

## CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

### SUBCHAPTER 27A – FISCAL RULES

#### SECTION .0100 - ACCOUNTING STANDARDS FOR ALL RECIPIENTS OF FUNDS ADMINISTERED BY THE DIVISION

##### **10A NCAC 27A .0101 EFFECT OF THIS SECTION**

The requirements of this Section shall apply to all area programs and their subrecipient agencies receiving funds administered by the Division and discussed in Section .0200 of this Subchapter.

*History Note: Authority G.S. 122C-147.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0102 DEVELOPMENT AND MAINTENANCE OF ANNUAL BUDGET**

(a) The area program shall develop and maintain their annual budget in accordance with G.S. 159.

(b) The area program shall prepare and submit to the Division the annual service plan and Memorandum of Agreement in accordance with G.S. 122C-143.2.

*History Note: Authority G.S. 122C-112; 122C-143.2; 122C-144.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0103 REPORTS REQUIRED**

The Secretary may require reports in accordance with G.S. 122C-144.1.

*History Note: Authority G.S. 122C-112; 122C-144.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0104 ANNUAL AUDIT REPORT**

Each program receiving funds administered by the Division shall submit an annual audit in accordance with requirements of G.S. 159-34 and the Local Government Commission.

*History Note: Authority G.S. 122C-112; 122C-144.1; 159-34;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; October 1, 1983; July 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0105 BUDGET REVISIONS**

Revisions to the budget shall be in accordance with G.S. 159-15.

*History Note: Authority G.S. 159-15;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; February 1, 1986; July 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0106 CONTRACT REQUIREMENTS FOR AREA PROGRAMS**

(a) This Rule shall apply to all contracts between an area program (hereafter referred to as "contractor") and contract providers (hereafter referred to as "contractees"). For purposes of this Rule, contractees include:

- (1) an individual with whom a contract is made for professional services, including consultants and guest speakers; and
- (2) an agency, other than another area program, with whom a contract is made for the provision of services to one or more clients.

(b) The basis for the relationship between the contractor and the for-profit or non-profit contractee is the written contract. All mutual understandings and expectations shall be clearly stated in the contract. All contracts for provision of services to clients, shall contain, at a minimum, the following provisions as indicated in this Rule, except that Subparagraphs (b)(11) and (b) (18) of this Rule shall not apply to contracts with individuals:

- (1) names of the contracting parties;
- (2) beginning and ending dates of the contract period; however, no contract shall extend beyond the fiscal years, except as allowed by G.S. 159;
- (3) description of the services to be provided and the expectations of the parties;
- (4) amount and method of payment;
- (5) address and social security number or IRS identification number of contractee;
- (6) the following statement when a contract period is greater than 30 days: "This contract may be terminated at any time upon mutual consent of both parties or after 30 days upon notice of termination by one of the contracting parties;"
- (7) a statement which indicates that the contract may be terminated immediately with cause upon written notice to the other party; the cause shall be documented in writing to the other party detailing the grounds for termination; and if applicable, the contract may contain a provision indicating method of payment of liquidated damages upon such termination;
- (8) a clause which indicates that the contractor (area) is held harmless from acts committed by the contractee;
- (9) signature of each party to the contract;
- (10) a pre-audit statement in accordance with G.S. 159-28;
- (11) a statement specifying the procedure for budget revisions, if applicable, and provisions for fund balance;
- (12) the procedure for resolving disagreement between the contracting parties;
- (13) for equipment purchased with non unit-cost reimbursement funds, such as start up or special purpose funding, title to assets purchased under the contract in whole or in part rests with the contractor so long as that party continues to provide the services which were supported by the contract; if such services are discontinued, disposition of the assets shall occur as approved by the Division;
- (14) client records of the contractee shall be accessible for review for the purpose of monitoring services rendered, financial audits of third party payors, research and evaluation;
- (15) upon request, the contractee shall provide data about individual clients for research and study to the contractor;
- (16) the contractor requirement to provide to the contractee all pertinent rules, regulations, standards and other information distributed by the Division necessary for the performance of the contractor under the terms of the contract;
- (17) the contractor requirement to monitor the contract to assure compliance with rules of the Commission, the Secretary and G.S. 122C-142;
- (18) a copy of the independent audit referenced in Subparagraph (b)(20) of this Rule, if required, shall be forwarded to the Office of the State Auditor at 2 S. Salisbury Street, 20601 Mail Service Center, Raleigh, North Carolina 27699-0601.
- (19) provisions which outline the responsibility of the contractee for the adoption, assessment, collection and disposition of fees in accordance with G.S. 122C-146;
- (20) a requirement that the contractee shall make available to the contractor its accounting records for the purpose of audit by State authorities and that the party will, when required by general statute or in accordance with the annual Memorandum of Agreement, have an annual audit by an independent certified public accountant.

