Security Act 42 U.S.C. 1382c.; or
  - (c) are aged less than 18 and legally blind.
- (2) reside in duly licensed Adult Care Facilities or reside in an in-home living arrangement if eligible for the State/County Special Assistance In-Home Program;
- (3) receive SSI or are financially ineligible for SSI solely due to excess income;
- (4) are in need of the level of care provided in licensed Adult Care Facilities;
- (5) are not inmates of public institutions;
- (6) reside in North Carolina voluntarily with the intent to remain and meet the North Carolina residency requirement for the State/County Special Assistance Program pursuant to Rule .0903 of the Subchapter;
- (7) are U.S. citizens or qualified aliens as set forth in Rule .0902(a)(2) in this Subchapter;
- (8) meet income requirements as set forth in Rule .0905 of this Subchapter; and
- (9) meet resource requirements as set forth in Rule .0904 of this Subchapter.

*History Note: Authority G.S. 108A-40; 108A-41(b); 108A-42; 143B-153;  
Eff. January 1, 1983;  
Temporary Amendment Eff. October 28, 1997;  
Amended Eff. June 1, 2016; April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71P .0805 STATE/COUNTY SPECIAL ASSISTANCE FOR THE CERTAIN DISABLED PROGRAM**

The State/County Special Assistance for the Certain Disabled Program shall be provided only for persons who are:

- (1) ineligible for SSI and are not receiving SSI;
- (2) aged 18 or older and less than 65;
- (3) in need of the level of care provided in licensed Adult Care Facilities;
- (4) not inmates of public institutions;
- (5) residing in North Carolina voluntarily with the intent to remain and meet the North Carolina residency requirement for the State/County Special Assistance Program;
- (6) U.S. citizens or qualified aliens as set forth in Rule .0902(a)(2) in this Subchapter; and
- (7) not receiving Medicaid for the same month as they would receive State/County Special Assistance for the Certain Disabled Program.

*History Note:* Authority G.S. 108A-25; 108A-40; 108A-41(b); 108A-41(d); 143B-153;  
Eff. January 1, 1983;  
Amended Eff. November 2, 1992; February 1, 1986;  
Temporary Amendment Eff. October 28, 1997;  
Amended Eff. June 1, 2016; April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

## **SECTION .0900 - ELIGIBILITY FACTORS**

### **10A NCAC 71P .0901 AGE**

Verification of age is required for all applicants, or recipients by documentary evidence. If age cannot be verified in the time limit for processing the application, the worker shall use a temporary determination of age.

*History Note:* Authority G.S. 108A-41; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 1990; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71P .0902 UNITED STATES CITIZENSHIP**

(a) Eligibility Requirement. A recipient shall be:

- (1) A citizen of the United States; or
- (2) An alien lawfully admitted for permanent residence or an alien residing in the United States under color of law;

as set forth in 20 C.F.R. .416.1600 through .1618.

(b) Verification. The Caseworker shall require documentary evidence from the applicant or recipient to verify citizenship or alien status.

*History Note:* Authority G.S. 108A-40; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71P .0903 RESIDENCE**

(a) State Residence Eligibility Requirement. An individual shall meet the requirements in G.S. 108A-41(b)(3) to be eligible for the State/County Special Assistance Program.

An individual who moves to another state and intends to remain there shall not be eligible for the State/County Special Assistance Program.

(b) County Residence Eligibility Requirement:

- (1) An individual shall be a resident of the county in which he or she lived in an in-home living arrangement prior to entering an Adult Care Facility.
- (2) If a disabled adult child as defined in 20 C.F.R. 404.350 has remained in a facility such as an Adult Care Facility, he or she remains a resident of the county and state in which his or her parent(s) resided immediately prior to him or her reaching age 18. If he or she is an adult and is entering an Adult Care Facility and it is not possible to trace his or her county of residence as a minor, he or she may establish residence based on his or her intent to remain regardless of his or her parent's current legal residence.

(c) Temporary Absence.

- (1) An applicant or recipient shall not receive the State/County Special Assistance Program payments for those days he or she is not living in the Adult Care Facility unless his or her absence is not expected to exceed 30 calendar days. This Subparagraph (c)(1) shall not apply to recipients of the State/County Special Assistance In-Home Program or State/County Special Assistance for the Certain Disabled Program.

- (2) Temporary absence from the State or county of residence with subsequent return or intent to return does not make a recipient of the State/County Special Assistance for Certain Disabled Program in an in-home living arrangement ineligible for such assistance.
- (d) Verification. The Caseworker shall accept the applicant's or recipient's statement regarding residence unless the Caseworker has information that conflicts with the applicant's or recipient's statement. If there is conflicting information, documentary evidence from the applicant or recipient shall be required.
- (e) If a recipient of the State/County Special Assistance for Certain Disabled Program visits another county within the State or another state for a period exceeding three months, the Caseworker in the responsible county shall verify the following:
- (1) the recipient's intent to return;
  - (2) the reason for the continuing absence; and
  - (3) the continuing maintenance of a home in the responsible county.

*History Note:* Authority G.S. 108A-40; 108A-41; 108A-41(b); 143B-153; 42 U.S.C. 1382e(c)(1);  
Eff. January 1, 1983;  
Amended Eff. June 1, 1990;  
Temporary Amendment Eff. October 28, 1997;  
Amended Eff. June 1, 2016; April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71P .0904 RESOURCES**

- (a) Eligibility shall be determined using the resource rules governing the SSI Program found in Title XVI of the Social Security Act as codified in 42 U.S.C. 1382b, which is hereby incorporated by reference including all subsequent amendments and editions. This law can be accessed free of charge through the federal Social Security website at [www.ssa.gov](http://www.ssa.gov).
- (b) Mental Competence: When an applicant's or recipient's competence is in question and there is no Authorized Representative, resources shall be counted according to 10A NCAC 23E .0202(b) through .0202(i).

*History Note:* Authority G.S. 108A-40; 108A-41; 108A-46; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; February 1, 1996; July 1, 1994; March 1, 1991; June 1, 1990.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71P .0905 INCOME**

Eligibility Requirement. Eligibility shall be determined using the income rules governing the SSI Program found in Title XVI of the Social Security Act as codified in 42 U.S.C. 1382a, which is hereby incorporated by reference including all subsequent amendments and editions. This law can be accessed free of charge through the federal Social Security website at [www.ssa.gov](http://www.ssa.gov).

*History Note:* Authority G.S. 108A-26; 108A-40; 108A-41; 143B-153;  
Eff. January 1, 1983;  
Amended Eff. June 1, 2016; February 1, 1996; July 1, 1994; March 1, 1991; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71P .0906 EVALUATION**

*History Note:* Authority G.S. 143B-153; S.L. 1999-237;  
Temporary Adoption Eff. January 1, 2000;  
Eff. July 17, 2000;  
Repealed Eff. June 1, 2016.

**SUBCHAPTER 71Q - SERVICE ELEMENTS**

**SECTION .0100 - PSYCHOLOGICAL SERVICES**

**10A NCAC 71Q .0101 NATURE AND SCOPE**

Psychological evaluations may be provided as an element of designated services in 10A NCAC 71R .0900.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71Q .0102 CONSENT**

No psychological evaluation of a minor may take place unless the minor's parent or guardian completes a consent form and submits the form to the psychologist at the time of a scheduled psychological evaluation. On this form, available from county departments of social services, the parent or guardian shall indicate that he has been fully apprised of the nature and scope of the evaluation.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**SECTION .0200 - LEGAL SERVICES**

**10A NCAC 71Q .0201 NATURE AND SCOPE**

(a) Legal services may be provided as an element of designated services in 10A NCAC 71R .0900.

(b) Legal services do not include the services of lawyers for criminal cases, class actions, community organization, lobbying, political action or matters covered by the obligation of the state to furnish counsel. Those activities related to securing and collecting support which the state is responsible for providing without cost to the social service agency are not included as legal services to facilitate permanency planning for children.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**10A NCAC 71Q .0202 METHODS OF PROVISION AND MAXIMUM RATES**

(a) Legal services may be provided directly by the county department of social services through licensed attorneys employed as service staff or may be purchased under contract or vendor agreement from legal aid corporations or private attorneys. Services provided under contract with legal aid corporations must be in accordance with service standards and requirements set forth in 10A NCAC 70 and 71 and with the Standards for Legal Services Organizations developed by the North Carolina Bar Association Foundation.

(b) Maximum rates have been established by the Social Services Commission for the purchase of legal services under vendor agreement. Information regarding maximum rates is contained in policy material issued by the division and is available in accordance with 10A NCAC 71R .0302.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**SUBCHAPTER 71R – SOCIAL SERVICES BLOCK GRANT**

**SECTION .0100 - SERVICES TO BE PROVIDED**

### **10A NCAC 71R .0101 SOCIAL SERVICES BLOCK GRANT FUNDED SERVICES**

The following services may be reimbursed with Social Services Block Grant Funds:

- (1) adjustment services for the blind or visually impaired;
- (2) adoption services;
- (3) adult placement services;
- (4) child care services;
- (5) children and adults needing mental health, developmental disability or substance abuse services;
- (6) community living services;
- (7) day care services for adults;
- (8) delinquency prevention services;
- (9) employment and training support services;
- (10) family planning services;
- (11) family preservation services;
- (12) family support services;
- (13) foster care services for adults;
- (14) foster care services for children;
- (15) health support services;
- (16) home health services (includes skilled nursing, physical therapy, speech therapy, occupational therapy, medical social services and nutrition care);
- (17) housing and home improvement services;
- (18) individual and family adjustment services;
- (19) in-home aide services;
- (20) in-home aide services for the blind;
- (21) intensive family preservation services;
- (22) personal and family counseling;
- (23) preparation and delivery of meals;
- (24) problem pregnancy services;
- (25) protective services for adults;
- (26) protective services for children;
- (27) residential treatment for the emotionally disturbed;
- (28) respite care services;
- (29) transportation services; and
- (30) youth services.

*History Note:* Authority G.S. 108A-71; 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; November 1, 1994; December 1, 1991; September 1, 1988; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71R .0102 STANDARDS**

All services funded by the Social Services Block Grant shall meet applicable standards set by the appropriate federal agency, a national voluntary nonprofit agency, or a state agency having legal responsibility for developing standards in a specific area.

*History Note:* Authority G.S. 143B-153;  
Eff. September 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **10A NCAC 71R .0103 MANDATED AND OPTIONAL SERVICES**

(a) The following services funded with Social Services Block Grant funds shall be made available in each county. These services are:

- (1) adjustment services for the blind and visually impaired;
- (2) adoption services;

- (3) child care services;
- (4) in-home aide services for the blind;
- (5) family planning services;
- (6) adult placement services;
- (7) foster care services for adults;
- (8) foster care services for children;
- (9) health support services (sterilization component is optional);
- (10) individual and family adjustment services;
- (11) in-home aide services;
- (12) protective services for adults;
- (13) protective services for children.

(b) With the exception of those mandated services specified in Paragraph (a) of this Rule, all other services are optional for purposes of the Social Services Block Grant.

*History Note: Authority G.S. 143B-153;  
Eff. September 1, 1994;  
Amended Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0104 PURCHASE OF SERVICES**

Services funded by the Social Services Block Grant shall be provided directly by the Department of Health and Human Services, its divisions or their local counterparts; or services shall be purchased from public or private providers by contracting in accordance with federal, state, and local regulations governing such purchases. Limitations on purchase of services shall be as follows:

- (1) Adult placement services and foster care services for adults shall not be purchased but provided only by the county departments of social services.
- (2) Adoption and foster care services for children shall be purchased only from agencies licensed to place and supervise children in accordance with standards established under G.S. 143B-153(2)c.
- (3) Those functions of protective services for adults and children which are the legally mandated responsibility of local departments of social services shall not be purchased.
- (4) The following purchases can be made only through direct payments by county departments of social services:
  - (a) the provision of basic appliances as an element of housing and home improvement services,
  - (b) the payment of fees for membership in community sponsored recreational organizations as an element of individual and family adjustment services,
  - (c) assistance in meeting the usual expenses of attending technical institutes and community colleges as an element of employment and training support services.
- (5) In-Home Aide Services for the Blind and Adjustment Services for the Blind and Visually Impaired shall be purchased by the Division of Services for the Blind.

*History Note: Authority G.S. 143B-153;  
Eff. September 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0105 SERVICES POLICIES**

Respective divisions or agencies within the Department of Health and Human Services shall be responsible for the administration of regulations and policies which affect client eligibility or control provision of services. Information about services policies may be obtained by direct inquiry to the Division or Office of the Department of Health and Human Services which has responsibility for the particular service.

*History Note: Authority G.S. 143B-153;  
Eff. September 1, 1994;*



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

## **SECTION .0200 - ADMINISTRATIVE REQUIREMENTS**

### **10A NCAC 71R .0201 FISCAL MANAGEMENT**

The fiscal requirements for the Social Services Block Grant (SSBG) are as follows:

- (1) Allocation of Funds. Any allocation of SSBG Funds made directly to Department of Health and Human Services divisions or public or private agencies by the Department of Health and Human Services is based on the following criteria:
  - (a) identified need for the service program as specified in Rule .0101 of this Subchapter;
  - (b) established priorities of the department as specified in Rules .0101 and .0103 of this Subchapter;
  - (c) allowability of the program under federal and state rules and regulations as specified in Rule .0102 of this Subchapter and as established by the General Assembly;
  - (d) assessed or potential performance of the service program as specified in Rule .0102 of this Subchapter;
  - (e) resource utilization as specified in this Rule and as established by the General Assembly; and
  - (f) availability of funds necessary to secure federal financial participation as specified in this Rule and as established in federal regulations and by the General Assembly.
- (2) The amount of SSBG funds allocated by the Department of Health and Human Services through the Division of Social Services to each county department of social services is based on the average of the following two factors applied to the total amount of SSBG funds available for county departments of social services:
  - (a) the percentage of the statewide population residing within each county; and
  - (b) the percentage of the statewide unduplicated count of SSI recipients, food stamp recipients, TANF recipients and medicaid eligible individuals residing in each county.Once allocations to county departments of social services are calculated as described in this Item, they remain at that level each subsequent year.
- (3) Matching Rates for Financial Participation. The following matching rates apply to financial participation in services funded by the SSBG:
  - (a) 75 percent financial participation - financial participation for provision of any service listed in this Subchapter unless otherwise provided in this Item is available at a rate of 75 percent of the cost of providing the service;
  - (b) 87-1/2 percent financial participation - financial participation for provision of in-home services - day care services for adults, preparation and delivery of meals, housing and home improvement services, and in-home aide services (levels I through IV) -- is available at a rate of 87-1/2 percent of the cost of providing the service;
  - (c) 90 percent financial participation - financial participation for provision of family planning services and the family planning component of health support services is available at a rate of 90 percent of the cost of providing the service;
  - (d) 100 percent financial participation - financial participation for provision of child care services is available at a rate of 100 percent of the cost of services for those child care services reimbursed from an agency's designated 100 percent day care allocation.
- (4) Transferred Funds. If funds from the Temporary Assistance for Needy Families (TANF) Block Grant are transferred to the SSBG for services previously funded by SSBG, the matching rates outlined in Item (3) of this Rule shall apply. If funds from TANF are transferred to SSBG for services not previously funded by SSBG, the matching rates as outlined in Item (3) of this Rule shall not apply.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. December 1, 1991; July 1, 1990; December 1, 1983;  
Temporary Amendment Eff. November 10, 1999;  
Amended Eff. November 1, 2007; September 1, 2007; July 17, 2000.*

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

## **SECTION .0300 – GENERAL CONDITIONS FOR PROVISION OF SERVICES**

### **10A NCAC 71R .0301 APPLICABILITY**

The rules of Subchapter 71R shall apply to the Division of Social Services, county departments of social services, and to any agency from which the division or a county department of social services purchases eligibility determination and case management functions on a contractual basis.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0302 FAMILY SERVICES MANUAL AND POLICY DIRECTIVES**

*History Note: Authority G.S. 143B-153; 1985 S.L., c. 479, s. 93;  
Eff. July 1, 1983;  
Amended Eff. May 1, 1990; July 1, 1984;  
Repealed Eff. November 1, 2007.*

### **10A NCAC 71R .0303 RECIPIENT SERVICE RECORDS**

(a) An agency must open and maintain a service record for each individual for whom an application for social services is made and for each recipient of protective services. Recipient service records must be documented and maintained in accordance with procedures set forth in this Subchapter.

(b) Recipient service records shall be treated in accordance with policies governing confidentiality and access to client records as set forth in 10A NCAC 69.

(c) The service record must be updated and documented as necessary to reflect changes in a recipient's circumstances and to keep all information in the record current.

(d) All changes must be documented in the service record. These changes include addition of a service to a recipient's service plan, termination of service, redetermination of eligibility, changes in the recipient's circumstances that affect his/her need for or use of services, and any other action taken by the agency that affects the recipient's receipt of a service and termination of the recipient's service.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0400 - APPLICATION FOR SOCIAL SERVICES**

### **10A NCAC 71R .0401 APPLICATION REQUIREMENT**

All applicants for social services must initiate entry into the social services system via a written application except that no application shall be required for the following:

- (1) evaluation of the need for protective services for adults;
- (2) guardianship services for adults;
- (3) protective services for children;
- (4) foster care services for children;
- (5) employment program services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; November 2, 1992; May 1, 1990; February 1, 1986;*

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

#### **10A NCAC 71R .0402 OPPORTUNITY TO APPLY**

An individual may apply for social services and have his/her application acted upon no more than 30 calendar days from the application date.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0403 WHO MAY APPLY**

Application for social services may be made by:

- (1) an adult or emancipated minor on his/her own behalf or on behalf of others in his/her family;
- (2) a parent, custodian or guardian acting on behalf of a minor;
- (3) someone for the applicant if the applicant is believed to be incompetent or incapacitated; or
- (4) agency staff on behalf of an individual in the event of an emergency, or when there is some urgency to provide services, or if arranging for the individual to make application would create a barrier to the receipt of services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0404 RESIDENCY**

In order to apply for social services, individuals must be residents of North Carolina. The definition of residency is found in G.S. 108A-24(6).

