

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 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 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 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 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.