(c) Agreements with another area program for provision of services to clients shall be incorporated into the annual Memorandum of Agreement referenced in Rule .1002 of this Section.

*History Note:* Authority G.S. 122C-112; 122C-141; 122C-142; 122C-146; 143-6.1; 159-40; Eff. February 1, 1976; Amended Eff. February 1, 1996; October 1, 1992; February 1, 1986; July 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0107 FUND ROUTING**

- (a) Except as authorized by the General Assembly, all funds allocated by the Division for the provision of community mental health, developmental disability and substance abuse services shall be allocated to the area program.
- (b) The Division may allocate and contract directly for the provision of non-treatment activities including but not limited to administration, training and prevention.

*History Note:* Authority G.S. 122C-112; 122C-131; 122C-147.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0108 DENIAL, DELAY OR REDUCTION OF PAYMENTS**

The Division may delay, reduce or deny payments to area programs in accordance with G.S. 122C-151.

*History Note:* Authority G.S. 122C-151;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0109 RECOVERY OF DIVISION FUNDS IN NON-COMPLIANCE SITUATIONS**

- (a) The Division shall review all non-compliance situations occurring in area programs to determine if division funds were involved in the non-compliance situations. Non-compliance situations are those situations or actions that occur which are not in accordance with division, department, state, and federal rules, regulations, or statutes.
- (b) The Division's effective rate of participation, shall be determined in accordance with the Memorandum of Agreement.
- (c) Division participation in non-compliance situations shall be recovered through receipt of a check or by reducing the current year's payment of allocated division funds otherwise due the area program. The area program shall reimburse the Division within 60 days of being invoiced or notified of the required payback, unless notification of appeal is rendered by the Area Authority.
- (d) If the Director of the area program disagrees with the non-compliance decision, within 60 days of receipt of the notification of non-compliance, the Director of the area program may send to the Division Director a request for appeal pursuant to G.S. 122C-145, and 10 NCAC 1K .0900 (DHR Administrative Standards).
- (e) Pending the final agency decision on the appeal of the non-compliance decision, the Division shall not withdraw or reduce the amount of funds due the area program.

*History Note:* Authority G.S. 122C-112; 122C-147;  
Eff. July 1, 1980;  
Amended Eff. February 1, 1996; April 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0110 EXPENDITURE OF DIVISION FUNDS SETTLED ON AN EXPENDITURE BASIS**

- (a) The area programs may budget division funds within cost centers that also include, but are not limited to, local funds, federal funds or other division funds. When area programs elect to budget division funds within a cost center that is settled on an expenditure basis with other funds, funds shall be considered to have been expended in the following order:
  - (1) special grants from non-divisional sources that are for reimbursement of the same expenditures as those for which divisional categorical funds are appropriated (examples are grants from the Department of Public Instruction or Division of Youth Services - Community-Based Alternative Funds);
  - (2) federal funds from the Division; and
  - (3) state funds from the Division. Revenue from non-divisional sources shall be deducted from total cost center expenditures for the purpose of determining the net cost upon which the state share is based.
  - (4) Client-earned income, such as payments received from patients or third parties (insurance, Medicare, Medicaid), which is received but not expended shall be retained by the area program.
- (b) Settlement of Willie M. and Thomas S. funds shall be in accordance with Rules .1136 and .1148 of this Section, respectively.