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0405 APPLICATION DOCUMENTATION REQUIREMENTS**

- (a) The application for services shall be made through a form provided by the Department of Health and Human Services or an equivalent form.
- (b) When the request is made through a mailed or electronically transmitted request for service(s), the agency shall transfer the information to the application form and maintain the written request in the service record.
- (c) The application form shall include:
  - (1) identification of the individual for whom the service(s) is (are) requested;
  - (2) identification of the specific service(s) requested for both initial requests and additional requests;
  - (3) date of the request;
  - (4) signature of the applicant or his/her representative, the date of the signature and for situations where the person making the application executes his/her signature by making a mark (X), the signature of a witness;
  - (5) signature of the social worker determining eligibility and date that determination was made; and
  - (6) documentation that the application is voluntary and that the individual has been informed of the following rights and responsibilities associated with applications for social services:
    - (A) The right to request and obtain a fair hearing if his/her application is not acted on as required by the rules of this Subchapter or if (s)he disagrees with the agency' action in response to his/her application for services;

- (B) the right to confidentiality and that the information given to the agency will be confidential and not released without written consent except for information necessary to establish eligibility, information that may be revealed in the course of agency audits and monitoring and as otherwise required by law; and
- (C) his/her responsibilities to provide accurate and complete information necessary to determine eligibility and, if requested, to provide documentation of such information; to notify the agency within five days of any change in address, employment, income, living arrangement or family size; and that failure to provide accurate and complete information may subject him/her to prosecution.

(d) The date of the application is when the applicant signs the application, the date of request for guardianship for adults or the date of the report for Adult Protective Services or Children's Protective Services.

(e) When a signature of the applicant or his/her representative is not obtained because obtaining the signature would create a barrier to the receipt of the service, the social worker shall document the request indicating the service(s) requested, the date of the request and the circumstances that prevented the worker from obtaining the signature.

(f) In the case of applications for Health Support Services-Family Planning Component, the signature of the applicant must not be waived.

*History Note: Authority G.S. 143B-153;  
Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0500 - CONDITIONS OF ELIGIBILITY**

### **10A NCAC 71R .0501 BASIC ELIGIBILITY CRITERIA**

In addition to the requirements of Section .0600 of this Subchapter, in order for an individual to be determined eligible to receive services funded under the Social Services Block Grant (Title XX), it must be established that (s)he is eligible on the basis of need as specified in the target population for the services requested as set forth in this Chapter except that for purposes of providing child care services, transportation services, or the federally funded sterilization resource item of health support services, eligibility must also be determined on the basis of his/her income maintenance or income eligible status.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. May 1, 1990; July 1, 1989;  
Temporary Amendment Eff. October 21, 1996;  
Amended Eff. November 1, 2007; July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0502 INCOME MAINTENANCE STATUS**

(a) For an individual to be eligible on the basis of income maintenance status, it must be established that the individual is either:

- (1) a current recipient of Work First Family Assistance, Benefit Diversion; or Work First Services for Low Income Families (below 200% of the Federal poverty level) as defined in G.S. 108A-24; or a person whose needs were taken into account in determining the needs of Work First recipients;
- (2) a current recipient of Supplemental Security Income (SSI);
- (3) an individual who receives Optional State Supplementation payments from the State, known as State/County Special Assistance for Adults in North Carolina; or
- (4) a child with respect to whom foster care maintenance payments or adoption assistance payments are made under Public Law 96-272.

(b) An individual whose eligibility is based on income maintenance status is eligible for any service funded under the Social Services Block Grant (Title XX) that is available in the county in which (s)he lives.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20,  
2017.*

**10A NCAC 71R .0503 INCOME ELIGIBLE STATUS**

- (a) Individuals other than those eligible on the basis of income maintenance status may be determined eligible on the basis of that individual's income unit's monthly gross income.
- (b) To determine income eligibility, it is necessary to determine the number of individuals who reside in the same household who are financially obligated to one another (the income unit) and the amount of the gross monthly income available to them.
- (c) The following are defined as separate income units for purposes of determining eligibility and fees.
- (1) Biological or adoptive parents and their minor children;
  - (2) A minor parent and his or her children;
  - (3) Each adult, whether related or unrelated, other than spouses;
  - (4) Children living with adults other than their biological or adoptive parents;
  - (5) Minors who are emancipated through a court proceeding, marriage or participation in the armed services.
- (d) Sources of income which shall be considered for purposes of computing family monthly gross income are:
- (1) Gross earned wages or salary (earnings received for work performed as an employee, including wages, salary, commissions, tips, piece-rate payments, and cash bonuses earned, before any deductions are made for taxes, bonds, pensions, union dues);
  - (2) Adjusted gross income from taxable self-employment income;
  - (3) Social Security benefits (includes Social Security pensions, survivors' benefits and permanent disability insurance payments);
  - (4) Dividends; interest (on savings or bonds); income from estates or trusts; royalties; adjusted gross rental income on houses, stores or other property;
  - (5) Pensions and annuities paid directly by an employer or union or through an insurance company;
  - (6) Workers' compensation for injuries incurred at work;
  - (7) Unemployment insurance benefits;
  - (8) Alimony (includes direct and indirect payments, such as rent and utility payments);
  - (9) Child support, direct or indirect;
  - (10) Pensions paid to veterans or survivors of deceased veterans;
  - (11) On-the-Job Training (OJT) payments;
  - (12) Job Training Partnership Act (JTPA) payments made to an adult;
  - (13) AmeriCorps stipend (living allowance);
  - (14) Armed Forces pay (only the amounts taxable, such as base pay);
  - (15) Work release payments;
  - (16) Cherokee Tribal Per Capita Income paid to adult family members;
  - (17) Work-study payments, if the income is from a program not administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs; and
  - (18) Recurring cash contributions paid directly to the parent.
- (e) Sources of income that shall not be counted when computing family gross monthly are:
- (1) Work First Family Assistance;
  - (2) Supplemental Security Income (SSI);
  - (3) Lump sum payments (e.g. Social Security benefits, workers' compensation, alimony, veteran's benefits, HUD);
  - (4) Foster care assistance payments;
  - (5) Adoption Assistance payments;
  - (6) Payments/trust funds under the Indian Claims Commission;
  - (7) Payments from the Alaska Native Claims Settlement Act;
  - (8) Income from sale of personal assets (stocks, bonds, house, car, and insurance);
  - (9) Bank withdrawals;
  - (10) Money borrowed;
  - (11) Tax refunds;
  - (12) Gifts or contributions;
  - (13) In-kind contributions from non-legally responsible adults;

- (14) Emergency Assistance, Low Income Energy Assistance Program, Crisis Intervention Program, General Assistance, or Progress Energy Share Program payments;
- (15) Section VIII housing subsidy;
- (16) Capital gains;
- (17) Value of food stamp benefits allotted under the Food Stamp Act of 1977;
- (18) Free and reduced lunch program;
- (19) Food subsidy programs;
- (20) Relocation/Acquisition Act payments;
- (21) Earnings of a dependent child under 18 years of age, unless a minor parent of a child needing child care;
- (22) Loans, grants, scholarships, money received through job training, Pell or Carl Perkins grants;
- (23) Home produce utilized for household consumption;
- (24) Volunteers in Service to America (VISTA) earnings;
- (25) Payments received as Earned Income Tax Credits or Dependent Care Credits;
- (26) All subsidized housing and housing allotments, including military housing allotments. If rent is provided directly to the landlord, it shall not be counted. If, however, the rent monies are paid to the individual, it shall be counted as income;
- (27) Money received from an employer as an employee benefit for child care; and
- (28) Work-study payments, if the income is from the College Work-Study Program administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs. (Likewise, if the income from college work-study goes directly to the college, it is not counted as income.)

*History Note:* Authority G.S. 50-13.4; 110.129(2); 143B-153;  
 Eff. July 1, 1983;  
 Amended Eff. November 1, 2007; October 1, 1991; May 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**10A NCAC 71R .0504 DEFINITION OF ESTABLISHED INCOME**

*History Note:* Authority G.S. 143B-153;  
 Eff. July 1, 1983;  
 Amended Eff. March 1, 1994; July 1, 1991; May 1, 1990.  
 Repealed Eff. November 1, 2007.

**10A NCAC 71R .0505 MAXIMUM INCOME LEVELS FOR SERVICES**

- (a) Sixty Percent of the Federal Poverty Guidelines. An individual whose income unit's gross monthly income is less than 60 percent of the Federal Poverty Guidelines as published annually in the Federal Register by the U.S. Department of Health and Human Services (HHS) is eligible for transportation services or the federally funded sterilization resource item of health support services funded under the Social Services Block Grant (Title XX) if available in the county in which (s)he lives.
- (b) Eighty Percent of the Federal Poverty Guidelines. An individual whose income unit's gross monthly income is less than 80 percent of the Federal Poverty Guidelines is eligible for the federally funded sterilization resource item of health support services if available in the county in which (s)he lives and if conditions for payment as set out in 10A NCAC 71J .0105 have been satisfied.

*History Note:* Authority G.S. 143B-153(2a)b.;  
 Eff. July 1, 1983;  
 Amended Eff. March 1, 1994; July 1, 1989; October 1, 1987; July 1, 1984;  
 Temporary Amendment Eff. October 21, 1996;  
 Amended Eff. November 1, 2007; July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

**10A NCAC 71R .0506 WITHOUT REGARD TO INCOME STATUS**

Individuals are eligible for the following services on the basis of need for the service and without regard to their income:

- (1) adjustment services for the blind and visually impaired;
- (2) adoption services;
- (3) adult placement services;
- (4) foster care services for children;
- (5) protective services for adults;
- (6) protective services for children;
- (7) child care services, when needed to support child protective services, child welfare services and for children receiving foster care services;
- (8) delinquency prevention services;
- (9) employment and training support services;
- (10) health support services (excluding the optional voluntary sterilization component);
- (11) individual and family adjustment services;
- (12) problem pregnancy services;
- (13) community living services;
- (14) day care services for adults;
- (15) housing and home improvement services;
- (16) in-home aide services;
- (17) personal and family counseling;
- (18) preparation and delivery of meals;
- (19) residential treatment for the emotionally disturbed;
- (20) respite care services;
- (21) transportation services provided by the North Carolina Commission of Indian Affairs;
- (22) youth services;
- (23) family planning services;
- (24) children and adults needing mental health, developmental disability or substance abuse services;
- (25) family preservation services;
- (26) family support services;
- (27) foster care services for adults;
- (28) home health services (includes skilled nursing, physical therapy, speech therapy, occupational therapy, medical social services, and nutrition care; and
- (29) intensive family preservation services.

*History Note: Authority G.S. 143B-153(2a)b;*  
*Eff. July 1, 1983;*  
*Amended Eff. March 1, 1994; December 1, 1991; May 1, 1990; July 1, 1989;*  
*Temporary Amendment Eff. October 21, 1996;*  
*Amended Eff. November 1, 2007; July 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **SECTION .0600 - ELIGIBILITY DETERMINATION**

### **10A NCAC 71R .0601 ELIGIBILITY DETERMINATION**

(a) For purposes of the rules in this Subchapter, an eligibility determination means a decision pursuant to an application for social services which is based on information necessary to determine whether an individual meets the conditions of eligibility for the services requested. Conditions of eligibility include basic eligibility criteria from Section .0500 of this Subchapter applicable to the program or funding source under which the service is made available and conditions of need specified in the target population for the service requested, as set forth in this Chapter.

(b) The individual making application shall provide information which will enable the agency to reach an eligibility decision. Failure on the part of the individual making application to provide such information or to cooperate with the agency in determining eligibility are grounds for delay in processing an application and reaching an eligibility decision or for denial of services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990; July 1, 1989; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0602 BASIS FOR ESTABLISHING ELIGIBILITY**

Eligibility for services is established on the basis of:

- (1) a signed, dated application, if required;
- (2) the agency's determination that the individual meets the conditions of eligibility;
- (3) availability of the service in the county in which the individual has legal residence; and
- (4) availability of the service to the individual's category of eligibility.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0603 BASIS FOR DENIAL OR TERMINATION OF SERVICES**

(a) Reasons for denial of an application for services and reasons for the termination of services include the following:

- (1) The individual has failed to cooperate with the agency in determining (or redetermining) eligibility;
- (2) The individual cannot be located to allow for determination (or redetermination) of eligibility;
- (3) The individual has been determined to be not eligible for the services requested on the basis that (s)he does not meet (or because of changing circumstances, no longer meets) the conditions of eligibility for the program funding sources under which the service is provided or the definition of the target population for receipt of the service;
- (4) The service is not available in the county in which the individual has legal residence;
- (5) The service will not be available in sufficient time to ensure its prompt provision, as set forth in Rules .0802 and .0803 of this Subchapter;
- (6) The agency has exhausted its funds for the provision of the service for that program year;
- (7) The individual has notified the agency that (s)he no longer wants or needs the service;
- (8) The agency has determined that the individual is no longer able to avail himself/herself of the service because (s)he has moved to another county or has been admitted to an institution;
- (9) The individual has failed to utilize the service or to cooperate in service delivery;
- (10) The individual is residing in a facility or institution and the funding source prohibits provision of the service to clients in facilities or institutions; and
- (11) The individual fails to meet any other conditions set forth in rules in Chapters 70 and 71 of this Title governing delivery of the service.

(b) The agency must document the basis for denial or termination of services on the notice to the client, except in cases where notice is not required as set forth in 10A NCAC 67A .0202.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; March 1, 1994; May 1, 1990; November 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0604 REDETERMINATION OF ELIGIBILITY**

(a) The agency shall make a redetermination of eligibility and need for the following services every 12 months:

- (1) child care services;
- (2) transportation; and
- (3) health support – abortion and sterilization components which are federally funded.



- (b) Eligibility for services provided without regard to income is based on need, and services shall continue until determined no longer appropriate.
- (c) The agency shall make a redetermination of eligibility and need when there is new information provided to the agency about changes in the client's circumstances that affect his/her eligibility.
- (d) The agency shall make a redetermination of eligibility and need every 12 months for services available with regard to income.
- (e) Requirements and procedures for a redetermination are the same as those for eligibility determination for services provided with regard to income.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990; July 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71R .0605 DOCUMENTATION OF ELIGIBILITY DECISION**

- (a) The agency shall document information pertinent to meeting conditions of eligibility in the individual's service record.
- (b) The agency shall document the eligibility decision, the date of the decision and the service worker/case manager making the decision on the application form.
- (c) The agency shall document the beginning and ending date for all services provided with regard to income.
- (d) For all services provided without regard to income, except for child care services, the agency shall document the beginning date, which is the eligibility date.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 2007.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71R .0606 QUARTERLY REVIEW**

- (a) The agency shall review and document the client's situation and service plan at least quarterly from the date of application except for clients whose only service(s) is (are):
  - (1) transportation;
  - (2) child care;
  - (3) foster care;
  - (4) adoptions; and
  - (5) housing and home improvement.
- (b) The agency shall conduct the review in the month it is due. The month the quarterly review is due is determined by the month in which the application was made.
- (c) The agency must label and date the quarterly review in the record.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **SECTION .0700 - ELIGIBILITY DETERMINATION**

#### **10A NCAC 71R .0701 METHODS OF ELIGIBILITY DETERMINATION**

When the services being provided have income as a condition of eligibility, each county board of social services shall decide whether to use the verification method of eligibility as described in Rule .0702 of this Section, or the declaration method of determining eligibility as described in Rule .0703 of this Section.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990;

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

#### **10A NCAC 71R .0702 VERIFICATION METHOD**

(a) Under the verification method of eligibility determination, an agency shall verify an individual's statement as to eligibility status by obtaining evidence which supports the individual's statement. Evidence which supports the individual's statement includes a copy of a source document or the agency worker's written statement concerning the contents of a source document, the contents of a telephone conversation confirming the required information or the identification of any existing agency record confirming the required information.

(b) When an individual's eligibility for services is based on his/her status as an income maintenance recipient, an agency shall verify such status.

(c) When an individual's eligibility for services is based on family monthly gross income, an agency shall verify the individual's statement as to the source and amount of income except in the following circumstances:

- (1) If the individual is an authorized Medicaid recipient, the individual's statement as to both sources and amount of family income shall be accepted. The agency shall verify the individual's status as a recipient.
- (2) If the individual declares that his/her only source of family income is from Old Age, Survivors and Disability Insurance (OASDI) benefits, the agency shall accept his/her statement as to both the source and amount of income.
- (3) If the individual declares no income, the agency worker shall accept the statement and document it.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0703 DECLARATION METHOD**

Under the declaration method of eligibility determination, an agency shall accept an individual's statement as to his/her status as an income maintenance recipient or statement as to both the sources and amount of his/her family gross income. When an agency has reason to believe that the individual's declaration may be inaccurate, an agency shall use the verification method as described in Rule .0702 of this Subchapter.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0704 METHOD OF DETERMINING NEED FOR SERVICES**

An agency shall make an assessment of need for services provided on the basis of need without regard to income and funded under the Social Services Block Grant (Title XX). The determination of need is met when the client's situation fits the criteria contained in the target population, described for each service in Section .0900 of this Subchapter.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1989;  
Amended Eff. November 1, 2007; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **SECTION .0800 – NOTICE TO APPLICANT: RECIPIENT: AUTHORIZED REPRESENTATIVE**

#### **10A NCAC 71R .0801 NOTIFICATION TIME FRAMES**

- (a) The agency shall ensure that the notice of the eligibility decision on the applicant's request for service(s) is delivered to the client or mailed and postmarked no later than 15 calendar days after the eligibility decision is made or within 30 calendar days of the date of application, whichever comes first.
- (b) For additional services requested after the initial application, but while the recipient is still receiving service(s), the agency shall deliver notice to the client or mail and postmark the notice no later than 15 calendar days after the date the mailed request is received in the agency.
- (c) Time frames for termination or modification of services are provided in G.S. 108A-79.
- (d) Notice of termination may be given or sent on the day of termination, in the following circumstances:
  - (1) The agency receives a written statement, signed by the recipient or his/her representative requesting that the services be terminated because they are no longer needed or wanted;
  - (2) The recipient has been admitted to an institution and is no longer able to avail himself/herself to the service(s); or
  - (3) The recipient has moved to another county or state.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71R .0802 DEFINITION OF SERVICE PROVISION**

Service provision means delivery of the service directly by agency staff or authorization for the purchase of the service from another provider.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71R .0803 REQUIREMENTS FOR PROMPT PROVISION**

(a) Where an individual's eligibility for a service is established in accordance with Rule .0602 of this Subchapter, the service must be provided as follows:

- (1) Initial service(s) must be provided within 15 calendar days of the date the notice of eligibility is given or sent to the client; and
- (2) For additional service(s) requested during an ongoing period of eligibility, the service must be provided within 30 calendar days of the date the request was received by the agency.

