

**CHAPTER 21 - MEDICAL ASSISTANCE ADMINISTRATION**

**SUBCHAPTER 21A - GENERAL PROGRAM ADMINISTRATION**

**SECTION .0100 - SUPERVISION**

**10A NCAC 21A .0101 SUPERVISION (TRANSFERRED TO 10A NCAC 23A .0101)**

**SECTION .0200 – DEFINITIONS**

**10A NCAC 21A .0201 DEFINITIONS (TRANSFERRED TO 10A NCAC 23A .0102)**

**SECTION .0300 - APPEALS**

**10A NCAC 21A .0301 NOTICE**

In cases involving termination or modification of assistance, no action shall become effective until ten business days after the notice is mailed, except that it may be effective immediately upon the mailing of notice when:

- (1) modification results in an increase in benefits to the applicant or beneficiary; or
- (2) permitted pursuant to 42 C.F.R. 431.213, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

*History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-79(b); 42 C.F.R. 431.211; 42 C.F.R. 431.213;  
Eff. September 1, 1984;  
Amended Eff. August 1, 1990;  
Readopted Eff. July 1, 2018.

**10A NCAC 21A .0302 GOOD CAUSE FOR DELAYED HEARINGS**

- (a) A local appeal hearing under G.S. 108A-79 shall be delayed as provided in G.S. 108-79(e) for good cause.
- (b) A State appeal hearing under G.S. 108A-79 may be delayed when there is good cause. The postponement shall not exceed 30 calendar days.
- (c) For purposes of this Rule, good cause exists when:
  - (1) there is a death in the appellant's family;
  - (2) the appellant or someone in his or her family is ill;
  - (3) the appellant is unable to obtain representation;
  - (4) the appellant's representative has a conflict with the scheduled date;
  - (5) the appellant receives a notice of action proposing a reduction or termination of assistance after the ten business day notice expires;
  - (6) the appellant is unable to obtain transportation; or
  - (7) the hearing officer determines that the hearing should be delayed for some other reason in the interests of justice or to promote judicial economy.

*History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-79;  
Eff. September 1, 1984;  
Amended Eff. August 1, 1990;  
Readopted Eff. July 1, 2018.

**10A NCAC 21A .0303 APPEAL DECISION**

- (a) The hearing officer shall make a tentative decision on the appeal that shall be served upon the county department, the appellant, and representatives by mail. Decisions reversing the county department's action shall be sent by certified mail to the county department. Decisions affirming the county department's actions shall be sent by certified mail to the appellant. Decisions shall be sent by regular mail to representatives. The tentative decision shall contain a notification of the right to present oral and written argument for and against the decision as set out in this Rule.
- (b) The county and the appellant may present oral and written argument, for and against the decision by contacting the Chief Hearing Officer.

- (c) If a written argument, a request for a time extension to submit a written argument, or a request for oral argument is not received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, the tentative decision shall become final.
- (d) If a request for a time extension to submit a written argument or a request for an oral argument is received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, an extension shall be granted and a letter shall be mailed stating the date the written argument is due or the date and time the oral argument shall be heard.
- (e) If the party that requested oral argument fails to appear for the scheduled oral argument, the tentative decision shall become final.
- (f) If arguments are presented within the timeframes established pursuant to Paragraphs (c) and (d) of this Rule, then all such arguments shall be considered and a final decision shall be rendered.
- (g) The final decision shall be served upon the appellant and the county department by certified mail. Decisions shall be sent by regular mail to representatives.
- (h) A decision upholding the appellant shall be put into effect within two weeks after the county department's receipt of the final decision by certified mail.
- (i) As provided for in 42 C.F.R. 431.245 and G.S. 108A-79(k), the decision shall contain the appellant's right to seek judicial review.

*History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-79; 42 C.F.R. 431.244; 42 C.F.R. 431.245; 42 C.F.R. 431.246; Eff. September 1, 1984; Amended Eff. September 1, 1992; Readopted Eff. July 1, 2018.*

#### **10A NCAC 21A .0304 CONDUCTING DEPARTMENT APPEAL HEARINGS BY TELEPHONE OR ELECTRONIC MEANS**

For public assistance and social services de novo appeals, including appeals of cases involving disability filed pursuant to G.S. 108A-79(i):

- (1) The Department shall conduct the appeal hearing in accordance with the mode of hearing selected by the appellant at the time the appeal is filed.
- (2) The appellant shall select the mode of the hearing at the time the appeal is filed.
- (3) The county department of social services case worker shall notify the Department of the appeal by submitting the completed Request for State Appeal form with the following information:
  - (a) the date of appeal request;
  - (b) the appellant's name;
  - (c) the appellant's social security number and date of birth;
  - (d) the appellant's mailing address and telephone number;
  - (e) the date of application;
  - (f) the mode of hearing selected by the appellant;
  - (g) the appellant's email address, if the appellant requests a remote video hearing;
  - (h) selection of representative(s);
  - (i) the representative(s)' name and title;
  - (j) the representative(s)' mailing address and phone number;
  - (k) the representative(s)' email address;
  - (l) statement of reasonable accommodations required for the appellant to participate in the State hearing;
  - (m) indication of the program being appealed;
  - (n) identification of the issue being appealed at the State hearing; and
  - (o) indication of requested continuation of benefits, if applicable.
  - (p) The county department of social services case worker shall attach to the Request for State Appeal the following documents:
    - (i) a copy of the DSS notification letter that prompted the appeal;
    - (ii) local appeal hearing summary and decision, if applicable;
    - (iii) a copy of the D4037 Medicaid Disability Determination Transmittal;
    - (iv) a copy of the DMA-5135 and related medical records, if applicable;

