

#### **10A NCAC 23E .0105 DISABILITY**

- (a) As set out in the Medicaid State Plan, individuals eligible for Medicaid in December 1973 as disabled individuals and who meet conditions required by 42 CFR 435.133 shall be permanently and totally disabled based on a physical or mental impairment that precludes him or her from engaging in substantial gainful activity, as defined at 20 CFR 416.910, which is incorporated by reference with subsequent amendments and editions and available free of charge at <https://www.ecfr.gov/>, and such impairment can be expected to result in death, or has lasted or can be expected to last 12 months or longer.
- (b) Any client who has applied for Medicaid since January 1, 1974 on the basis of disability shall be found disabled under the definition of disability and procedures established for evaluation of vocational and medical factors under the supplemental security income program.
- (c) A social history shall be completed by the caseworker and submitted to the Division of Vocational Rehabilitation Services, Disability Determination Services Section with the request for disability determination. The social history shall provide information to identify and contact the claimant; contact information of anyone assisting the claimant in providing the social history; nature and onset of the impairment with the date it became disabling; date claimant stopped work or if still working, provide name of employer with contact information, how many hours worked and earnings; claimant's description of impairment; work history and educational background; contact information for all medical sources during the last 12 months with condition treated, dates seen, and whether treatment is still ongoing; Vocational Rehabilitation office, counselor's contact information, and last seen date; in cases where mental impairment is alleged or there is evidence of drug or alcohol abuse or homelessness, provide name, address, and phone number of a third party contact; signature, title, and phone number of caseworker.
- (d) The Disability Determination Services Section shall determine disability for all individuals, except for those receiving social security or supplemental security income on the basis of a disability.
- (e) Social Security Administration (SSA) decisions made for social security disability or supplemental security income shall be binding for persons applying for Medicaid.
- (f) Disability determination shall be verified from the client's award letter, SDX, BENDEX, Disability Determination Services Section approval, Administrative Law Judge decision, or other documentary evidence. SDX and BENDEX are defined in 10A NCAC 23A .0102.
- (g) Disability for purposes of Medicaid eligibility shall cease when the client is determined by the Social Security Administration or the Disability Determination Services Section to be capable of engaging in substantial gainful activity. The client may appeal the termination of Medicaid, pursuant to G.S. 108A-70.9A.

*History Note:* Authority G.S. 108A-54; 108A-54.1B; 20 C.F.R. 404.1505; 42 C.F.R. 435.540; 42 C.F.R. 435.541; Alexander v. Flaherty Consent Order filed February 14, 1992; Eff. September 1, 1984; Amended Eff. April 1, 1993; August 1, 1990; Transferred from 10A NCAC 21B .0305 Eff. May 1, 2012; Readopted Eff. August 1, 2019.