(b) Where a requested service cannot be provided within timeframes listed in paragraph (a), the application for the service must be denied unless, for services funded with Social Services Block Grant (Title XX) funds administered by the Division of Social Services, the agency has adopted a local waiting list policy that provides otherwise as follows:

- (1) Local waiting list policies must be in writing and must be approved by the county board of social services.
- (2) Local waiting list policies must designate whether the waiting list is used for purposes of meeting prompt provision requirements or to respond to inquiries about services or both.
- (3) Local waiting list policies must assure that all individuals are treated equitably in terms of the manner in which they are advised of the upcoming availability of services.
- (4) Local waiting list policies must ensure that an individual's name does not remain on the waiting list indefinitely without the individual being notified of the status of his/her request and the anticipated availability of the service. To this extent, the waiting list policy must designate a reasonable time period, not to exceed 90 days, that an individual's name can remain on the waiting list prior to providing the service or notifying the individual that the service cannot be provided.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990; November 1, 1984;

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

## **SECTION .0900 - SERVICE DEFINITIONS**

### **10A NCAC 71R .0901 ADOPTION SERVICES**

(a) Primary Service. Adoption services are: the recruitment, study and selection of adoptive homes; social casework and other diagnostic and treatment services to prepare the child and prospective parents for placement; casework services to the child and adoptive parents to support and maintain the placement and to facilitate legal consummation of the adoption including supervision and reports to the court; casework counseling and court related services in independent placements and in adoptions by stepparents and relatives as required by statute; and casework services to facilitate interstate and intercountry adoptions including those activities required to bring such interstate planning and placements into compliance with the interstate compact on the placement of children; and the provision of post-adoption services including, but not limited to, casework services designed to support the achievement of long range adjustment between the child and members of the adoptive family, and to assist the adoptee to gain understanding of his biological heritage to the extent allowed by law. At its option, the county may provide payment of costs incidental to preplacement and placement visits as a resource to facilitate the provision of adoption services, and payment of the cost of legal services to facilitate legal adoption of a child.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Children for whom legal adoption is planned or in process.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
Amended Eff. October 1, 1981; October 1, 1979; July 1, 1979; October 1, 1977;  
Transferred from T10.43D .0201 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0902 COMMUNITY LIVING SERVICES**

(a) Primary Service. Community living services are provided to support continuation of the individual's family or community-based situation, or to prepare him for leaving institutional care and facilitate his transition to living in the community. Such services include training in community living skills and work activity training commensurate with the individual's age and developmental level; recreational and other activities which promote normalization outside an institutional setting; and assistance in arranging for and utilizing community services and resources which support this regimen of services. On an optional basis, services may also include remedial and treatment services necessary to ameliorate the handicapping effects of the disability which prevent or constrain personal, social, and work adjustment (e.g., physical therapy, speech therapy), and food and food services to provide a nutritious meal and snacks during the time clients participate in on-site services; and transportation when needed and not otherwise available to access community living services programs.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population:

- (1) individuals who are mentally retarded;
- (2) individuals who are severely physically disabled.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1979;  
Transferred from T10.43D .0234 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0903 DAY CARE SERVICES FOR ADULTS**

(a) **Primary Service.** Day care services for adults is the provision of an organized program of services during the day in a community group setting for the purpose of supporting adults' personal independence, and promoting their social, physical, and emotional well-being. Services must include a variety of program activities designed to meet the individual needs and interests of the participants, and referral to and assistance in using appropriate community resources. Also included are medical examinations required for individual participants for admission to day care and periodically thereafter when not otherwise available without cost, and food and food services to provide a nutritional meal and snacks as appropriate to the program. Services must be provided in a home or center certified to meet state standards for such programs. Services include recruitment, study and development of adult day care programs, evaluation and periodic re-evaluation to determine if the programs meet the needs of the individuals they serve, and consultation and technical assistance to help day care programs expand and improve the quality of care provided. Transportation to and from the service facility is an optional service that may be provided by adult day care programs.

(b) **Target Population.** Adults who because of age, disability or handicap need the service to enable them to remain in or return to their own homes. Within the target population, eligible clients shall be provided day care services for adults in the following order of priority:

- (1) adults who require complete, full-time daytime supervision in order to live in their own home or prevent impending placement in substitute care (e.g. nursing home, domiciliary home), and adults who need the service as part of a protective services plan;
- (2) adults who need help for themselves with activities of daily living or support for their caregivers in order to maintain themselves in their own homes or both;
- (3) adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to placement in group care;
- (4) individuals who need time-limited support in making the transition from independent living to group care, or individuals who need time-limited support in making the transition from group care to independent living.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
Amended Eff. July 1, 1982; October 1, 1979; July 1, 1979; October 1, 1977;  
Transferred from T10.43D .0204 Eff. July 1, 1983;  
Amended Eff. May 1, 1990; July 1, 1984;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0904 DELINQUENCY PREVENTION SERVICES**

(a) **Primary Service.** Delinquency prevention services are services to youths who are in danger of being confined to a correctional facility, including counseling and other treatment services to provide guidance and direction to youths who are having behavior problems which, if not corrected, may result in their being brought before the court and committed or recommitted to a correctional facility. Also included are counseling or instructions for parents or other caretakers to improve parent or caretaker capacity to supervise the youth; vocational counseling and, where appropriate, assistance in obtaining employment; assistance in establishing better child-school, child-parent, child-community, relationships, assistance in securing better living arrangements; assistance in relieving unnecessary psychosocial pressures on the child or family or both and provision, as appropriate, of information and counseling on drug and alcohol abuse. At county option, residential care, including room and board for up to six months for any one placement, may be provided where necessary to the provision of a comprehensive and intensive regimen of the services described in Paragraph (a) of this Rule. Medical or remedial care are included in such residential care when they are integral, but subordinate parts of the regimen of services. Included are psychiatric diagnosis and treatment and drug therapy as prescribed by a physician.

(b) **Components.** None.

(c) **Resource Items.** None.

(d) **Target Population.** Children between 8 and 18 who are in clear and present danger of being committed or recommitted to the juvenile correctional system.

*History Note: Authority G.S. 143B-153;*

*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1979; October 1, 1977;*  
*Transferred from T10.43D .0206 Eff. July 1, 1983;*  
*Amended Eff. May 1, 1990; July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0905 EMPLOYMENT AND TRAINING SUPPORT SERVICES**

(a) Primary Service. Employment and training support services are services provided as part of an individual service plan to enable appropriate individuals to secure paid employment or training leading to employment, including basic education and continuing education. Services include counseling to explore with the individual his current readiness or potential for employment and to assess the feasibility of seeking training or employment in relation to the total needs of the family; providing information about and referral to educational resources, training programs, and possible sources of employment; and counseling and information to encourage and support the individual's employment objectives with respect to such topics as grooming, how to apply to appropriate resources, employer expectations, and constructive resolution of work related problems. Also included is arrangement for or provision of general and specialized diagnostic tests and evaluations to assess the individual's potential for employment and any limitations which affect employment or training. Transportation, when needed to enable individuals to make application and interview for employment and to participate in training leading to employment, may be provided on an optional basis.

(b) Components. None.

(c) Resource Items. At provider option, payment for resource items may be provided to facilitate the provision of employment and training support services. Resource items include tuition, supplies, and rental or purchase of books when needed to assist in meeting the usual expenses of obtaining vocational training, basic education, or a high school education or its equivalent in public or private technical institutes or community colleges; lunches, uniforms, and subject to state office approval, tools and other equipment necessary to enable individuals to accept training or employment when such items are not otherwise available.

(d) Target Population. Individuals who are unable to obtain or retain adequate employment.

*History Note: Authority G.S. 143B-153;*  
*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1979; July 1, 1979; October 1, 1978; October 1, 1977;*  
*Transferred from T10.43D .0208 Eff. July 1, 1983;*  
*Amended Eff. July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0906 FOSTER CARE SERVICES FOR ADULTS**

(a) Primary Service. Foster care services for adults means recruitment, study and development of family care homes and group care facilities; evaluation and periodic re-evaluation to determine if the home or facility meets the needs of the individuals it serves; and consultation and technical assistance to help family care homes and group care facilities to expand and improve the quality of care provided.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Aging, blind, or disabled individuals (18 years or older) or other adults needing to find licensed substitute homes when unable to stay in own home or moving out of institutional care.

*History Note: Authority G.S. 143B-153;*  
*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1979; October 1, 1977;*  
*Transferred from T10.43D .0210 Eff. July 1, 1983;*  
*Amended Eff. March 1, 1994; May 1, 1990; July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0907 FOSTER CARE SERVICES FOR CHILDREN**

(a) Primary Service. Foster care services for children means social casework services through which a plan for substitute care appropriate to a child's needs is evaluated, arranged, maintained and supervised either in the home of a court approved relative or in a licensed or a court approved home or facility when neither of the child's parents are able to care for him/her in an environment free of neglect or abuse. Services include the following:

- (1) Diagnostic study and evaluation, and medical examinations when not otherwise available, to determine the appropriate plan for service and type of placement to meet the child's needs;
- (2) Preparation of the child and natural family for the separation and placement;
- (3) Supervision of the care of the child and of the foster care facility to assure that the child receives proper care during placement;
- (4) Provision of social casework and other treatment services to facilitate the child's psychosocial adjustment and to assist the parents or other responsible relatives to improve conditions and enable the child to return to his/her own home;
- (5) Planning and providing services as necessary for the placement of the child in the home of other relatives, in an adoptive home or in continued foster care as appropriate;
- (6) Provision of casework services and supervision to a child and his/her family from the time the child is returned to the home of his/her parents to the time court action is completed returning legal custody of the child to the parents;
- (7) Foster care services includes identifying children who require placement across state lines, ensuring that such placements are in environments with persons or caretaking facilities having licenses and effecting such placements pursuant to the interstate compact on the placement of children; and
- (8) At county option, the provision of legal services to facilitate permanent planning for a child.

(b) "Placement" pursuant to the interstate laws means the arrangement for the care of a child in either a family or foster care facility but does not include any medical facility or facility licensed under standards adopted by the North Carolina Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. Services include the following:

- (1) Ongoing supervision;
- (2) Recruitment study and development of foster families and child care facilities, assessment and periodic reassessment to determine if the home or facility meets the needs of children it serves; and
- (3) Consultation, technical assistance, and training to assist foster families and care facilities to expand and improve the quality of care provided.

(c) Components. Counties may choose between:

- (1) The provision by a foster family home of services which meet the special needs of children in that home; and
- (2) Basic foster care.

(d) Resource Items. At county option, the agency may pay for resource items to support the child's participation in school. Resource items include supplies, special clothes, and fees for membership in school sponsored extracurricular activities.

(e) Target Population. The target population is children in need of a supervised plan of substitute care.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
Amended Eff. October 1, 1981; October 1, 1979; July 1, 1979; October 1, 1978;  
Transferred from T10.43D .0211 Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **10A NCAC 71R .0908 HEALTH SUPPORT SERVICES**

(a) Primary Service. Health support services means helping individuals and families to:

- (1) Recognize health needs including those related to alcohol and drug abuse;
- (2) Cope with incapacities and limited functioning resulting from aging or disability; and
- (3) Choose, obtain and use resources and mechanisms of support under Medicaid (including the early and periodic screening, diagnosis and treatment program), medicare, maternal and child health programs and from other public or private agencies or providers of health services;

- (4) Receive counseling and planning for the individuals, families and health providers to help assure continuity of treatment and the carrying out of health recommendations;
  - (5) Secure admission to medical institutions and children to secure admission to other health-related facilities as needed; and family planning services as described in Paragraph (b) of this Rule; and
  - (6) At county option, receive transportation, when not otherwise available as necessary to access needed medical and health care resources.
- (b) Components. There are two components to Health Support Services:
- (1) The Primary Service as described in Paragraph (a) of this Rule; and
  - (2) Family planning services to enable individuals and families to voluntarily limit the family size or to space the children, and to prevent or reduce the incidence of births out of wedlock. Such services include educational activities, the provision of printed materials, counseling about family planning and genetics, help in utilizing medical and educational services available in the community, and educational services in human sexuality appropriate to an individual's emotional and social adjustment and physical development.
- (c) Optional Resource Items.
- (1) Medical Services. An agency may pay for medical services for nontherapeutic sterilization for individuals who are recipients of, Work First Family Assistance, SSI, or protective services or whose family income is less than 80 percent of the Federal Poverty Guidelines as provided annually in the Federal Register by the U.S. Department of Health and Human Services (HHS).
  - (2) Resources for the Aging or Persons with Disabilities. At county option the agency may provide any combination of the following resource items to enable the aging or persons with disabilities to attain or maintain the highest level of functioning possible, to promote their well-being and to prevent or reduce inappropriate institutional care:
    - (A) Assistance with communication to enable individuals to utilize needed health and medical resources and other community services and resources through the provision of interpreters for the deaf and the provision of telephones when not otherwise available for the aging, disabled, or handicapped who are alone and homebound, or who have a health or medical condition which necessitates ready access to or frequent use of a telephone in their home.
    - (B) Mobility assistance for aging and disabled persons, through the installation of ramps, rails and other safety measures at the individual's home and the provision of escort service to health facilities and other needed resources for individuals unable to travel or wait alone.
    - (C) Arranging for or providing friendly visitors or companions for part of a day to assist individuals who, because of frailty, physical or mental disability or social isolation, have limited contacts with other people.
    - (D) Provision of special health needs and supplies such as ostomy supplies, oxygen, bandages, orthopedic and other appliances needed by aging and disabled individuals in their own homes and not available through Medicaid, Medicare or resources without cost.
- (d) Target Population: The target population includes:
- (1) individuals or families experiencing health related problems;
  - (2) for the family planning component, individuals (male or female) who are of age to produce children.

*History Note: Authority G.S. 143B-153;  
 Eff. February 8, 1977;  
 Amended Eff. March 1, 1983; September 1, 1982; March 1, 1982; October 1, 1979;  
 Transferred from T10.43D .0212 Eff. July 1, 1983;  
 Amended Eff. March 1, 1994; July 1, 1984;  
 Temporary Amendment Eff. October 21, 1996;  
 Amended Eff. November 1, 2007; July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

## **10A NCAC 71R .0909 HOUSING AND HOME IMPROVEMENT SERVICE**

(a) Housing and home improvement is a supportive service which may make a difference in the lives of individuals and families who wish to live independently in safe affordable homes within their communities of choice. This



service can enable individuals and families to obtain, retain or return to independent housing, and resolve health and safety issues affecting their home or areas adjacent to their home. For the purpose of this Subchapter, the service has three elements:

- (1) Housing services that support independent living by providing information to individuals and families to enable them to obtain housing, retain the housing they have or return to independent housing.
- (2) Home improvement services that identify health and safety issues affecting the home or areas adjacent to the home and provide needed improvements to resolve those issues including modifications to the home to promote mobility.
- (3) Provision of, or replacement of, basic furnishings or household appliances which promote independent living.

(b) Target Population. Individuals or families who reside within a county where housing and home improvement services are funded and need one or more elements of the service are considered the target population. Within the target population eligible individuals or families must be served in the following order of priority when there are others waiting for service:

- (1) adults and children for whom the need for protective services has been substantiated and the service is needed as part of a protective services plan as defined in 10A NCAC 71R .0915 and .0916, or intervention plan as referred to in 10A NCAC 70A .0107, including all subsequent amendments;
- (2) adults who are at risk of abuse, neglect or exploitation and children who are at risk of abuse, neglect, or dependency as defined in 10A NCAC 22O .0123, including all subsequent amendments;
- (3) adults with extensive ADL or IADL impairments who are at risk of placement in a health care facility as defined in G.S. 108A-60;
- (4) children who need the service as part of a plan of preventive services designed to strengthen the family and preserve the home for the child, or as part of permanency planning to enable a child to return home from substitute care;
- (5) adults with three or more ADL or IADL impairments; and
- (6) adults with one or two ADL or IADL impairments.

(c) The terms ADL and IADL as used in this Section are defined in 10A NCAC 06W .0105, including all subsequent amendments.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
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#### **10A NCAC 71R .0910 INDIVIDUAL AND FAMILY ADJUSTMENT SERVICES**

(a) Primary Service. Individual and family adjustment services are designed to offer assistance to individuals and their family members in support of attempts to restructure or solidify the individual's environment. Activities include counseling to enable the individual to recognize, understand, and cope with problems and conflicts in regard specifically to such areas as household management, consumer affairs, family life, alcoholism, drug addiction, mental retardation, emotional disturbance, and school related problems. Such counseling is also designed to help individuals independently utilize community resources, including other social services; take advantage of natural support systems; and achieve an adequate level of functioning within the family. Also included is arranging for other services when needed to support the provision of individual and family adjustment services; diagnostic psychological study and evaluation necessary to determine the appropriate plan of service; activities associated with fulfilling the agency's responsibility to serve as guardian or representative payee for individual clients; and social development through therapeutic groups as a part of a service plan to give individuals opportunities for participation in structured group activities focused on helping them cope with personal problems, develop capacities for more adequate social functioning and relieve social isolation.

(b) Components. Day or residential camp experience for school-age children and therapeutic camp for developmentally disabled or handicapped individuals and their families and for youths whose behavior is delinquent or undisciplined may be provided at county option.

(c) Resource Items. None.

(d) Target Population:

- (1) individuals who need assistance in order to fully and appropriately utilize social services;
- (2) individuals who need assistance in coping with specific problems, such as household management, consumer affairs, family life, alcoholism, drug addiction, mental retardation, emotional disturbance, and school related problems.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1979;  
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### **10A NCAC 71R .0911 IN-HOME AIDE SERVICES**

In-home aide services are provided to enable individuals and families to remain in or return to their own homes and communities. To this end, at least one level of this service must be available in each geographic area.

- (1) Primary Service. In-Home Aide Services are those paraprofessional services which assist individuals and children and their families with essential home management tasks, personal care tasks, or supervision, or all of the tasks in this Paragraph, to enable individuals and children and their families to remain, and function effectively, in their own homes as long as possible.
- (2) Component. In-Home Aide Services may be used for the purpose of providing respite for a primary caregiver or for parents. For this purpose, In-Home Aide Services may be provided to individuals in their own homes or in the home of their primary caregiver and to children and their families in their own homes. Respite Care may consist of any level of home management or personal care tasks.
- (3) Resource Items. None.
- (4) Target Population. Individuals who are unable to carry out tasks essential to the activities of daily living or the instrumental activities of daily living, or both, who have no responsible person available to perform these tasks, and who need the service in order to remain in their own homes. Children and their families who need help remaining in their own homes, or who need help in maintaining, strengthening, and safeguarding their functioning because of economic dependency, physical or emotional illness or handicap or to preserve and strengthen family functioning. Also included are children and functionally impaired individuals whose primary caregivers or parents need relief from everyday caregiving responsibilities in order for the children and impaired individuals to remain at home. Within the target population eligible clients must be served in the following order of priority:
  - (a) adults and children for whom the need for protective services has been substantiated and the service is needed as part of a protective services plan;
  - (b) adults who are at risk of abuse, neglect or exploitation and children who are at risk of abuse, neglect, or dependency;
  - (c) adults with extensive ADL or IADL impairment who are at risk of placement in substitute care and children who are at risk of placement in substitute care;
  - (d) children who need the service as part of a plan of preventive services designed to strengthen the family and preserve the home for the child, or as a part of permanency planning to enable a child to return home from substitute care; and adults with three or more ADL or IADL impairments;
  - (e) adults with one or two ADL or IADL impairments.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1979;  
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*Amended Eff. December 1, 1991; May 1, 1985; July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0912 PERSONAL AND FAMILY COUNSELING**

(a) Primary Service. Personal and family counseling means the rendering of counseling services or therapy to individuals, either singly or in groups, for the purpose of resolving emotional conflicts within social relationships. It operates through a process of mobilizing the strengths inherent in the person which are needed to deal with immediate situations and developing the coping ability of the family and its members to use themselves effectively in life roles and tasks. The process involves a professional relationship with a skilled counselor to help the clients assess the situation, to plan steps for dealing with it, and to take appropriate action.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Individuals experiencing stress which impedes satisfactory emotional adjustment and is causing serious conflicts in interpersonal relationships.