*History Note: Authority G.S. 122C-112; 122C-147;  
 Eff. July 1, 1980;  
 Amended Eff. February 1, 1996; October 1, 1992; April 1, 1990; June 1, 1987;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0111 FUND BALANCE: COMPUTATION FOR AREA PROGRAMS**

(a) In order for the Division to have input into the actions regarding fund balances in area programs, the following shall take place after the certified public accountant's audit report is rendered and the tentative settlement report prepared:

- (1) The fund balance set forth within the annual audit of area programs shall be verified by the Division.
- (2) Since single county area programs are considered a department of the county for budgetary and financial reporting, separate fund balances for the single county area programs are not required. In order to assure that single county area programs are in compliance with the G.S. 122C-146 which states that fees received for services shall not reduce or replace the budgeted commitment of local tax revenue, the Division shall review the utilization of county general funds and the disposition of fees received for service each year.
- (3) To determine the unrestricted fund balance for a multi-county area program or single county area program which maintains a separate fund balance and the percent that it represents to the operating budget, the Division shall use the following format:

Current Assets Per Audit Report		\$
Less: Current Liabilities Per Audit Report		( )
Fund Balance		\$
Less: Reserve for Encumbrances		( )
Reserve for Patients Accounts Receivable		
Less: Allowance for Doubtful Accounts Patient		
Accounts Receivable	( )	( )
Reserve for Accounts Receivable from Governmental		
Entities		( )
Reserve for Inventory		( )
Reserve for DWI Fees		( )
Reserve for Drug Education School Fees		( )
Reserve for Restricted Donations		( )
Fund Balance Restriction Previously Approved by		
DMH/DD/SAS		( )
Willie "M"		( )
Thomas S.		( )
Other(List)		( )
Unrestricted Fund Balance		\$
Currently approved budget including expansion		\$
Percent Unrestricted Fund Balance to Current Annual Budget		percent

- (4) If the unrestricted fund balance is not in excess of 15 percent of the current annual budget, no action is to take place.
- (5) If the unrestricted fund balance is over 15 percent of the current annual budget, the Division shall recoup in an amount equal to the fund balance in excess of 15 percent. The area program may request permission from the Division Director to restrict fund balance in excess of the 15 percent limitation for specific purposes.

(b) The amount of reduction of financial support by the division to area programs as referenced in Subparagraph (a)(5) of this Rule may be decreased or delayed or both if, in the opinion of the Division Director, the following circumstances warrant relaxation of this policy:

- (1) past history of fund usage by the area program;
- (2) adequacy of area program funds to meet the needs of the catchment area;
- (3) utilization of funds throughout the fiscal year by the area program;

- (4) unusual or unexpected fiscal events affecting the area program; or
  - (5) purpose for which the area program would retain funds.
- (c) Any action taken in regard to Paragraph (b) of this Rule shall be documented in writing.

*History Note:* Authority G.S. 122C-112(a)(6); 122C-144; 122C-146; 122C-147; 143B-10; 159-8;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0112 DISPOSITION OF EQUIPMENT - NON UNIT COST REIMBURSEMENT**