- (v) a copy of relevant documents related to the appeal;
  - (vi) a copy of the DSS-1473A Addendum for Program Integrity, if applicable; and
  - (vii) a copy of the DSS-1473B Addendum & Medical Evidence if the appeal is an Expedited Medicaid Appeal.
- (4) Based on the mode of hearing the appellant selected at the time the appeal was filed, the hearing officer and the parties shall attend either:
    - (a) in person at the county department of social services with jurisdiction over the case; or
    - (b) remotely by telephone or other electronic means.
  - (5) If the appellant does not select a mode of hearing at the time the Request for State Appeal form is filed, the hearing shall be conducted by telephone or other electronic means.
  - (6) In the case of a disaster declaration by the President of the United States or the Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration under G.S. 166A-19.3(19), the mode of hearing shall be by telephone or other electronic means.
  - (7) The Department shall notify the appellant of the hearing by First Class U.S. Mail.
  - (8) The county department of social services shall make available by electronic mail, U.S. Mail or physical pick up the case file materials the appellant is entitled to examine pursuant to G.S. 108A-79(i)(1).
  - (9) The Department shall continue the appeal hearing as necessary to fulfill procedural rights of the appellant as defined by 42 CFR 431.242, which is incorporated by reference including subsequent amendments and editions, and available free of charge at <https://www.ecfr.gov>.

*History Note: Authority G.S. 108A-54; 108A-79; 108A-80(d); 42 CFR 431.205; 42 CFR 431.240; 42 CFR 431.242; Emergency Adoption Eff. May 4, 2020; Temporary Adoption Eff. June 26, 2020; Temporary Adoption Exp. Eff. April 11, 2021; Eff. April 1, 2022.*

#### **SECTION .0400 - CONFIDENTIALITY AND ACCESS TO CLIENT RECORDS**

- 10A NCAC 21A .0401 SCOPE (TRANSFERRED TO 10A NCAC 23H .0101)**
- 10A NCAC 21A .0402 INFORMATION FROM OTHER AGENCIES (TRANSFERRED TO 10A NCAC 23H .0102)**
- 10A NCAC 21A .0403 CONFIDENTIALITY (TRANSFERRED TO 10A NCAC 23H .0103)**
- 10A NCAC 21A .0404 OWNERSHIP OF RECORDS (TRANSFERRED TO 10A NCAC 23H .0104)**
- 10A NCAC 21A .0405 SECURITY OF RECORDS (TRANSFERRED TO 10A NCAC 23H .0105)**
- 10A NCAC 21A .0406 LIABILITY OF PERSONS WITH ACCESS (TRANSFERRED TO 10A NCAC 23H .0106)**
- 10A NCAC 21A .0407 RIGHT OF ACCESS (TRANSFERRED TO 10A NCAC 23H .0107)**
- 10A NCAC 21A .0408 WITHHOLDING INFORMATION FROM THE CLIENT (TRANSFERRED TO 10A NCAC 23H .0108)**
- 10A NCAC 21A .0409 PROCEDURE FOR REVIEW OF RECORDS (TRANSFERRED TO 10A NCAC 23H .0109)**
- 10A NCAC 21A .0410 CONSENT FOR RELEASE (TRANSFERRED TO 10A NCAC 23H .0110)**
- 10A NCAC 21A .0411 DISCLOSURE WITHOUT CLIENT CONSENT (TRANSFERRED TO 10A NCAC 23H .0111)**

**10A NCAC 21A .0412 DOCUMENTATION OF CONSENT OR DISCLOSURE (TRANSFERRED TO 10A NCAC 23H .0112)**

**10A NCAC 21A .0413 PERSONS DESIGNATED TO DISCLOSE INFORMATION (TRANSFERRED TO 10A NCAC 23H .0113)**

**SECTION .0500 - QUALITY CONTROL**

**10A NCAC 21A .0501 QUALITY CONTROL (TRANSFERRED TO 10A NCAC 23A .0103)**

**SECTION .0600 - CORRECTIVE ACTIONS IN MEDICAID CASES**

**10A NCAC 21A .0601 GENERAL (TRANSFERRED TO 10A NCAC 23G .0201)**

**10A NCAC 21A .0602 CORRECTIVE ACTIONS (TRANSFERRED TO 10A NCAC 23G .0202)**

**10A NCAC 21A .0603 TIME LIMITS FOR CORRECTIONS (TRANSFERRED TO 10A NCAC 23G .0203)**

**10A NCAC 21A .0604 RESPONSIBILITY FOR ERRORS (TRANSFERRED TO 10A NCAC 23G .0204)**

**10A NCAC 21A .0605 MONITORING THRESHOLDS AND CORRECTIVE ACTION (TRANSFERRED TO 10A NCAC 23C .0202)**

**10A NCAC 21A .0606 TIMELINESS (TRANSFERRED TO 10A NCAC 23C .0203)**

**10A NCAC 21A .0607 LOCAL CORRECTIVE ACTION TEAM (TRANSFERRED TO 10A NCAC 23C .0204)**

**10A NCAC 21A .0608 STATE CORRECTIVE ACTION TEAM (TRANSFERRED TO 10A NCAC 23C .0205)**

**SECTION .0700 - AVAILABILITY OF MANUALS**

**10A NCAC 21A .0701 AVAILABILITY OF MANUALS (TRANSFERRED TO 10A NCAC 23A .0104)**