*History Note: Authority G.S. 143B-153;*  
*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1979;*  
*Transferred from T10.43D .0219 Eff. July 1, 1983;*  
*Amended Eff. May 1, 1990; July 1, 1984;*  
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#### **10A NCAC 71R .0913 PREPARATION AND DELIVERY OF MEALS**

(a) Primary Service. This service means the preparation and delivery of nutritious meals to a blind, aging, or disabled individual in his own home or in a central dining facility as necessary to prevent institutionalization or malnutrition. The cost of raw food necessary to provide the meal service is included.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Blind, aging, or disabled individuals needing nutritious meals in their own home or in a central dining facility as necessary to prevent malnutrition or institutionalization. Within the target population, eligible clients shall be provided meal services in the following order of priority:

- (1) aged or disabled individuals who need the service to avoid impending placement in substitute care (e.g. nursing home, domiciliary home, foster home) and adults who need the service as part of a protective services plan;
- (2) aged or disabled adults who live alone and need the service to maintain self-sufficiency and prevent deterioration that may lead to placement in substitute care;
- (3) aged and disabled individuals who can receive some needed care from others but who need the service to enable their caregivers to maintain employment or to otherwise support the caregiver's efforts to keep them in their own homes.

*History Note: Authority G.S. 143B-153;*  
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*Amended Eff. July 1, 1984;*  
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#### **10A NCAC 71R .0914 PROBLEM PREGNANCY SERVICES**

(a) Primary Service. Problem pregnancy services are services to individuals who are involved with an undesired pregnancy. Services include counseling to assist such individuals in looking at alternative solutions to the unwanted pregnancy (i.e., abortion, adoption, or keeping the baby), and at the probable consequences of each alternative, and assistance in arranging for and utilizing other needed services. Residential care, including a concentrated regimen of services as described in (a) of this Rule, room and board for up to six months, medical supervision, and medications

required for health maintenance in pregnancy as prescribed by a physician may be provided when such care is provided in an approved living arrangement prescribed in 10A NCAC 71L .0101(5) and .0102(f). Psychiatric counseling specifically related to help in coping with the pregnancy may also be included as an integral but subordinate part of the regimen of residential services.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Individuals (male or female) involved with an undesired pregnancy. The residential care component is available to females.

*History Note: Authority G.S. 143B-153(2a)b.;*  
*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1979; July 1, 1978;*  
*Transferred from T10.43D .0221 Eff. July 1, 1983;*  
*Amended Eff. May 1, 1990; October 1, 1987; July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0915 PROTECTIVE SERVICES FOR ADULTS**

(a) Primary Service. Protective services for adults are services provided to correct or prevent further abuse, neglect, exploitation or hazardous living conditions of individuals 18 years of age or older or lawfully emancipated minors who are unable to manage their own resources, carry out the activities of daily living or protect their own interests. Services include acceptance and evaluation of reports of the need of individuals for protective services; planning and counseling with such individuals and their relatives or caretakers to identify, remedy or prevent problems which result in abuse, neglect or exploitation; assisting in arranging for appropriate alternate living arrangements in the community or in an institution; and arranging for the provision of medical, legal and other services as needed and appropriate. Also included are assistance in arranging for protective placement, guardianship or commitment when needed as part of the protective services plan, and carrying out the duties of guardian or representative payee when part of a protective services plan; and the provision of medical and psychological diagnostic studies and evaluations where needed to substantiate and assess the circumstances of abuse or neglect. At its option, the county may provide advocacy, including legal services, to assure receipt of rights and entitlements due to adults at risk, and services of lawyers to represent the agency where court action is necessary to protect adults.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. "Disabled" adults (18 years or older or lawfully emancipated minor) who are unable to manage their own resources, carry out activities of daily living, or protect their own interests.

*History Note: Authority G.S. 143B-153;*  
*Eff. February 8, 1977;*  
*Amended Eff. October 1, 1981; October 1, 1979; October 1, 1977;*  
*Transferred from T10.43D .0222 Eff. July 1, 1983;*  
*Amended Eff. May 1, 1990; July 1, 1984; December 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0916 PROTECTIVE SERVICES FOR CHILDREN**

(a) Primary Service. Protective services for children are social services provided to children and their parents or other caretakers in response to instances of actual or suspected child neglect, abuse or dependency. The primary elements of protective services consist of:

- (1) Identifying children at risk;
- (2) Receiving and assessing reports of neglect, abuse or dependency;
- (3) Evaluating the degree of damage or risk to the child;
- (4) Cooperating with law enforcement agencies as required to obtain suitable care and services for children in or out of their own homes and initiation of court action where necessary;
- (5) Counseling and planning with the child's family toward the solution and prevention of problems causing neglect, abuse or dependency; and

- (6) Arranging for the provision of, and assisting families in utilizing appropriate services and community resources such as foster care, child care, health and mental health services, and homemaker services as needed. These services are included for runaways, harmed or threatened with harm by virtue of their status as runaways. Included also are service activities necessary to carry out statutory responsibility to approve or disapprove the separation of a child under six months of age from its parent. The county may provide counseling and therapy for children and their parents or guardians, training courses for parents or guardians of the individual child, and services of lawyers to represent the agency where court action is necessary to protect children.

(b) Components:

- (1) A component of protective services for children is the provision of medical, psychological and medicolegal diagnostic studies and evaluations where needed to substantiate, find services needed and assess the circumstances of abuse or neglect are included;
- (2) A component of protective services for children may be the provision of emergency shelter, at county option.

(c) Resource Items. There are no resource items.

(d) Target Population. The target population is children (birth through 17 years) in actual or suspected danger of child neglect, abuse, or dependency.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
Amended Eff. October 1, 1979; October 1, 1977;  
Transferred from T10.43D .0223 Eff. July 1, 1983;  
Amended Eff. November 1, 2007; July 1, 1984; December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0917 RESIDENTIAL TREATMENT FOR THE EMOTIONALLY DISTURBED**

(a) Primary Service. Residential treatment means services provided in an environment effectively structured and designed as a therapeutic milieu to meet individualized needs of emotionally disturbed individuals. Services should initiate and direct recovery from the incidence and debilitating effects of emotional disturbance in such manner that rehabilitation toward adequate social and emotional functioning can be continued by follow-up support and treatment in home and community. Included are room and board for up to six consecutive months for any one placement in residential treatment. Psychiatric counseling and drug therapy specifically related to the treatment of the individual's emotional disturbance may be provided as integral but subordinate to the regimen of residential treatment services.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. Emotionally disturbed children who are a placement responsibility (by legal custody or voluntary agreement) of county departments of social services and for whom other program resources are not available.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1979;  
Amended Eff. April 1, 1983;  
Transferred from T10.43D .0240 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71R .0918 TRANSPORTATION SERVICES**

(a) Primary Service. Transportation services mean providing transportation as part of a service plan to enable individuals for whom transportation is not otherwise available to have access to medical and health resources, shopping facilities, education, recreational and employment and training opportunities, and other community facilities and resources, and to support the delivery of other social services.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. All individuals in need of the service who meet the general eligibility criteria.

*History Note: Authority G.S. 143B-153;  
Eff. February 8, 1977;  
Amended Eff. July 1, 1979;  
Transferred from T10.43D .0230 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **10A NCAC 71R .0919 ADULT PLACEMENT SERVICES**

(a) Primary Service. Adult Placement Services are activities necessary to assist aging or disabled individuals and their families or representatives in finding substitute homes or residential health care facilities suitable to their needs when they are unable to remain in their current living situations. Activities include completing an initial screening and assessment while providing counseling to help the individual and his family or representative to determine the need for initial or continued placement; assisting in the process for completing necessary financial applications and medical evaluations; helping to locate and secure placement in a suitable setting and level of care; supporting an individual and his family or representative in the individual's transition from one location to another; and providing counseling and other services to help the individual adjust to the new setting and maintain the placement. Adult Placement Services also include assisting individuals, when requested, to return to more independent settings in the community, or to relocate in more appropriate settings when new levels of care are needed.

Adult Placement Services must be provided by every county department of social services.

(b) Components. None.

(c) Resource Items. None.

(d) Target Population. An individual is considered to be in the target population if Adult Placement Services are appropriate and desired based on one of the following client needs:

- (1) Adults who are unable to maintain themselves in their own homes independently or with available community or family supports.
- (2) Adults who are living in substitute homes, residential health care facilities or institutions, and who need assistance in relocating due to changes in the level of care needed or other factors indicating that alternative settings may be more appropriate.
- (3) Adults who are living in substitute homes, residential health care facilities or institutions, and who need assistance in returning to more independent living arrangements in the community.
- (4) Adults who are living in substitute homes or residential health care facilities, and who need assistance in adjusting to or maintaining their placements due to individual or family problems or a lack of resources.

This target population includes wards for whom the director or assistant director of the county department of social services is the guardian.

(e) Once an individual is determined to be in the target population, Adult Placement Services are provided in the following order of priority:

- (1) Adults receiving protective services for whom Adult Placement Services is in their protective services plans.
- (2) Adults who are at risk of abuse, neglect, or exploitation because:
  - (A) they need assistance with activities of daily living, instrumental activities of daily living, or health care and they have no caregiver, or the caregiver is not able, willing or responsible to provide the amount or type of assistance needed; or
  - (B) they were previously abused, neglected or exploited and the conditions leading to that situation continue to exist.
- (3) Adults who have problems which place them at risk of losing their current living situations.
- (4) Adults who do not meet any of the first three priority groups but whose quality of life would be improved with Adult Placement Services.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**SUBCHAPTER 71S – SERVICE COST-SHARING**

**SECTION .0100 – PURPOSE**

**10A NCAC 71S .0101 PURPOSE OF CONSUMER CONTRIBUTIONS**

(a) As used in this Subchapter, the following definitions shall apply:

- (1) Consumer Contributions – a monetary amount voluntarily given to the service provider by the service recipient or the designated representative toward the cost of the service received.
- (2) Recommended Contribution Schedule – a listing of income ranges and corresponding recommended contribution percentages for use with clients whose incomes are above the Federal poverty level. The Recommended Contribution Schedule is available at <http://www.dhhs.state.nc.us/aging/arms/csupdat2.htm> and is determined as follows:

Percent of Poverty	Suggested Percentage of the Cost of Service
100%	10%
125%	20%
150%	30%
175%	40%
200%	50%
225%	60%
250%	70%
275%	80%
300%	90%
350%	100%

(b) The purpose of consumer contributions is to extend the availability of services which are subject to consumer contributions administered by the Division of Social Services by providing the opportunity for each client to voluntarily contribute toward the cost of the service(s) received. Revenue collected from clients shall be retained by the service provider.

*History Note: Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. September 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

**SECTION .0200 - SERVICE COST SHARING REQUIREMENTS**

**10A NCAC 71S .0201 SERVICES SUBJECT TO CONSUMER CONTRIBUTIONS**

(a) The following services, when provided by funds administered by the Division of Social Services, shall be subject to consumer contributions:

- (1) Adult Day Care;
- (2) Adult Day Health;
- (3) Housing and Home Improvement (Renovations or Repair and Furnishings or Appliance Purchases only);
- (4) In-Home Aide Services;
- (5) Personal and Family Counseling;
- (6) Preparation and Delivery of Meals.

(b) When any of the services specified in Paragraph (a) of this Rule are provided to adults or children as part of a Protective Services Plan, these individuals shall be excluded from, consumer contributions, from the beginning of the provision of services until protective services are no longer needed or for 12 months, whichever comes first. Consumer contributions shall not apply to children in foster care, children who have been approved to receive

adoption assistance, persons receiving Work First assistance, or federally administered Supplemental Security Income (SSI) applicants or recipients.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. September 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71S .0202 INITIAL AND ANNUAL REVIEWS**

(a) Upon the initiation of the provision of the service(s) subject to consumer contributions and at least annually thereafter, the agency shall review with each client determined eligible to receive services subject to consumer contributions the following information:

- (1) that the contribution is entirely voluntary and that there is no obligation to contribute;
- (2) that all contributions collected shall be used to expand the service(s);
- (3) that information about the client's participation in consumer contributions shall be confidential;
- (4) who should be contacted, including the telephone number, if the client has questions regarding consumer contributions;
- (5) the total cost of the service (actual or per unit); and
- (6) that services shall not be reduced or terminated for failure to contribute.

(b) The agency shall provide a copy of the Recommended Contribution Schedule from the North Carolina Division of Aging and Adult Services to a client whose income is above the Federal poverty level. The agency shall not provide the Recommended Contribution Schedule to clients whose incomes are at or below the Federal poverty level.

(c) The agency shall document in the client's file that the above information has been shared with the client or the designated representative.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. September 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71S .0203 ANNUAL REVIEW**

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Repealed Eff. September 1, 2005.

#### **10A NCAC 71S .0204 INCOME DETERMINATION**

Income may be self-declared by the client or his designated representative or may be verified at county option.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71S .0205 SERVICE COST SHARING FORM**

#### **10A NCAC 71S .0206 SERVICE COST SHARING SCHEDULE**

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. November 1, 1994;  
Repealed Eff. September 1, 2005.

#### **10A NCAC 71S .0207 COLLECTION OF CONSUMER CONTRIBUTIONS REVENUE**



- (a) Service providers shall have written procedures to collect, account for, and safeguard all contributions.
- (b) When the county department of social services directly provides a service subject to consumer contributions, the county department of social services shall collect and account for these revenues.
- (c) When a service subject to consumer contributions is provided by an agency other than a county department of social services or an individual through a purchase of service contract, that provider or the county department of social services shall be responsible for collecting and accounting for the revenue. When the provider is responsible for collecting and accounting for consumer contributions revenue, this must be specified in the contract for purchase of services.
- (d) When a service subject to consumer contributions is purchased through a local or state-level contract, the county department of social services shall furnish the provider current information in writing as to the amount of the consumer contributions the client has agreed to contribute. The county department of social services or the provider shall collect the contribution from the client. The county department of social services shall furnish the provider in writing any change in the amount of consumer contributions. No consumer contributions amounts other than those identified shall be collected.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. September 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71S .0208 TERMINATION**

Service(s) to the client shall not be terminated for failure to contribute to the cost of service(s) rendered.

*History Note:* Authority G.S. 143B-153;  
Eff. March 1, 1994;  
Amended Eff. September 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

### **SUBCHAPTER 71T – CHILD SUPPORT ENFORCEMENT**

#### **10A NCAC 71T .0101 SERVICES**

The services provided to non-AFDC clients shall be as follows:

- (1) the location of absent parents;
- (2) the establishment of paternity and support obligations;
- (3) assistance in the preparation and execution of actions pursuant to G.S. 52A;
- (4) the enforcement of support obligations;
- (5) the collection and disbursement of support payments;
- (6) legal services necessary to provide services.

*History Note:* Authority G.S. 110-130.1(a),(b); 143B-153;  
Eff. February 1, 1976;  
Amended Eff. April 29, 1977; May 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. March 1, 1990; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

#### **10A NCAC 71T .0102 ELIGIBILITY**

Child support enforcement services are mandatory for all AFDC recipients whose eligibility for public assistance has been established due to the absence from the home of at least one of the parents. In addition, any person who is not a recipient of AFDC may apply for services.

*History Note:* Authority G.S. 110, Article 9; 143B-10;

*Eff. April 29, 1977;*  
*Readopted Eff. October 31, 1977;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71T .0103 LEGAL SERVICES**

All local IV-D agencies are required to arrange for the services of an attorney by one of the following methods:

- (1) contract with a private attorney, or
- (2) use of a county or state employed attorney.

This requirement is necessary due to the fact that certain program functions must be handled by an attorney, according to state law.

*History Note: Authority G.S. 110, Article 9; 143B-153; P.L. 93-647;*  
*Eff. October 1, 1977;*  
*Readopted Eff. October 31, 1977;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

#### **10A NCAC 71T .0104 HEARINGS AS MANDATED BY THE SET-OFF DEBT COLLECTION ACT**

Counties shall adhere to the following procedures:

- (1) Within 30 days of the date of the mailing of the notice of proposed set-off action, an absent parent may request a hearing; This request shall be in writing and mailed or delivered to the address set forth in the notice;
- (2) If the county which is responsible for management of the absent parent's case has a county-operated IV-D program, then the hearing shall be conducted by a hearing officer designated by the Director of the Division of Social Services;
- (3) If the county which is responsible for management of the absent parent's case has a state-operated IV-D program, the Office of Administrative Hearings shall conduct the hearing and the hearing procedures specified in Ch. 150B, Article 3 and 26 NCAC Chapter 3 shall apply;
- (4) The hearing shall be conducted at the local IV-D agency in the county which is responsible for management of the case whenever feasible or other suitable location as designated by the hearing officer;
- (5) All hearings under this Rule and under G.S. 105A-8, the Set-Off Debt Collection Act, shall be conducted in accordance with G.S. 150B, Article 3, the Administrative Procedure Act, and 10 NCAC 1B .0200, or 26 NCAC Ch. 3 as appropriate.

*History Note: Authority G.S. 105A-8; 110-128; 143B-153;*  
*Eff. February 1, 1980;*  
*Amended Eff. March 1, 1990; May 1, 1989; January 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.*

### **SUBCHAPTER 71U – FOOD ASSISTANCE**

#### **SECTION .0100 – IDENTIFYING INFORMATION**

##### **10A NCAC 71U .0101 ADMINISTRATION AND SUPERVISION**

*History Note: Authority G.S. 143B-137.1; 143B-138.1(a)(5); 108A-51; 7 U.S.C. 2011 to 2026;*  
*Eff. February 1, 1976;*  
*Readopted Eff. October 31, 1977;*  
*Repealed Eff. October 1, 2021.*

#### **SECTION .0200 - MANUAL**

#### **10A NCAC 71U .0201 INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION**

(a) An administrative disqualification hearing (ADH) or referral for prosecution shall be initiated by the public agency whenever there is clear and convincing evidence to substantiate that a currently participating household member has committed one or more acts of an intentional program violation as set forth in 7 CFR 273.16(c), which is hereby incorporated by reference, not including subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge. If a referral for prosecution is made, an ADH shall not be initiated unless the referral is declined or 180 days have passed and the public agency withdraws the referral.