- (a) Equipment costing five thousand dollars (\$5,000) or more purchased with non-unit cost reimbursement (UCR) Division funds by an area program or contract provider shall be used for Division funded client services. Except for Willie M and Thomas S. funded purchases, equipment purchased with Division funds may be transferred to other Division funded services if no longer needed by the original service. Willie M and Thomas S. purchased equipment shall be used only for Willie M or Thomas S. clients or disposed of in accordance with Rule .1136 or .1148 of this Subchapter.
- (b) Except as stated in Paragraph (c) of this Rule, should transfer of equipment to Division funded services not be possible, the Division shall be contacted by the area program or through the area program for a contract provider for disposition instructions. The Division shall recover the Division's share of the fair market value. The Division's share will be established by the following methods in order of preference.
- (1) Through inventory records which establish the percent of funding for the equipment.
  - (2) The Division's percent of participation for the area program for the year of purchase.
  - (3) The Division's percent of participation for the area program for the current year.
- (c) Equipment which is fully depreciated and no longer has any useful value may be disposed of in accordance with area program policy.
- (d) The area program shall have a written procedure stating the equipment disposition policy for contract providers and include or reference this provision in all contracts between the area program and the contract provider.

*History Note:* Authority G.S. 122C-147;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0113 START UP FUNDING**

- (a) The Division may provide funding outside of unit cost reimbursement (UCR) for initial purchases of equipment, supplies and operational expenditures for the establishment of a program, service or facility.
- (b) Requests for start up shall be made by the area program, or through the area program in the case of a contract provider, in whose catchment area the new program, service or facility is being established. Requests shall be made in writing to the Division Director or designee and shall include a line item budget and justification. Requests may include expenses for normal operation such as staff, utilities and rent but such request may not exceed 60 days without specific written authorization from the Division Director or designee. Approvals shall be granted based on availability of funds and merit of request.

*History Note:* Authority G.S. 122C-147;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0114 AREA AUTHORITY FINANCIAL FAILURE DEFINED**

*History Note:* Authority G.S. 122C-125;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016;  
Repealed Eff. October 3, 2023 pursuant to G.S. 150B-21.7.

### **SECTION .0200 - STATE AND FEDERAL FUNDS ADMINISTERED**

#### **10A NCAC 27A .0201 METHOD OF PAYMENT**

Payment shall be based on earnings, monthly advancement or other basis as authorized by the Division and stated in the Memorandum of Agreement.

*History Note: Authority G.S. 143B-10;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; June 7, 1978; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0202 REQUEST FOR FUNDS**

A monthly request for funds administered by the Division and paid on a basis other than unit cost earnings shall be on a standard format available from the fiscal services section of the Division. Request shall be submitted to the Fiscal Office as directed by the Division Director.

*History Note: Authority G.S. 143B-10;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0203 EARLY INTERVENTION - STATE AND FEDERAL FUNDS**

*History Note: Authority G.S. 122C-112(a)(6); 122C-131; 122C-150; U.S.C. 1471 Part HIDEA;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1988; February 1, 1986; July 1, 1985;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.*

#### **10A NCAC 27A .0204 DIVISION FUNDS FOR CAPITAL PROJECTS**

(a) When capital funds are specifically appropriated by the General Assembly, the Division shall allocate funds for area program capital projects. Such allocations shall be in accordance with the language and intent of the appropriation. Instructions for capital applications and payment of funds shall be issued by the division subsequent to any such specific appropriation.

(b) An area program may request to use state non-unit cost reimbursement (UCR) funds, Willie M. or Thomas S. funds, or to transfer state operating funds outside the regular, Willie M. and Thomas S. unit cost reimbursement systems for capital costs for itself, its non-profit contract agency, or another governmental entity. The following procedures shall be followed:

- (1) Approval for purchase, alteration, improvement or rehabilitation of real estate held in the name of the area program or purchase, alteration, improvement, or rehabilitation of real estate or lump sum down payment or periodic payments on a real property mortgage in the name of a private, non-profit corporation or another governmental entity under contract to the area program, which cost under five thousand dollars (\$5,000) is delegated to the area director.
- (2) Approval for purchase, alteration, improvement or rehabilitation of real estate held in the name of the area program or purchase, alteration, improvement, or rehabilitation of real estate or lump sum down payment or periodic payments on a real property mortgage in the name of a private, non-profit corporation or another governmental entity under contract to the area program which costs five thousand dollars (\$5,000) or over shall be based upon submission of an application by the area program to the Division Director or designee. Such application shall be in a format prescribed by the Division and may include the following:
  - (A) name of applicant;
  - (B) address of applicant;
  - (C) the name and type of proposed or existing facility and its location;
  - (D) the purpose of request, whether new construction, purchase of an existing structure, alteration, improvement or rehabilitation of an existing facility;
  - (E) a statement of the need for the facility or alteration, improvement or rehabilitation;
  - (F) description of the programs conducted or to be conducted in the facility;
  - (G) target date for project completion;
  - (H) an estimated construction budget and projected revenue sources;

- (I) a statement indicating whether or not additional Division funds will be required for operating costs. If this question is answered yes, the application shall indicate the estimated additional operating funds required and the proposed funding source;
  - (J) the name and telephone number of the area program representative designated as contact for the application; and
  - (K) two property appraisals completed by licensed property appraisers for costs associated with the purchase of an existing building, lump sum down payments and period payments on the mortgage of real property.
- (3) Funds approved for capital projects under Paragraph (b) of this Rule shall be paid in the following manner:
- (A) Funds approved under Subparagraph (b)(1) of this Rule shall be requested by the area program using regular fund request procedures as funds are needed.
  - (B) Funds approved under Subparagraph (b)(2) of this Rule shall be requested in the following manner:
    - (i) if funds are to be utilized for the purchase of a facility, the necessary funds may be requested within 30 days from when they are needed via a written request from the Area Director to the Division Director or designee. The request shall specify the amount of funds needed and the projected closing date of the purchase.
    - (ii) if funds are to be utilized for the construction of a new facility or renovation, rehabilitation or alteration of an existing facility, funds will be disbursed based upon written requests from the Area Director to the Division Director or designee certifying project completion at the following intervals: 10%, 25%, 50%, 75% and 100%. Upon receipt of such billings, the Division shall issue payment consistent with the percentage completed.
- (4) All aspects of any capital project shall be completed in accordance with all applicable federal, State and local regulations. Such compliance shall include, but not be limited to, G.S. 159 requirements, Division of Health Service Regulation licensure regulations, and local building ordinances.
- (5) The area program shall maintain a perpetual inventory of all facilities purchased, constructed, altered, renovated or rehabilitated in accordance with this Rule. This inventory shall document the history cost of the facility plus subsequent improvements and the percentage of Division participation in the total cost.
- (6) Should the facility cease to be used for the purpose of serving clients of the Division, or, more specifically for the purpose of serving Willie M. or Thomas S. clients if the purchase, construction, rehabilitation, alteration or improvement was funded from those specific funding sources, the Division shall be contacted immediately for disposition instructions. If the Division so directs, the facility shall be sold at the current fair market value in accordance with G.S. 153A-176 and G.S. 160A-266. After the sale, the Division shall be reimbursed the Division's pro-rata share of the proceeds from the sale based on the percent of contribution made by the Division for the purchase, construction, alteration, improvement or rehabilitation of the sold facility, If an area program or its contract provider wishes to maintain ownership of a facility that was constructed, purchased, altered, improved or rehabilitated using Division funds, the area program or non-profit contract provider may, if authorized by the Division, pay to the Division the Division's pro-rata share of the current fair market value of the facility as determined by two independent appraisals acceptable to the Division.

*History Note: Authority G.S. 122C-112; 122C-113;  
 Eff. November 1, 1977;  
 Amended Eff. February 1, 1996; April 1, 1990; July 1, 1980; April 25, 1979;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0205 FUNDING ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS**

- (a) Pursuant to G.S. 20-179.2 the Department of Health and Human Services shall have the authority to approve programs, budgets and contracts with public and private governmental and non-governmental bodies for alcohol and drug education traffic schools operated by an area program or operated by a contractor through a contract with an area program.
- (b) Fees paid by persons enrolling in an alcohol and drug education traffic school established pursuant to G.S. 20-179.2 shall be used to support the schools except as indicated in (e) of this Rule. Other funds to support the schools may come from multiple sources such as, but not limited to, county general funds, state appropriations, federal appropriations, and receipts for

services (patient fees). This Rule is established to set accounting requirements for the fees received pursuant to G.S. 20-179.2.