(b) The Hearing Officer for public ADH hearings is the public Agency Director. The Director may delegate this function to a designated impartial employee of the public agency. An impartial employee is one who is not a fraud Investigator, is not connected with the case, does not supervise an employee connected with the case, and has not discussed the facts of the case with any public agency staff outside of the hearing.

(c) The public agency must provide the Food and Nutrition Services (FNS) unit with an Advance Notice of Your Disqualification Hearing Form DSS-8556 at least 30 days prior to the hearing date. The public agency must also provide the FNS unit with a notice of their right to waive the ADH. The public agency shall ensure that all letters and notices are in the primary language of the individual charged with an intentional program violation (IPV), and ensure that a qualified translator is present for an ADH when requested by an individual with limited English proficiency as defined in 7 CFR 273.16(c).

(d) The public hearing officer shall render a decision within five business days of the hearing.

(e) The FNS unit may appeal the public hearing officer's decision within 15 calendar days to a State Disqualification Hearing. The hearing shall be held before a state hearing officer on behalf of the Director of the Division of Social Services. The state hearing officer shall provide notice to the FNS unit and the public agency at least 10 calendar days before the hearing. The state hearing officer shall render a decision within 60 days of the State Disqualification Hearing.

*History Note:* Authority G.S. 108A-25; 108A-51; 108A-53; 143B-153; 7 CFR 273.16;  
Eff. March 1, 1979;  
Amended Eff. February 1, 1986;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0202 COUPON ISSUANCE**

*History Note:* Authority G.S. 108A-51; 143B-153; P.L. 104-193; 7 C.F.R. 274.2; 7 C.F.R. 274.3; U.S.C. 2011-2027;  
Eff. March 1, 1979;  
Amended Eff. February 1, 1986;  
Temporary Amendment Eff. January 1, 1998;  
Amended Eff. April 1, 1999;  
Repealed Eff. July 1, 2012.

#### **10A NCAC 71U .0203 FAIR HEARINGS**

*History Note:* Authority G.S. 108A-51; 143B-153; 7 CFR 273.15; 7 U.S.C. 2011-2027;  
Eff. March 1, 1979;  
Repealed Eff. October 1, 2021.

#### **10A NCAC 71U .0204 DENIAL OF ZERO BENEFIT HOUSEHOLDS**

Households of three or more persons that do not have a member age 60 or over or disabled, thus subject to the 130 percent of poverty as an eligibility level, shall have their applications denied if the household's net FNS income results in a zero benefit level.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.10(e)(2)(iii);  
Eff. October 1, 1981;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0205 IMMEDIATE TERMINATION OR REDUCTION OF ASSISTANCE**

- (a) Pursuant to 7 CFR 273.13(a), households subject to immediate termination or reduction of benefits shall be notified in accordance with the timelines set forth in 7 CFR 273.13(4)(e)(1), which is incorporated by reference, including subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge.
- (b) For mass changes, such notice shall be provided a minimum of 10 working days in advance when federal implementing time standards permit.
- (c) If a hearing is requested, benefits shall be continued at the present level pending the hearing decision only if the termination or reduction is due to a mass change and the issue being contested is that FNS eligibility or benefits were improperly computed or that federal law is being misapplied or misinterpreted, as set forth in 7 CFR 273.15(k)(l), which is incorporated by reference, not including any subsequent amendments and editions, and may be assessed at [www.congress.gov](http://www.congress.gov) at no charge.

*History Note: Authority G.S. 108A-25; 108A-51; 108A-79; 143B-153; 7 C.F.R. 273.13(a); 7 C.F.R. 273.15(k); Eff. March 1, 1982; Readopted Eff. October 1, 2021.*

#### **10A NCAC 71U .0206 STANDARD UTILITY ALLOWANCES**

- (a) The State Division of Social Services shall establish standard utility allowances for use in calculating shelter costs of those households which incur utility costs separate and apart from their rent or mortgage payments. The standard utility allowances shall be developed in conjunction with data gathered through quality control sampling and surveys of utility company rates. Once the Division gathers the sampling information and the average costs information from utilities companies, the Division shall calculate the average amounts to determine a statewide average for each type of utility cost for standard, basic, and telephone utility allowances. The standard and basic utility allowances are increased by household size. The amount of increase or decrease is calculated from the average statewide increase in utility costs per household size from the previous year.
- (b) Types of utility allowances:
- (1) Standard utility allowance includes the cost of heating and cooling (air conditioning), cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.
  - (2) Basic utility allowance includes at least two non-heating or non-cooling utility expenses, such as cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.
  - (3) Telephone utility allowance includes the basic telephone services, fees, and applicable taxes.
- (c) Standard utility allowances are binding upon the household for a period of 12 months following certification (initial or recertification). If the household moves before the expiration of the 12 month period and becomes ineligible for the standard, basic, or telephone allowance, the agency shall make the appropriate change.
- (d) The Division shall review the standard utility allowances annually and adjust the allowance as necessary to reflect changes in the cost of the utilities. The annual update shall be effective on October 1 of each calendar year to coincide with annual, federal adjustments of the combined dependent care and shelter deduction. The annual update shall be based on information published by the North Carolina Department of Administration, Office of State Energy. The amount of the utility allowances shall not vary seasonally.
- (e) The Division shall vary its standard and basic utility allowances by household size.
- (f) The basic utility allowance shall be used by a household living in a public housing unit that charges the household only for excess utility costs provided the household is responsible for at least two non-heating or non-cooling utility expenses.
- (g) The standard utility allowance shall be used when a household is billed for a heating or cooling component not totally paid by a vendor payment.
- (h) Multiple households living in the same residence and sharing utility costs are allowed the standard or basic utility allowance for their household size.

*History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.9(d)(6); 7 USC Section 2014(e)(6)(C); P.L. 107-171; Eff. April 1, 1982; Amended Eff. March 1, 1990; July 1, 1984; Temporary Amendment Eff. February 1, 2003; Amended Eff. August 1, 2004; Readopted Eff. October 1, 2021.*

### **10A NCAC 71U .0207 UNITED STATES CITIZENSHIP**

As a condition of eligibility, United States citizenship for FNS shall be governed by the procedures set forth in 10A NCAC 71W .0403.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.6; 45 C.F.R. 233.50;  
Eff. July 1, 1982;  
Amended Eff. April 1, 1984; October 1, 1983;  
Readopted Eff. October 1, 2021.

### **10A NCAC 71U .0208 ADDITIONAL MANDATORY VERIFICATIONS**

*History Note:* Authority G.S. 108A-51; 143B-153; 7 C.F.R. 273.2(f) (3) (iii), (v), (vi); 7 U.S.C. 2011-2029;  
Eff. July 1, 1982;  
Amended Eff. January 1, 1989; December 1, 1986;  
Repealed Eff. September 1, 2005.

### **10A NCAC 71U .0209 SECOND PARTY REVIEW**

A second party desk review shall be conducted to review actions taken on all households with five or more members applying for initial certification or recertification for the FNS Program. Actions taken on households with four or fewer members shall be subject to second party review as determined by the division director, based on future error prone profiles.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153;  
Eff. July 1, 1982;  
Readopted Eff. October 1, 2021.

### **10A NCAC 71U .0210 INCOME EXCLUSIONS**

Income exclusions set forth in 7 CFR 273.9(c) are hereby incorporated by reference, not including subsequent amendments and editions, and may be accessed at [www.gpo.gov](http://www.gpo.gov) at no charge. In addition to the income exclusions set forth in 7 CFR 273.9(c), earned income for census employment or educational assistance, except scholarships offered by civic groups or institutions, or athletic scholarships shall be excluded from determining eligibility.

*History Note:* Authority G.S. 108A-25; 108A-51; 108A-53; 143B-153; 7 C.F.R. 273.9(c); 7 U.S.C. 2014;  
Temporary Rule Eff. March 28, 1990, for a Period of 180 Days to Expire on August 31, 1990;  
Eff. September 1, 1990;  
Temporary Amendment Eff. March 1, 2003;  
Amended Eff. August 1, 2004;  
Readopted Eff. October 1, 2021.

### **10A NCAC 71U .0211 VEHICLE DETERMINATIONS**

*History Note:* Authority G.S. 108A-51; 143B-153; H.R.4461; CFR 273.8;  
Temporary Adoption Eff. July 1, 2001;  
Eff. July 18, 2002;  
Repealed Eff. October 1, 2021.

### **10A NCAC 71U .0212 TRANSITIONAL FNS BENEFITS**

Households shall receive transitional FNS benefits for a period of five months when they lose their Work First benefits. FNS benefits shall be no less than the amount received by the household prior to the termination of Work First benefits. The only adjustments to income shall be the deletion of the Work First benefits. Other sources of income shall not be re-calculated. A household is not eligible for transitional FNS benefits if it loses Work First benefits for any of the following reasons:

- (1) Work First case closes due to a sanction in accordance with 10A NCAC 71W .0606;
- (2) Household member is disqualified from Food and Nutrition Services in accordance with 10A NCAC 71U .0201;

- (3) Household moves out of North Carolina; or
- (4) Household received more than one Work First payment and a Work First payment is still being received.

A household may reapply for FNS benefits during the transitional period with benefits determined according to current circumstances.

*History Note: Authority G.S. 108A-25; 108A-51; 143B-153;  
Temporary Adoption Eff. February 1, 2003;  
Eff. August 1, 2004;  
Readopted Eff. October 1, 2021.*

#### **10A NCAC 71U .0213 SIMPLIFIED REPORTING**

(a) The simplified reporting category shall apply to all FNS units except the following:

- (1) A Simplified Nutrition Assistance Program (SNAP) unit; or
- (2) A Transitional FNS Unit.

(b) Certification periods are determined based upon the following household situations:

- (1) FNS units that contain only specified individuals who are without earned income are certified for a period of 12 months. A specified individual is an individual 60 years of age or older, or one of the following:
  - (A) A person who receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
  - (B) A person who receives federally or State administered supplemental benefits under Section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;
  - (C) Receives disability benefits from a governmental agency based on permanent Social Security disability requirements.
  - (D) Is a Veteran who receives 100 percent Veterans Administration (VA) disability payments (service or non-service connected) or is rated as 100 percent disabled but receives less than 100 percent disability payment;
  - (E) Is a Veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the U. S. Code;
  - (F) Is a disabled surviving spouse or disabled surviving child of a veteran and in need of regular aid and attendance or permanently housebound or considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the U. S. Code;
  - (G) Receiving Railroad Retirement and determined to be eligible for Medicare;
  - (H) Receiving Interim Assistance Payments (DSS General Assistance to applicants for SSI that is repaid by SSA upon approval of the SSI application);
  - (I) Receiving Medicaid based on disability; and
  - (J) Benefits under the Federal Employees Compensation Act (FECA) based on Social Security disability requirements.

- (2) FNS units that contain an Able-Bodied Adult Without Dependents (ABAWD) are certified for a period of six months. These FNS units will be issued a Notice of Adverse Action DSS-8553 during the second month of the certification period notifying the FNS unit that the local agency will terminate benefits after the third month unless the ABAWD satisfies the work requirements or meets an exception as set forth in 7 C.F.R. 274.24. The certification may be for a period of 6 months if the county is currently under an ABAWD waiver.
- (3) All other units are certified for a period up to six months.

(c) FNS units subject to Simplified Reporting are required to report to the public agency any of the following changes that occur during the certification period:

- (1) FNS units that include an ABAWD shall report when the ABAWD stops working an average of 80 hours per month;
- (2) FNS units whose income is at or below the 130 percent maximum allowable gross income limit are required to report an increase in unit income that causes it to exceed the 130 percent maximum

allowable gross income limit for its unit size at certification. Ineligible or disqualified persons are not considered in determining the FNS unit size; and

- (3) If any member of the FNS unit receives substantial lottery and gambling winnings as defined in 7 CFR 212.17 and 7 CFR 273.8(b), the receipt of lottery and gambling winnings shall result in loss of eligibility for the entire FNS unit. The unit remains ineligible until they reapply for benefits and meet all non-categorical eligibility financial resource and income eligibility requirements.
- (d) FNS units are required to report changes by the 10th of the month following the month in which the change occurs. FNS units completing an application or recertification that experience changes prior to disposition of the application or recertification are required to report such changes by the 10th of the month following the month in which the Notice of Eligibility is received.
- (e) Changes are considered reported at the earliest of the following times:
  - (1) The date the Change Report is received;
  - (2) The date the change is reported by the FNS unit by telephone, email or fax. If received during non-business hours the date reported will be the next business day;
  - (3) The date the FNS unit made an in-person office visit to report the change;
  - (4) The date the change is reported to Work First;
  - (5) The date the changed information is entered into NC FAST; or
  - (6) The date the change is reported by a third party.
- (f) A public agency shall evaluate, verify, and act upon a change within 10 calendar days, except for the following changes:
  - (1) Changes in medical expenses of units eligible for the medical deduction when the source of the change in information is from a third party and requires household contact for verification;
  - (2) A decrease in the unit's gross monthly income of less than fifty dollars (\$50.00); or
  - (3) A change in income that is not expected to continue for longer than one month beyond the month in which the change is reported.
- (g) If a change is reported and the public agency fails to act on the change within the 10 calendar days, the public agency shall determine if an over issuance has occurred. If it is determined that an over issuance occurred, the public agency shall establish an Administrative Error (AE) claim.
- (h) If a reported change terminates eligibility or decreases a unit's benefit amount, a Notice of Adverse Action shall be issued to the FNS unit within 10 calendar days.
- (i) If a reported change does not affect eligibility or benefit amount, an Effect of Change Notice shall be issued to the FNS unit.
- (j) If a reported change will increase benefit amount, the public agency shall verify the reported change.
- (k) If an FNS unit fails to report a required change, the public agency shall establish a claim against the FNS unit and issue a Notice of Adverse Action if the change would result in a reduction or termination of benefits.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153; P.L. 107-171;  
Temporary Adoption Eff. February 1, 2003;  
Eff. August 1, 2004;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0214 DEDUCTIONS**

*History Note:* Authority G.S. 108A-51; 143B-153; P.L. 107-171;  
Temporary Adoption Eff. February 1, 2003;  
Eff. August 1, 2004;  
Repealed Eff. October 1, 2021.

#### **10A NCAC 71U .0215 RESOURCE EXCLUSIONS**

Resource exclusions as set forth in 7 CFR 273.8(e), which is incorporated by reference, not including subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge. In addition to the resource exclusions found in federal regulations, the following resources shall be excluded in determining eligibility and benefit level:

- (1) funds from property conveyed to an individual at death of the property owner, also referred to as heir property;
- (2) burial plots;

- (3) lifetime interest in real or personal property limited to an individual's lifetime but the individual does not actually own the property;
- (4) remainder interest in property when one individual owns property and another individual has the lifetime right; and
- (5) land or buildings not excluded as a homesite, income producing property, or for the sale by good faith effort.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153; 7 CRF 273.8(e);  
Temporary Adoption Eff. March 1, 2003;  
Eff. August 1, 2004;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0216 MEDICAL DEDUCTIONS FOR MEDICARE PRESCRIPTION DRUG CARD BENEFITS**

*History Note:* Authority 143B-153; P.L 108-173;  
Eff. April 1, 2005;  
Repealed Eff. October 1, 2021.

### **SECTION .0300 - FORMS**

#### **10A NCAC 71U .0301 FARMER OR DAY LABORER INCOME VERIFICATION**

*History Note:* Authority G.S. 143B-138(b)(5); 7 U.S.C. 2011 to 2026;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Repealed Eff. July 1, 2012.

#### **10A NCAC 71U .0302 HOUSEHOLD APPLICATION**

An application form shall be completed for each household. The application form is available at the public agencies or an application may be made on the ePass Public Portal of NC FAST. The application shall include the required information needed to determine eligibility as set forth in 7 CFR 273.26, which is incorporated by reference, not including subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge. The application shall also include the applicant's commitment to provide information necessary to verify statements given on the form, to cooperate in state and federal quality control checks, and to notify the FNS office of changes of status. Until this application is completed and submitted, the applicant shall not participate in Food and Nutrition Services.

*History Note:* Authority G.S. 108A-25; 108A-51; 108A-52; 143B-153; 7 U.S.C. 2020; 7 CFR 273.26;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. February 1, 1986;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0303 AUTHORIZED REPRESENTATIVE**

(a) The head of household, spouse, or any other member of the household may designate an authorized representative to act on behalf of the household in applying for FNS. The representative shall be ineligible to represent the household until the authorized representative form is completed with the following information:

- (1) Authorized representative's name;
- (2) Address;
- (3) Social security number;
- (4) Date of birth; and
- (5) Signature.

(b) Individuals who participate in a drug or alcoholic treatment program on a resident basis may elect to participate in FNS. The treatment center must be a private, nonprofit organization, or institution or a publicly operated community mental health center, under Section 300x-21 et. seq. of U.S. Code Title 42, Part VII.C.2.



- (1) Residents shall apply through an authorized representative who shall be an employee of and designated by the treatment center.
  - (2) Residents may assist in completing the application and may sign the application along with the authorized representative, prior to certification.
- (c) Residents of public or private nonprofit settings for blind or disabled individuals may elect to participate in FNS.
- (1) A public agency of the state or locality shall certify group living arrangements under Section 1616(e) of the Social Security Act.
  - (2) Residents of group living arrangements may apply and be certified as follows:
    - (A) Through the use of an authorized representative employed and designated by the facility;
    - (B) Through the use of an authorized representative selected by the resident; or
    - (C) On their own behalf.

*History Note:* Authority G.S. 108A-25; 108A-51; 7 CFR 273.2(n); 7 CFR 273.11(e);  
 Eff. February 1, 1976;  
 Readopted Eff. October 31, 1977;  
 Readopted Eff. October 1, 2021.

#### **10A NCAC 71U .0304 TRANSMITTAL OF ATP CARDS**

*History Note:* Authority G.S. 143B-138, -153; 7 U.S.C. 2011 to 2026;  
 Eff. February 18, 1977;  
 Readopted Eff. October 31, 1977;  
 Repealed Eff. July 1, 2012.

### **SECTION .0400 – ELECTRONIC BENEFIT TRANSFER (EBT) CARD**

#### **10A NCAC 71U .0401 ISSUANCE OF FUNDS**

- (a) The State Division of Social Services shall issue FNS payments through Electronic Funds Transfer (EBT).
- (b) The applicant or recipient shall be informed of the payment option in this Rule at application and reapplication and provided the following information:
  - (1) A household that elects to receive FNS payments through an EBT card shall receive an initial EBT card at no cost.
  - (2) A household that requests a replacement EBT card shall be assessed a two dollar fifty cent (\$2.50) fee unless the household can establish that their original EBT card:
    - (A) was lost in the mail or damaged by the card vendor prior to receipt by the FNS household;
    - (B) is being replaced due to a name change on card;
    - (C) was lost due to a natural disaster such as a fire, flood, tornado, earthquake, or hurricane; or
    - (D) was damaged by a retailer or vendor.
  - (3) The fee shall be deducted from the account of the FNS unit.
- (c) Recipients of FNS shall be informed at application and reapplication they may not access or use EBT cards in the following establishments: liquor stores; casinos or gaming establishments; or any establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state.
  - (1) These restrictions apply to all FNS households.
  - (2) Applicants and recipients shall be advised of the restrictions at initial application, reapplication, and redetermination of eligibility.
  - (3) Recipients who use or access FNS in an EBT transaction in any liquor store; any casino or gaming establishment; or any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state may be subject to penalties as defined by the State Division of Social Services.

*History Note:* Authority G.S. 108A-25; 108A-51; 143B-153; 7 CFR 274.6(b);  
 Temporary Adoption Eff. August 1, 2000;  
 Eff. April 1, 2001;  
 Readopted Eff. October 1, 2021.

## **10A NCAC 71U .0402 FAIR HEARINGS**

*History Note:* Authority G.S. 108A-25; 143B-153; 7 U.S.C. 2016 (i)(8); 7 C.F.R. 274.12 (f)(5)(v);  
Temporary Adoption Eff. August 1, 2000;  
Eff. April 1, 2001;  
Repealed Eff. October 1, 2021.

## **SUBCHAPTER 71V - LOW INCOME ENERGY ASSISTANCE PROGRAM**

### **10A NCAC 71V .0101 FUNDING**

*History Note:* Authority G.S. 143B-153;  
Eff. November 19, 1980;  
Repealed Eff. July 1, 2012.

### **10A NCAC 71V .0102 GROUPS COVERED**

*History Note:* Authority G.S. 143B-153;  
Eff. November 19, 1980;  
Amended Eff. October 19, 1981;  
Repealed Eff. October 1, 2021.

### **10A NCAC 71V .0103 ELIGIBILITY REQUIREMENTS**

A household must meet the following requirements to be eligible for the Low Income Energy Assistance Program:

- (1) The North Carolina Department of Health and Human Services (DHHS) determines the maximum eligibility requirements in accordance with this Rule on an annual basis, not to exceed 130 percent of the federal poverty level. DHHS shall consider the economic status of the state of North Carolina and availability of funding in determining the annual income eligibility criteria. The income eligibility criteria shall be included in each annual block grant application that is submitted for public review and approved by the Governor prior to submission to the United States Department of Health and Human Services (HHS) for approval. The income eligibility criteria shall be posted on the DHHS website within 10 business days of application approval by federal HHS. Income shall be defined as gross income less:
  - (a) the standard medical deduction of eighty five dollars (\$85.00) for each specified person. A specified person is an individual 60 years of age or older, or one of the following:
    - (i) A person who receives SSI or disability or blindness payments under Titles I, II, XIV or XVI of the Social Security Act; these individuals may have been approved but may have not received their initial payment;
    - (ii) A person who receives VA disability benefits for a 100 percent service or non-service connected disability;
    - (iii) A person who is a disabled surviving spouse or disabled surviving child of a Veteran;
    - (iv) A person who receives disability retirement benefits from a State, county, or local government agency due to a disability considered permanent under Section 221 of the Social Security Act;
    - (v) A person who is receiving a pension from the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare;
    - (vi) A person who receives Federal Employees Compensation Act payments due to a disability considered permanent under the Social Security Act;
    - (vii) A person who receives Medicaid due to a qualifying disability; or
    - (viii) A person who receives SSI based on presumptive eligibility.
  - (b) a deduction of the actual out of pocket child or dependent care costs paid by the household; and

- (c) a standard deduction for work related expense as set forth in the below table:

Gross Income Level	Standard Deduction
\$1-50	\$10
\$51-100	\$20
\$101-150	\$30
\$151-200	\$40
\$201-300	\$60
\$310-400	\$80
\$401-UP	20%

Earned and unearned income shall be counted or excluded as mandated by federal laws and administrative rules in Subchapter 10A NCAC 71U that govern the Food and Nutrition Services Program.

- (2) Assets: A household shall not have assets exceeding two thousand, two hundred and fifty dollars (\$2,250). All assets shall be counted except:
- (a) Household or personal belongings (including essential and non-essential personal property);
  - (b) Vehicles;
  - (c) Primary residence (including mobile home) and all contiguous property;
  - (d) Income producing real property;
  - (e) Insurance (including burial, term and whole life cash values);
  - (f) Value of prepaid burial contracts;
  - (g) Value of burial plots;
  - (h) Savings of a student under age 18 who is saving their money for school expenses;
  - (i) Relocation assistance payments;
  - (j) That portion of monthly income deposited in a checking or savings account to meet monthly needs;
  - (k) Non-salable life estate or remainder interests;
  - (l) Heir property;
  - (m) HUD community development block grants; and
  - (n) Any of a lump sum payment for the month received or the following month.
- (3) A household shall be vulnerable to rising costs of energy. A household that is vulnerable to rising costs of energy is one that is not protected against such increases under any other program of assistance.
- (4) As a condition of eligibility, United States citizenship for Low Income Energy Assistance Program shall be governed by the procedures set forth in 10A NCAC 71W .0403.

*History Note:* Authority G.S. 108A-25; 108A-25.4; 143B-153; 42 U.S.C. 8621(a); 8624(b); 7 CFR 233.50; Eff. November 19, 1980; Amended Eff. September 1, 1991; October 1, 1990; March 1, 1990; August 1, 1985; Readopted Eff. October 1, 2021.

**10A NCAC 71V .0104 BENEFIT LEVELS**  
**10A NCAC 71V .0105 METHOD OF PAYMENT**  
**10A NCAC 71V .0106 DUPLICATE PAYMENTS AND OVERPAYMENTS**

*History Note:* Authority G.S. 108A-25; 108A-25.4; 143B-153; 42 U.S.C. 8624(b)(7); Eff. November 19, 1980; Amended Eff. September 1, 1982; October 19, 1981; Repealed Eff. October 1, 2021.

**10A NCAC 71V .0107 OVERPAYMENTS AND SUSPECTED FRAUD**

Instances of overpayments and suspected fraud for households participating in the Low Income Energy Assistance Program shall be governed by the procedures set forth for Correction of Overpayments in 10A NCAC 71W .0604 and Client Fraud and Intentional Program Violations in 10A NCAC 71W .0606.

*History Note:* Authority G.S. 108A-25; 180A-25.4; 143B-153;  
Eff. November 19, 1980;  
Amended Eff. August 1, 1985;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71V .0108 APPEALS**

*History Note:* Authority G.S. 108A-25; 143B-153;  
Eff. November 19, 1980;  
Amended Eff. October 1, 1983; October 19, 1981;  
Repealed Eff. October 1, 2021.

### **SECTION .0200 – CRISIS INTERVENTION PROGRAM**

#### **10A NCAC 71V .0201 ELIGIBILITY REQUIREMENTS**

A household must meet the following requirements to be eligible for the Crisis Intervention Program:

- (1) A household shall have income at or below 130 percent of the federal poverty income guidelines calculated in accordance with 10A NCAC 71V .0103.
- (2) A household shall be in a heating or cooling related crisis to be eligible for assistance. A household is in a crisis if it is experiencing or is in danger of experiencing a life threatening or health-related emergency and assistance is not available from any other source. An energy crisis means that a household is in danger of experiencing a disconnection with their primary heating or cooling source, or a household is presently without a heating or cooling source due to disconnection, inoperable equipment, or insufficient fuel.
- (3) As a condition of eligibility, United States citizenship for Crisis Intervention Program shall be governed by the procedures set forth in 10A NCAC 71W .0403.

*History Note:* Authority G.S. 108A-25; 143B-153; 42 USC 8621(a); 8624(b); 7 CFR 233.50;  
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;  
Eff. January 1, 1982;  
Amended Eff. October 1, 1990; August 1, 1985;  
Temporary Amendment Eff. March 13, 2000;  
Amended Eff. April 1, 2001;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71V .0202 BENEFIT LEVELS**

#### **10A NCAC 71V .0203 METHOD OF PAYMENT**

*History Note:* Authority G.S. 108A-25; 143B-153; 150B-13;  
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;  
Eff. January 1, 1982;  
Amended Eff. March 1, 1992; August 1, 1985;  
Temporary Amendment Eff. March 13, 2000; August 24, 1998;  
Amended Eff. November 1, 2007; April 1, 2001; July 1, 2000;  
Repealed Eff. October 1, 2021.

#### **10A NCAC 71V .0204 OVERPAYMENTS AND SUSPECTED FRAUD**

Instances of overpayments or suspected fraud for households participating in the Crisis Intervention Program shall be governed by the procedures set forth for Correction of Overpayments in 10A NCAC 71W .0604 and Client Fraud and Intentional Program Violations in 10A NCAC 71W .0606.

*History Note:* Authority G.S. 108A-25; 108A-25.4; 143B-153;  
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;  
Eff. January 1, 1982;  
Amended Eff. August 1, 1985;  
Readopted Eff. October 1, 2021.

**10A NCAC 71V .0205 APPEALS**

*History Note:* Authority G.S. 143B-153; 150B-13;  
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;  
Eff. January 1, 1982;  
Repealed Eff. October 1, 2021.

- 10A NCAC 71V .0301 GROUPS COVERED**
- 10A NCAC 71V .0302 ELIGIBILITY REQUIREMENTS**
- 10A NCAC 71V .0303 BENEFIT LEVELS**
- 10A NCAC 71V .0304 METHOD OF PAYMENT**
- 10A NCAC 71V .0305 OVERPAYMENTS AND SUSPECTED FRAUD**
- 10A NCAC 71V .0306 APPEALS**

*History Note:* Authority G.S. 108A-25; 143B-153;  
Emergency Adoption Eff. October 9, 2003;  
Temporary Adoption Eff. February 17, 2004;  
Temporary Adoption Expired February 28, 2004.

**SUBCHAPTER 71W – GENERAL PROGRAM ADMINISTRATION**

**SECTION .0100 – GENERAL PROGRAM ADMINISTRATION**

**10A NCAC 71W .0101 DEFINITIONS**

The following definitions apply to this Chapter:

- (1) "Adjusted Payment" means a payment to the recipient to correct a county-responsible underpayment.
- (2) "Appeal" means an oral or written request from an applicant, recipient, or former recipient for a hearing to review the action of a county Department of Social Services when the applicant, recipient, or former recipient is dissatisfied with the decision in his case.
- (3) "Applicant" means a person or assistance unit who has applied for Work First.
- (4) "Application Process" means a series of actions beginning with a signed application (written or electronic) and ending the date a payment is authorized or a denial notice is mailed.
- (5) "Assistance Unit" means the total number of persons whose needs are considered in determining the payment amount.
- (6) "Budget Unit" means all those persons for whom application has been made plus anyone in the home who is liable for the support of a member of the assistance unit or whose income is counted as available to the assistance unit.
- (7) "Client" means member of the assistance unit. It may be used interchangeably with participant, payee, recipient, and applicant.
- (8) "Collateral" means a person or organization that can substantiate or verify information necessary to establish eligibility.
- (9) "Determination" means the process of verifying eligibility factors for persons applying for Work First.

- (10) "Disaster" means periods of natural disaster or other emergencies as declared by state or federal authorities.
- (11) "Disregard of Earned Income" means the procedure for exempting certain portions of earned income when determining the amount of payment.
- (12) "Effective Date" means the date for which the benefit is authorized or activated.
- (13) "Electronic Funds Transfer" or "EFT" means the method by which Work First payment is issued. It may be used interchangeably with direct deposit or Electronic Benefit Transfer (EBT) Card.
- (14) "Eligibility, Initial" means the state of eligibility at time of application.
- (15) "ePass" means the North Carolina Electronic Pre-Assessment Screening Service portal through which applications for benefits may be made.
- (16) "Excluded Income" means money received by a member of the budget unit which is not counted in determining eligibility for assistance.
- (17) "Father, Alleged" means the man who is said without proof to be the father of a child. This includes a father who has admitted paternity when paternity has not been established in a court of law.
- (18) "Father, Legal" means:
  - (a) The man who is married to the mother of child at the time of birth of the child, regardless of whether they are living together. The legal father is not necessarily the natural father, but is legally responsible for support; or
  - (b) A man who has been determined by the court to be the father of the child through a paternity suit or by act of legitimation; or
  - (c) A man who has legally adopted the child.
- (19) "Father, Natural" means the biological father of the child. He may be the alleged or legal father.
- (20) "Full-Time Student" means a student so designated by the school in which the student is enrolled.
- (21) "Kinship" means relationship to a child by blood, marriage, or adoption.
- (22) "Minor Mother" means a mother who is under the age of 18.
- (23) "Payee" means the person in whose name the Work First payment is made.
- (24) "Payment Month" means the month for which the payment is made.
- (25) "Prospective Budgeting" means the best estimate of income in the payment month.
- (26) "Reapplication" means a subsequent application when a case has been terminated.
- (27) "Remainder Interest" means property that will be inherited in full at a life estate interest holder's death.
- (28) "Revocable Trust" means funds held in trust that are available for the client's use.
- (29) "Verification" means the confirmation of facts and information used in determining eligibility.
- (30) "Work First Benefits" or "WFB" means the assistance payments made to adults who are required to work or participate in work-related activities.

*History Note:* Authority G.S. 108A-25; 108A-27; 143B-153;  
 Eff. February 1, 1984;  
 Amended Eff. June 1, 1990; August 1, 1988; February 1, 1986;  
 Temporary Amendment Eff. July 1, 1996;  
 Recodified from 10 NCAC 49A .0002 Eff. January 1, 1997;  
 Amended Eff. April 1, 1997;  
 Readopted Eff. October 1, 2021.

## **10A NCAC 71W .0102 GENERAL AFDC PROGRAM PROCEDURES**

*History Note:* Authority G.S. 143B-153;  
 Eff. February 1, 1984;  
 Recodified from 10 NCAC 49A .0003 Eff. January 1, 1997;  
 Repealed Eff. July 1, 2012.

### **SECTION .0200 - COVERAGE**

#### **10A NCAC 71W .0201 OPTIONAL**

*History Note: Authority G.S. 108A-25; 143B-153; 45 C.F.R. 233.10;  
Eff. February 1, 1984;  
Amended Eff. February 1, 1996; June 1, 1990;  
Repealed Eff. July 1, 2012.*

## **SECTION .0300 - APPLICATION PROCESS**

### **10A NCAC 71W .0301 ACCEPTANCE OF APPLICATION**

*History Note: Authority G.S. 108A-43; 143B-153; 45 C.F.R. 206.10;  
Eff. February 1, 1984;  
Amended Eff. February 1, 1986;  
Repealed Eff. July 1, 2012.*

### **10A NCAC 71W .0302 INITIAL INTERVIEW**

The applicant shall be allowed to have any person(s) of his or her choice participate in the interview. The applicant shall submit an application on a form provided by the Department ("Work First Cash Assistance Application and Review Documentation Workbook" Form DSS-8228, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>).

- (1) The applicant shall provide:
  - (a) the names of collaterals, such as landlords, employers, and others with knowledge of the applicant's situation;
  - (b) information about the applicant's resources;
  - (c) verification of the applicant's earned income and any operational expenses;
  - (d) medical documentation on a form provided by the Department ("Report of Medical Examination Requested by County Social Human Service Agency" Form DSS-8655, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) for applicants unable to participate in employment activities;
  - (e) evidence of good cause claim for non-cooperation with the child support enforcement agency;
  - (f) signed statement from a doctor or medical facility substantiating a pregnancy and the expected due date;
  - (g) a signed consent or declination to complete drug testing requirements; and
  - (h) the necessary sources from which the county department of social services can locate and obtain information needed to determine eligibility.
- (2) The client shall report to the county department of social services as follows:
  - (a) report any change in situation that may affect eligibility for a payment within 10 calendar days after the client learns of the change. The meaning of fraud shall be explained. The client shall be informed that they may be suspected of fraud if they fail to report a change in situation and that in such situations, they may have to repay assistance received in error and that they may also be tried by the courts for fraud; and
  - (b) immediately report the receipt of a payment which the client knows to be erroneous, such as two payments for the same month, or a payment in the incorrect amount. If the client does not report such erroneous payments, the client may be required to repay any overpayment.
- (3) The County shall use collateral sources to substantiate or verify information necessary to establish eligibility. Collateral sources of information include knowledgeable individuals, business organizations, public records, and other documentary evidence. If the applicant does not wish necessary collateral contacts to be made, the applicant may withdraw the application. If the applicant denies permission to contact necessary collaterals, the application shall be rejected due to failure to cooperate in establishing eligibility.
- (4) A worker may visit the applicant's home at the county's option.
- (5) The applicant has the right to:
  - (a) be protected against discrimination on the grounds of race, color, national origin, age, disability, or sex;

- (b) spend assistance payments as desired; however, use of assistance payments must be made in the best interest of the applicant and the applicant's family. A substitute payee may be appointed for those individuals who cannot manage the payments;
- (c) receive assistance payments until assistance payments are terminated;
- (d) have any information given to the agency kept in confidence;
- (e) appeal denials, changes, or terminations of assistance payments; appeal assistance payments which the applicant believes were incorrectly calculated; or, if the applicant requests a change in the amount of assistance payments, appeal the rejection of the requested change or the agency's failure to act upon the requested change within 30 calendar days of the requested change;
- (f) reapply at any time, if found ineligible;
- (g) withdraw from the assistance program at any time; and
- (h) refuse to comply with drug testing requirements.

*History Note:* Authority G.S. 108A-27; 108A-29.1; 143B-153; 45 C.F.R. 206.10;  
 Eff. February 1, 1984;  
 Amended Eff. June 1, 1990; February 1, 1986;  
 Temporary Amendment Eff. July 1, 1996;  
 Amended Eff. April 1, 1997;  
 Readopted Eff. October 1, 2021.

**10A NCAC 71W .0303 ELIGIBILITY DETERMINATION PROCESS**  
**10A NCAC 71W .0304 EFFECTIVE DATE**

*History Note:* Authority G.S. 143B-153; 45 C.F.R. 206.10;  
 Eff. February 1, 1984;  
 Repealed Eff. October 1, 2021.

**SECTION .0400 - ELIGIBILITY FACTORS**

**10A NCAC 71W .0401 AGE**  
**10A NCAC 71W .0402 SCHOOL ATTENDANCE**

*History Note:* Authority G.S. 143B-153; 45 C.F.R. 233.39;  
 Eff. February 1, 1984;  
 Amended Eff. June 1, 1990; August 1, 1988; February 1, 1986;  
 Repealed Eff. July 1, 2012.

**10A NCAC 71W .0403 UNITED STATES CITIZENSHIP**

- (a) United States Citizenship requirements as set forth in 45 CFR 233.50 is incorporated by reference, including any subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge.
- (b) Applicants shall declare under penalty of law whether they are a national of the United States. Without this declaration, the individual shall verify his or her qualified immigrant status.
- (c) Eligibility requirement pertaining to a social security number requirements as set forth in 7 CFR 273.6 is incorporated by reference, including any subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge. Applicants who do not have a social security number shall apply for one and the State may not delay, deny, or discontinue assistance pending the issuance of their social security number. Public agencies shall assist an applicant in applying for a social security number.

*History Note:* Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.50; 45 C.F.R. 273.6;  
 Eff. February 1, 1984;  
 Amended Eff. August 1, 1988; February 1, 1986;  
 Readopted Eff. October 1, 2021.

**10A NCAC 71W .0404 KINSHIP AND LIVING WITH A SPECIFIED RELATIVE**



(a) For eligibility determinations based on kinship and living with a specified relative, children under the age of 21 must have one of the following relationships within the household:

- (1) A parent, including a biological mother or father, a legal father, or adoptive parent(s) after issuance of a final adoptive order;
- (2) An alleged father or other relative of the alleged father;
- (3) A blood or adoptive relative limited to a brother, half-brother, sister, half-sister, grandparent, great-grandparent, great-great-grandparent, uncle, aunt, great uncle or aunt, great-great uncle or aunt, nephew, niece, or first cousin. Spouses or former spouses of these individuals must have legal custody or legal guardianship of the child to meet the kinship requirement if the marriage has been terminated by death or divorce; or
- (4) A step-relative limited to a stepparent or stepsibling. Spouses or former spouses of these individuals must have legal custody or legal guardianship to meet the kinship requirement if the marriage has been terminated by death or divorce.

(b) Verification of kinship shall be made only at application unless previous documentation appears to be incorrect.

- (1) Kinship of a child to a specified relative except for an alleged father shall be verified by examining:
  - (A) birth certificates;
  - (B) hospital records established at birth;
  - (C) marriage record;
  - (D) Social Security Administration records;
  - (E) two of the following:
    - (i) school records;
    - (ii) Buddhist, Christian, Hindu, Islamic or Jewish Sacred Text records;
    - (iii) hospital or physician's records;
    - (iv) court records including adoption records;
    - (v) immigration records;
    - (vi) naturalization records;
    - (vii) church, mosque, temple or synagogue records;
    - (viii) passport;
    - (ix) military records;
    - (x) U.S. census records;
    - (xi) signed statement from an individual having knowledge about the kinship of the child to the specified relative. The statement shall include:
      - (I) name of child;
      - (II) date of birth;
      - (III) place of birth;
      - (IV) individual's relationship; and
      - (V) basis of individual's knowledge.
- (2) Kinship of a child to the alleged father or other alleged paternal relative shall be verified by verifying the child's relationship to the alleged father and if necessary the alleged father's relationship to the alleged paternal relative. Relation to the alleged father shall be verified by examining:
  - (A) court records;
  - (B) county department of social services records;
  - (C) statement signed and dated by the father that acknowledges his paternity;
  - (D) two of the following:
    - (i) school records;
    - (ii) Buddhist, Christian, Hindu, Islamic or Jewish Sacred Text records;
    - (iii) hospital or physician records;
    - (iv) court records;
    - (v) immigration records;
    - (vi) naturalization records;
    - (vii) church, mosque, temple or synagogue records;
    - (viii) passport;
    - (ix) military records;
    - (x) U.S. census records;

- (xi) signed statement from an individual having knowledge about the kinship of the child to the alleged father. The statement shall include:
  - (I) name of child;
  - (II) date of birth;
  - (III) place of birth;
  - (IV) individual's relationship; and
  - (V) basis of individual's knowledge.

(c) Verification that a child is living within the home of a specified relative shall be made during each determination of eligibility by:

- (1) a home visit when there is evidence of the child living in the home;
- (2) use of school records;
- (3) use of child care center records;
- (4) statement of a social worker employed by the county department of social services when, following a home visit, the social worker is able to substantiate that the child is living in the home;
- (5) statement from a non-relative having personal knowledge of the child's living with the specified relative;
- (6) two of the following:
  - (A) medical records, including health department records;
  - (B) Social Security Administration or other benefit records;
  - (C) rental records;
  - (D) church, mosque, temple or synagogue records.

*History Note:* Authority G.S. 108A-24; 108A-25; 108A-27; 143B-153; 45 C.F.R. 233.10;  
 Eff. February 1, 1984;  
 Amended Eff. January 1, 1989; August 1, 1988; February 1, 1986;  
 Readopted Eff. October 1, 2021.

**10A NCAC 71W .0405 RESIDENCE**

- (a) Clients shall be residents of North Carolina to be eligible to receive assistance.
- (b) Documentation shall be required to verify the applicant's physical address at the time of initial application and at any change in the recipient or applicant's residence on a form created by the Department ("Verification of Household Composition" Form DSS-696, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>).

*History Note:* Authority G.S. 108A-27; 108A-31; 143B-153; 153A-257; 45 C.F.R. 233.40;  
 Eff. February 1, 1984;  
 Amended Eff. August 1, 1988; February 1, 1986;  
 Readopted Eff. October 1, 2021.

**10A NCAC 71W .0406 DEPRIVATION**

*History Note:* Authority G.S. 108A-25; 143B-153; 45 C.F.R. 233.90;  
 Eff. February 1, 1984;  
 Amended Eff. May 1, 1994; June 1, 1990; January 1, 1989; August 1, 1988;  
 Repealed Eff. July 1, 2012.

**10A NCAC 71W .0407 RESERVE**

- (a) A Work First assistance unit shall be allowed to reserve resources at a maximum of three thousand dollars (\$3,000). The assistance unit is ineligible if the reserve level exceeds this maximum.
- (b) Resources owned by the following budget unit members shall be counted for purposes of eligibility of Work First assistance:
  - (1) Parent, adoptive parent, or stepparent unless the individual receives SSI;
  - (2) If the child is included in the payment, the child's resources shall be counted; and
  - (3) Jointly owned resources shall be counted for purposes of eligibility of Work First assistance as follows:
    - (A) If a budget unit member owns resources jointly with another public assistance recipient, the budget unit member's share shall be counted as an available resource. The resource

shall be divided equally among the owners unless the owners have a signed agreement specifying division;

- (B) If a budget unit member owns resources jointly with a non-assistance recipient, and the budget unit member can dispose of the resource without the consent of the other owner, the budget unit member's share shall be counted as an available resource. The resource shall be divided equally among the owners unless they have a signed agreement specifying division; and
- (C) If a budget unit member owns resources jointly with a non-assistance recipient, and the budget unit member cannot dispose of the resource without the consent of the other owners, it shall be determined whether the non-assistance recipient consents to the disposal of the resource and counted as follows:
  - (i) If the non-assistance recipient consents, the budget unit member's share of the resource shall be counted. Resources shall be divided equally among the owners unless they have a signed agreement specifying division; or
  - (ii) If the non-assistance recipient refuses, the budget unit member's share shall not be counted.

(d) Reserve items shall be counted for purposes of eligibility of Work First assistance as follows:

- (1) cash on hand;
- (2) the current balance of savings accounts;
- (3) that portion of a checking account other than the monthly income deposited to meet the family's needs; and
- (4) stocks, bonds, mutual fund shares.

(e) Reserve items shall be excluded for purposes of eligibility of Work First assistance as follows:

- (1) personal effects and household goods;
- (2) a mobile home;
- (3) life insurance;
- (4) burial insurance;
- (5) that portion of a checking account that is the monthly income deposited to meet the family's needs;
- (6) life estate or remainder interest;
- (7) heir property from an estate which has not been settled;
- (8) motor vehicles;
- (9) real property including income-producing property;
- (10) income received from a reverse mortgage;
- (11) retirement funds;
- (12) trust funds;
- (13) remaining balances of lump-sum payments; and
- (14) a Uniform Transfer to Minors Account if the owner of the account is included in the budget unit.

(f) The applicant or recipient's statement of the value of reserve property shall be accepted without further verification unless the statement of value is incomplete, inconsistent, unclear, or the values stated by the applicant or recipient would cause the budget unit's reserve to exceed the reserve maximum.

*History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;  
Eff. February 1, 1984;  
Amended Eff. June 1, 1990; February 1, 1986;  
Readopted Eff. October 1, 2021.*

#### **10A NCAC 71W .0408 INCOME**

(a) The public agency shall consider available earned and unearned income to determine eligibility for and amount of Work First assistance as follows:

- (1) Parents' incomes, including the incomes of adoptive parents and stepparents, shall be counted unless the parent, adoptive parent, or stepparent receives SSI, provided that cash contributions from the parent to the assistance unit shall be counted; and
- (2) Countable net unearned income of a child who is included in the assistance unit shall be counted.

(b) The following items of earned income shall be included in determining eligibility:

- (1) income from wages, salaries, and commissions;
- (2) farm income;
- (3) business income including self-employment;

- (4) rental income; and
  - (5) income from roomers and boarders.
- (c) The public agency shall consider circumstances that constitute "good cause" for an applicant failing to report a change that may affect payment are limited to:
- (1) a family crisis or change including, but not limited to, the death of a spouse, parent, or child;
  - (2) the hospitalization or illness a caretaker, or a dependent child for whom the individual provides care, including participation in substance use treatment or attendance at a medical appointment;
  - (3) civil leave, including jury duty or a required court appearance;
  - (4) lack of child care for parent or minor parent in school, training, or other work activity; or
  - (5) any other reason determined by the Director of the county department of social services, or his or her designee, based on evidence provided by the recipient, applicant, or caretaker.
- (d) The following items of unearned income shall be included in determining eligibility for or the amount of assistance:
- (1) OASDHI benefits;
  - (2) Veterans Administration benefits;
  - (3) Railroad Retirement benefits;
  - (4) pensions or retirement benefits;
  - (5) workmen's compensation;
  - (6) unemployment compensation;
  - (7) support payments and contributions;
  - (8) work release payments;
  - (9) dividends and income from trust funds, stocks, bonds, and other investments;
  - (10) private disability or unemployment benefits, including benefits from insurance plans;
  - (11) trade readjustment benefits;
  - (12) military allotments;
  - (13) brown lung benefits;
  - (14) black lung benefits;
  - (15) lump sum payments;
  - (16) cash contributions; and
  - (17) any other income unless excluded by federal law of Paragraph (e) of this Rule.
- (e) In addition to the unearned income exclusions contained in 45 CFR 233.20, which is incorporated by reference, including subsequent amendments and editions, and may be accessed at [www.congress.gov](http://www.congress.gov) at no charge, the following items of unearned income shall be excluded in determining eligibility for assistance:
- (1) food given to or grown by a member of the household;
  - (2) the value of the allotment received under the Food and Nutrition Services Program;
  - (3) child support being routed to IV-D Accounting;
  - (4) assistance from other agencies and organizations, including financial assistance and in-kind goods or services received from a governmental, civic, or charitable organization so long as such aid is for rehabilitation purposes, special training or educational opportunities and provided no duplication exists;
  - (5) HUD Section 8 payments;
  - (6) loans (if there is any agreed upon repayment plan);
  - (7) assistance received through the Low Income Home Energy Assistance Program including the Crisis Intervention Program;
  - (8) home energy assistance as defined in 45 CFR 233.53;
  - (9) income paid to a child recipient through the Workforce Innovation and Opportunity Act (WIOA), P.L. 113-128, as need-based payments, payments for supportive services, compensation in lieu of wages and payments to Job Corps participants;
  - (10) gifts, including but not limited to birthday, Christmas and graduation. If the payee states in writing the gift was intended for the entire assistance unit, the gift shall be divided among assistance unit members. The gift shall be divided in the manner that is most advantageous to the assistance unit; and
  - (11) earned income from temporary census employment.
- (f) The applicant or recipient shall provide verification of income including operational expenses for farm or self-employment income. For gifts, the recipient shall be responsible for obtaining a written statement from the provider of the gift indicating the amount, date given and purpose.

*History Note:* Authority G.S. 108A-25; 108A-27; 108A-33; 143B-153; 45 C.F.R. 233; Eff. February 1, 1984; Temporary Rule Eff. March 5, 1990, for a Period of 180 Days to Expire on August 31, 1990; Amended Eff. September 1, 1990; June 1, 1990; August 1, 1988; February 1, 1986; Readopted Eff. October 1, 2021.

#### **10A NCAC 71W .0409 NEED**

*History Note:* Authority G.S. 108A-25; 108A-33; 143B-153; 45 C.F.R. 233; c. 738, 1987 Session Laws; Eff. February 1, 1984; Amended Eff. February 1, 1986; Filed as a Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988; Amended Eff. June 1, 1990; May 1, 1988; Repealed Eff. July 1, 2012.

#### **10A NCAC 71W .0410 PROSPECTIVE BUDGETING AND QUARTERLY REPORTING**

The public agency shall estimate the amount of monthly income an applicant shall have in the payment month in accordance with this Rule.

- (1) Income shall be budgeted prospectively for determining eligibility for and the amount of Work First payments. To determine the Work First payment, the following processes shall be followed:
  - (a) For income that is paid on less than a monthly basis, the pay received from each period during a month shall be averaged and converted to a monthly amount as follows. Averaged pay shall be determined by:
    - (i) multiplying pay received by 2 if pay is received twice per month;
    - (ii) multiplying pay received by 2.15 if pay is received every two weeks;
    - (iii) multiplying pay received by 4.3 if pay is received weekly; or
    - (iv) dividing pay received by 3 if pay is received quarterly.
  - (b) For child support, regular self-employment, or income that is received once per month, the amount received from two previous successive months shall be averaged to arrive at one monthly amount.
  - (c) Annualized self-employment income shall be averaged over the lesser of the following period: the number of months the business has been in operation or 12 months.
- (2) The monthly income calculated in Paragraph (a) of this Rule shall be used to determine the Work First payment.
- (3) Quarterly reporting shall be required for error-prone classes of recipients as defined by the State based on quality control and other management data. The quarterly reporting process shall follow the processing requirements pursuant to 45 CFR 233.37 which is hereby incorporated by reference including subsequent amendments and editions. This document may be accessed at [www.congress.gov](http://www.congress.gov) at no charge.
- (4) Work First recipients shall be required to report all changes in income within 10 calendar days after they become aware a change has occurred.

*History Note:* Authority G.S. 143B-153; 45 C.F.R. 233.28; 45 C.F.R. 233.36; 45 C.F.R. 233.37; Eff. February 1, 1984; Amended Eff. August 1, 1988; February 1, 1986; Temporary Amendment Eff. July 1, 1996; Amended Eff. April 1, 1997; Readopted Eff. October 1, 2021.

#### **10A NCAC 71W .0411 STATE WORK REQUIREMENT**

*History Note:* Authority G.S. 108A-29; 143B-153; 45 C.F.R. 233.10; 45 C.F.R. 233.20; 45 C.F.R. 250.30; 45 C.F.R. 250.34; Eff. February 1, 1984;

*Amended Eff. October 1, 1990; July 1, 1990; May 1, 1988; February 1, 1986;  
Repealed Eff. July 1, 2012.*

**10A NCAC 71W .0412 JOBS PROGRAM (JOBS)**

*History Note: Authority G.S. 143B-153; 45 C.F.R. 250.30;  
Eff. October 1, 1990;  
Repealed Eff. October 1, 2021.*

**10A NCAC 71W .0413 TWO-PARENT FAMILIES**

*History Note: Authority G.S. 108A-25; S.L. 1997-443; P.L. 104-193;  
Temporary Adoption Eff. March 1, 1998;  
Eff. April 1, 1999;  
Repealed Eff. October 1, 2021.*

**SECTION .0500 - REDETERMINATION OF ELIGIBILITY**

**10A NCAC 71W .0501 CHANGES IN SITUATION**

*History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;  
Eff. February 1, 1984;  
Amended Eff. June 1, 1990; February 1, 1986;  
Temporary Amendment Eff. July 1, 1996;  
Amended Eff. April 1, 1997;  
Repealed Eff. July 1, 2012.*

**10A NCAC 71W .0502 INTERVIEW**

**10A NCAC 71W .0503 HOME VISITS**

*History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;  
Eff. February 1, 1984;  
Repealed Eff. October 1, 2021.*

**SECTION .0600 – PAYMENT PROCEDURES**

**10A NCAC 71W .0601 ISSUANCE OF FUNDS**

(a) Work First payments shall be prorated from the date of application, with the date of the application being day one. Otherwise, payments are made for the full month. Payments, including prorated payments for the month of application or termination, shall not be made for less than twenty five dollars (\$25.00). The State Division of Social Services shall issue Work First payments through Electronic Funds Transfer (EFT). The recipient may select one of the following deposit options:

- (1) By direct deposit to a recipient's checking or savings account at the recipient's financial institution;  
or
- (2) By Electronic Benefits Transfer (EBT) card.

(b) The applicant, recipient or payee shall be informed of the two payment options in this Rule at application and reapplication and provided the following information:

- (1) A household that elects to receive Work First payments through an EBT card shall receive an initial EBT card at no cost.
- (2) A Work First household that requests a replacement EBT card shall be assessed a two dollar fifty cent (\$2.50) fee unless the household can establish that their original EBT card:
  - (A) was lost in the mail or damaged by the card vendor prior to receipt by the Work First household;
  - (B) is being replaced due to a name change on card;
  - (C) was lost due to a natural disaster such as a fire, flood, tornado, earthquake, or hurricane;or

(D) was damaged by a retailer or vendor.

(3) The fee shall be deducted from the account of the Work First household.

(c) Recipients and payees of Work First cash assistance shall be informed at application and reapplication they may not access or use EBT cards in the following establishments: liquor stores; casinos or gaming establishments; or any establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state.

- (1) These restrictions apply to all Work First households including households where the adult caretaker is not included in the case but serves as the case payee.
- (2) Applicants and recipients shall be advised of the restrictions at initial application, reapplication, and redetermination of eligibility.
- (3) Recipients or payees who use or access Work First cash assistance in an EBT transaction in any liquor store; any casino or gaming establishment; or any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state may be subject to penalties as defined by the State Division of Social Services.

*History Note:* Authority G.S. 108A-27; 143B-153; 7 CFR 274.6(b);  
Eff. February 1, 1984;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71W .0602 RECEIPT AND USE OF CHECKS**

#### **10A NCAC 71W .0603 LOST, STOLEN AND FORGED CHECKS**

*History Note:* Authority G.S. 143B-153; 45 C.F.R. 233.20; 45 C.F.R. 234.60;  
Eff. February 1, 1984;  
Amended Eff. June 1, 1990; May 1, 1988;  
Repealed Eff. October 1, 2021.

#### **10A NCAC 71W .0604 CORRECTION OF OVERPAYMENTS**

(a) If the recipient is not entitled to all or part of a payment which has been issued and fraud is not suspected, the county shall take all steps to recover any overpayment.

(b) A county may recoup a Work First overpayment from a recipient's Work First payment, on account of an overpayment made to the recipient's spouse, parent, child, sibling, or other person, only if the recipient, at the time the overpayment occurred, was:

- (1) 18 years of age or older;
- (2) living with the person; and
- (3) part of the assistance unit.

(c) Overpayments shall be collected by the State as follows:

- (1) voluntary repayment by grant reduction or recipient refund;
- (2) involuntary repayment by grant reduction;
- (3) if an overpayment occurs due to a county error in complying with federal or State law, the overpayment shall be recouped by the State;
- (4) if an overpayment occurs due to a state or county processing error, the overpayment shall be recouped from the recipient if the recipient was provided notification of the amount of Work First they were eligible to receive; or
- (5) if an overpayment occurs due to a state error in federal or State law, the overpayment shall be charged to the State.

*History Note:* Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;  
Eff. February 1, 1984;  
Amended Eff. September 1, 1991; January 1, 1985;  
Readopted Eff. October 1, 2021.

#### **10A NCAC 71W .0605 CORRECTION OF UNDERPAYMENTS**

When a Work First household has been underpaid due to an error by the State, county, participant, or due to any other reason, the underpayment shall be corrected by issuing a supplemental payment in the amount by which the Work First household was underpaid.

*History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;  
Eff. February 1, 1984;  
Readopted Eff. October 1, 2021.*

**10A NCAC 71W .0606 CLIENT FRAUD AND INTENTIONAL PROGRAM VIOLATIONS**

(a) In order to prevent fraud, county department of social services shall be responsible for fraud prevention as follows:

- (1) Develop an operational program for fraud prevention, detection, and investigation. Requirements shall be based on the following:
  - (A) the number of recipients;
  - (B) the effectiveness of the fraud prevention program;
  - (C) the frequency of suspected fraud cases, and cases; and
  - (D) the resources available to the agency.
- (2) Designate staff to be responsible for fraud prevention, detection, and investigation.
- (3) The recipient shall be notified of the county's intent to recover the payment no less frequently than at each eligibility review of his or her obligation to report within 10 days, all changes in income, resources, or other changes which may affect the amount of payment. Failure to do so within that time may constitute a willful withholding of such information, and permit the county department of social services to recover the overpayment.

(b) In order to detect and investigate fraud, county department of social services shall be responsible for detection and investigation as follows:

- (1) Investigate any information which indicates that a recipient may be receiving Work First to which the recipient is not entitled.
- (2) In the investigation the staff designated for fraud shall:
  - (A) verify that all responsibilities have been fulfilled as set forth in the rules governing the Work First program;
  - (B) determine whether further investigation should be undertaken to support the belief that fraud is suspected;
  - (C) evaluate the evidence to substantiate fraud and the intent to defraud; and
  - (D) determine the amount of the erroneous payment.
- (3) When there is reason to suspect fraud, the county department of social services director must ensure that the agency has explained to the recipient responsibilities for reporting any change in their circumstances to the agency. The director shall determine whether the agency should investigate further and shall present the case and fraud summary to the county board of social services for action unless the board has delegated this responsibility to the Director.
- (4) The fraud summary shall include:
  - (A) identifying information;
  - (B) a description of the fraudulent act;
  - (C) evidence to substantiate fraud and the intent to defraud;
  - (D) evidence to substantiate the amount of ineligible assistance received; and
  - (E) information concerning the recipient's competency, educational background, ability to know right from wrong, any statement volunteered by the recipient in response to the accusation and any other information which may help explain the recipient's current situation.

(c) In order to determine if fraud is suspected, county board of social services shall be responsible for the following:

- (1) The county board of social services, or its designee, shall determine whether there is a basis for the belief that misrepresentation may have been committed by a person.
- (2) The county board, or its designee, shall determine if the person:
  - (A) willfully and knowingly misstated, provided incorrect or misleading information in response to either oral or written questions;
  - (B) willfully and knowingly failed to report changes which might have affected the amount of payment; or
  - (C) willfully and knowingly failed to report the receipt of benefits which the person knew they were not entitled to receive.



- (3) There must be physical evidence to substantiate a determination that fraud was the reason for the overpayment.
- (4) If the board, or its designee, determines fraud is suspected, it shall instruct the agency to pursue one or more, of the following actions:
  - (A) Seek administrative recoupment which is defined as:
    - (i) involuntary reduction of Work First grant may be collected from all income and assets of the assistance unit. The assistance unit shall retain an amount not less than 90 percent of the assistance payment received by a family of similar composition with no other income;
    - (ii) a voluntary grant reduction. There is no limitation on the amount of the reduction;
    - (iii) voluntary recipient refund. There is no limitation on the amount of the refund;
    - (iv) NC Debt Setoff Collection. NC Debt Set-off (Tax Intercept) is the process by which the North Carolina Department of Health and Human Services (DHHS) intercepts income tax refunds through the North Carolina Department of Revenue (DOR) to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) Claims of current/former Work First recipients.
  - (B) An administrative disqualification hearing or referral for prosecution shall be initiated by the county department of social services.
    - (i) The county department of social services shall initiate a hearing as follows:
      - (I) Evidence indicates that an individual has intentionally violated a program rule in order to receive cash assistance for which the individual is not eligible. The hearing shall be held and any administrative action initiated within 90 days of the date the individual is notified in writing that the hearing has been scheduled. No hearing shall be held when the amount of the overpayment is less than one hundred dollars (\$100.00).
      - (II) The county board of social services shall designate the county director or their impartial county employee to act as the hearings officer. Duties are to: provide written notification of the hearing date, time, and location to the individual at least 30 days in advance of the date of the hearing. Written notification of the hearing shall include the individual's right to have legal representation, a witness or witnesses, or waive the hearing; conduct the hearing to collect all evidence and testimony; render a written decision to the individual and DSS within 15 days as to whether an intentional program violation has occurred. Written notification that the hearing decision will be mailed by Certified Mail Return Receipt Requested. The notice shall inform the individual of the right to further appeal to the State (or higher local authority) and the procedures for such appeal. When an intentional program violation is found, the notification will inform the individual of the length of the sanction and that individual remains a part of the Work First case and subject to program requirements. When no intentional program violation is found, the notification shall inform the individual that the overpayment shall be collected pursuant to this Subchapter.
    - (ii) The county department of social services shall sanction.
      - (I) Apply disqualification sanctions as follows: 12 months of ineligibility for the first offense; 24 months for the second offense; and permanently disqualified for the third offense.
      - (II) The sanction shall be applied by reducing Work First cash assistance payment by the disqualified person's share of the payment for the period of sanction. The disqualified person remains a part of the Work First case.
    - (iii) The county department of social services will follow procedures pursuant to Part (c)(4)(A) of this Rule in the collection of overpayments.

- (C) civil court action; or
  - (D) criminal court action.
- (d) The county board of social services shall follow up with the State Division of Social Services as follows:
- (1) If the board, or its designee, suspects fraud, the department's findings and actions shall be reported to the State Division of Social Services. The county department of social services director shall keep the county board of social services and State Division of Social Services informed on all cases referred for court and repayment action.
  - (2) The county department of social services shall support the local prosecutor by accomplishing interviews in accordance with the prosecutor's requirements, recommending possible witnesses, providing investigative reports, and taking other action deemed necessary by legal authorities.
  - (3) Regardless of what action is taken by the board or the court, the county shall continue to work with the individual and shall notify the individual of the action taken in their case.
  - (4) The county shall maintain records on the number of cases referred for investigation, the number of suspected fraud referrals, action taken to recover the overpayment and amounts recovered.
- (e) In fraud cases, if a county fails to act promptly on indications of ineligibility, federal and state financial participation shall not be available.

*History Note:* Authority G.S. 108A-27; 108A-39; 108A-79; 143B-153; 45 C.F.R. 235.110;  
 Eff. February 1, 1984;  
 Amended Eff. June 1, 1990; February 1, 1986;  
 Temporary Amendment Eff. June 17, 1998;  
 Amended Eff. April 1, 1999;  
 Readopted Eff. October 1, 2021.

**10A NCAC 71W .0607 DETERMINATION OF PAYMENT AMOUNT**

*History Note:* Authority G.S. 143B-153; c. 738, 1987 Session Laws;  
 Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
 Eff. May 1, 1988;  
 Repealed Eff. October 1, 2021.

**SECTION .0700 - EMERGENCY ASSISTANCE COVERAGE**

**10A NCAC 71W .0701 ELIGIBILITY FOR COVERAGE**

**10A NCAC 71W .0702 EMERGENCIES COVERED**

**10A NCAC 71W .0703 EMERGENCY NOT COVERED**

*History Note:* Authority G.S. 108A-39.1; 143B-153; 45 C.F.R. 233.120;  
 Filed as a Temporary Rule Eff. November 1, 1986 for a period of 62 days to expire on January 1, 1987;  
 Eff. January 1, 1987;  
 Amended Eff. October 1, 1990; June 1, 1990; August 1, 1988;  
 Filed as a Temporary Amendment Eff. November 7, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Filed as a Temporary Amendment Eff. January 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Amended Eff. March 1, 1995;  
 Repealed Eff. July 1, 2012.

**10A NCAC 71W .0704 EMERGENCY ASSISTANCE**

- (a) Counties shall use their Work First block grant funds to provide emergency assistance to families. This assistance is designed to assist with families' sporadic emergency needs, such as a utility cut-off or an eviction notice. Emergency assistance is not designed specifically to help families move to self-sufficiency, although, use of this assistance may help a family's progress.
- (b) Emergency assistance shall be provided to or on behalf of a child under the age of 21, the specified relative of the child, and any other member of the household in which he or she is living. The child under the age of 21 who is

within the specified degree of relationship shall be living with the specified relative or have lived with the specified relative within six months prior to the month in which emergency assistance is requested.

(c) The public agency shall determine if the household is eligible for emergency assistance as follows:

- (1) The household's countable reserve is at or below two thousand two hundred dollars (\$2200).
- (2) The maximum emergency assistance benefit per household is three hundred dollars (\$300.00) during 30 consecutive days. Assistance cannot be received again within a 12 consecutive month period.
- (3) When the public agency purchases in-kind goods or contracts for the purchase of services to alleviate or to prevent destitution of the family, the value of the in-kind goods or contracted services purchased with the emergency assistance shall be established and considered when authorizing the benefit level.
  - (A) For in-kind goods, the value shall be the actual purchase price of the goods; and
  - (B) For contracted services, the provider shall submit to the agency a written statement of the value of the service purchased with the emergency assistance.

*History Note:* Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.120;  
Temporary Rule Eff. November 1, 1986 for a period of 62 days to expire on January 1, 1987;  
Eff. January 1, 1987;  
Amended Eff. June 1, 1990; August 1, 1988;  
Temporary Amendment Eff. November 7, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Temporary Amendment Eff. January 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. March 1, 1995;  
Readopted Eff. October 1, 2021.

**10A NCAC 71W .0705 TYPES OF ASSISTANCE PROVIDED**  
**10A NCAC 71W .0706 METHODS OF PAYMENT**  
**10A NCAC 71W .0707 APPLICATION AND DISPOSITION**  
**10A NCAC 71W .0708 RESERVE**  
**10A NCAC 71W .0709 INCOME**  
**10A NCAC 71W .0710 RESERVE AND INCOME FOR SERVICES**  
**10A NCAC 71W .0711 PROCEDURES**

*History Note:* Authority G.S. 108A-39.1; 143B-153; 45 C.F.R. 233.120;  
Filed as a Temporary Rule Eff. November 1, 1986 for a period of 62 days to expire on January 1, 1987;  
Eff. January 1, 1987;  
Amended Eff. October 1, 1990; June 1, 1990; August 1, 1988;  
Filed as a Temporary Amendment Eff. November 7, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Filed as a Temporary Amendment Eff. January 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. March 1, 1995;  
Repealed Eff. July 1, 2012.

#### **SECTION .0800 - UNEMPLOYED PARENT PROGRAM**

**10A NCAC 71W .0801 GENERAL PROCEDURES**  
**10A NCAC 71W .0802 COVERAGE AND PARTICIPATION**  
**10A NCAC 71W .0803 ELIGIBILITY VERIFICATIONS**

*History Note:* Authority G.S. 108A-28; 143B-153; Chapter 738, 1987 Session Laws;  
Eff. January 1, 1988;  
Amended Eff. August 1, 1988;  
Repealed Eff. July 1, 2012.

## SECTION .0900 - TRANSITIONAL CHILD CARE

- 10A NCAC 71W .0901 GENERAL REQUIREMENTS**
- 10A NCAC 71W .0902 METHODS OF PROVIDING CHILD CARE**
- 10A NCAC 71W .0903 SLIDING FEE SCALE**
- 10A NCAC 71W .0904 CHILD CARE RATES AND MAXIMUM PAYMENT**

*History Note:* Authority G.S. 108A-25; 143B-153; 45 C.F.R. Part 256;  
Filed as a Temporary Rule Eff. April 1, 1990 for a Period of 153 Days to Expire on August 31, 1990;  
Temporary Rule Expired Eff. September 1, 1990;  
Eff. October 1, 1990;  
Repealed Eff. July 1, 2012.

### **10A NCAC 71W .0905 DRUG TESTING**

*History Note:* Authority G.S. 108A-29.1; 143B-153;  
Temporary Adoption Eff. November 1, 2014;  
Temporary Adoption Expired August 14, 2015.

## SUBCHAPTER 71X - JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

### SECTION .0100 - ADMINISTRATION

- 10A NCAC 71X .0101 IMPLEMENTATION SCHEDULE**
- 10A NCAC 71X .0102 COUNTY PLAN**
- 10A NCAC 71X .0103 OPTIONAL COMPONENTS**
- 10A NCAC 71X .0104 POST-SECONDARY EDUCATION**
- 10A NCAC 71X .0105 PARTICIPATION RATE**
- 10A NCAC 71X .0106 EXPENDITURE RATE**
- 10A NCAC 71X .0107 APPLICANTS**
- 10A NCAC 71X .0108 JOBS CASE MANAGEMENT**

*History Note:* Authority G.S. 108A-29; 143B-153; 42 U.S.C. 682(a)(2); 45 C.F.R. 250.11;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1991;  
Repealed Eff. July 1, 2012.

### SECTION .0200 - JOBS PARTICIPATION

- 10A NCAC 71X .0201 PARTICIPATION OF UNEMPLOYED PARENT IN EDUCATION**
- 10A NCAC 71X .0202 CONCILIATION PROCEDURE**
- 10A NCAC 71X .0203 ASSIGNMENT OF 16 AND 17 YEAR OLD CUSTODIAL PARENTS**
- 10A NCAC 71X .0204 ASSIGNMENT OF 18 AND 19 YEAR OLD CUSTODIAL PARENTS**
- 10A NCAC 71X .0205 ASSIGNMENT OF PARTICIPANTS 20 YEARS OF AGE OR OLDER**
- 10A NCAC 71X .0206 SATISFACTORY PROGRESS IN AN EDUCATIONAL COMPONENT**
- 10A NCAC 71X .0207 CONTINUATION IN PROGRAM COMPONENTS AFTER AFDC TERMINATION**
- 10A NCAC 71X .0208 PROVISION OF CASE MANAGEMENT AND SUPPORTIVE SERVICES**
- 10A NCAC 71X .0209 CRITERIA FOR SELF-INITIATED EDUCATION OR TRAINING**
- 10A NCAC 71X .0210 SERVICES DURING GAPS IN PARTICIPATION**

*History Note:* Authority G.S. 143B-153; 42 U.S.C. 682(a)(2);  
Eff. October 1, 1990;

*Repealed Eff. July 1, 2012.*

**SECTION .0300 - JOBS PROGRAM COMPONENTS AND ACTIVITIES**

**10A NCAC 71X .0301 JOBS COMPONENT EXPENSES**  
**10A NCAC 71X .0302 WORK EXPERIENCE**  
**10A NCAC 71X .0303 POST-SECONDARY EDUCATION**  
**10A NCAC 71X .0304 ALTERNATIVE WORK EXPERIENCE**

*History Note: Authority G.S. 143B-153; 42 U.S.C. 682(a)(2);  
Eff. October 1, 1990;  
Repealed Eff. July 1, 2012.*

**SECTION .0400 - SUPPORTIVE SERVICES**

**10A NCAC 71X .0401 SUPPORTIVE SERVICES TO BE AVAILABLE IN JOBS COUNTIES**  
**10A NCAC 71X .0402 HEALTH SUPPORT SERVICES**  
**10A NCAC 71X .0403 IN-HOME AIDE SERVICES**  
**10A NCAC 71X .0404 TRANSPORTATION SERVICES**  
**10A NCAC 71X .0405 CHILD CARE TRANSPORTATION**  
**10A NCAC 71X .0406 PERSONAL AND FAMILY COUNSELING**  
**10A NCAC 71X .0407 INDIVIDUAL AND FAMILY ADJUSTMENT SERVICES**  
**10A NCAC 71X .0408 PARTICIPATION EXPENSES**  
**10A NCAC 71X .0409 ONE-TIME WORK RELATED EXPENSES**  
**10A NCAC 71X .0410 DAY CARE SERVICES FOR ADULTS**  
**10A NCAC 71X .0411 SUPPORTIVE SERVICES TO BE AVAILABLE IN NON-JOBS COUNTIES**  
**10A NCAC 71X .0412 SUPPORTIVE SERVICES LIMITS**  
**10A NCAC 71X .0413 DEFINITION OF FAMILY MEMBER**

*History Note: Authority G.S. 143B-153; 42 U.S.C. 602(g); 42 U.S.C. 682(a)(2);  
Eff. October 1, 1990;  
Amended Eff. May 1, 1992;  
Repealed Eff. July 1, 2012.*