(c) Fees received pursuant to G.S. 20-179.2 shall be limited to purchases of the following:

- (1) to rent or lease space to conduct alcohol and drug education traffic school classes if sufficient space is not available in area program facilities;
- (2) personnel and support costs necessary to assure a systematic and timely processing of referrals to alcohol and drug education traffic schools;
- (3) supplies and materials necessary for the efficient and timely operation, evaluation and administration of alcohol and drug education traffic schools and for developing and maintaining an efficient liaison process with the judicial system, interested community groups, the Division of Motor Vehicles and the Department of Health and Human Services;
- (4) non-administrative equipment necessary for the operation of alcohol and drug education traffic schools;
- (5) administrative equipment for alcohol and drug education traffic school personnel employed full-time and a pro-rated amount for personnel assigned less than one hundred percent of the time to traffic schools;
- (6) renovations that do not result in the acquisition of real property by the area program;
- (7) travel;
- (8) area program administrative costs that can be documented as chargeable to the schools; and
- (9) other necessary operating expenses as approved by the Division.

(d) Fees received pursuant to G.S. 20-179.2 shall not be used for acquisition of real property by the area program.

(e) Fees received pursuant to G.S. 20-179.2 shall be used to support the operation, evaluation and administration of the alcohol and drug education traffic schools. Any excess fees received pursuant to G.S. 20-179.2 shall be used to continue or to expand alcohol and drug services.

(f) Fees received pursuant to G.S. 20-179.2 shall not be used in any manner to match state or division funds or to be included in any computation for state or division formula funded allocations.

(g) Fees received pursuant to G.S. 20-179.2 shall be consistently identified as such. All such fees remaining at the end of the area program's fiscal year shall retain their identity and the fund balance of the area program shall be so restricted as to assure continued use of the fees for the alcohol and drug education traffic schools or to continue or to expand other alcohol and drug abuse services.

(h) Area programs shall maintain records which indicate which individuals have paid for the traffic schools.

(i) Pursuant to G.S. 20-179.2, area programs shall receive fees from either the person convicted or from the judiciary. The individual enrolled in the school shall pay the fee to the area program providing the school, except that if the clerk of court in the county in which the person is convicted agrees to collect the fees, the clerk shall collect all fees for persons convicted in that county. The clerk shall pay the fees collected to the area program serving the catchment area in which the clerk is located regardless of where the defendant attends the school.

(j) Area programs receiving fees from the judiciary for individuals who will be enrolled in schools operated by other area programs shall transfer 80 percent of the fees received from the judiciary for those individuals to the area programs enrolling the individuals upon receipt of an invoice. The 80 percent shall be transferred to the area program providing the school regardless of whether the individual attends the school.

(k) Area programs receiving fees directly from an individual who has been convicted in a county outside the area program's catchment area shall transfer 15 percent of the fees collected to the area program which serves the county where the individual was convicted upon receipt of an invoice from the area program serving the county where the conviction occurred. Any area program not desiring to collect the 15 percent from another area program is not required to invoice that program. A decision not to collect the 15 percent shall be approved by the area board and documented in the board minutes. An area program that does not desire to invoice another area program shall honor invoices presented to it from other area programs that desire to collect the 15 percent.

(l) Five percent of all fees received by the area program pursuant to G.S. 20-179.2 shall be forwarded to the Department of Health and Human Services on a monthly basis. The area program that initially receives the fees from the persons paying the fees or from the judiciary system shall be responsible for transferring the 5 percent to the Department. Checks shall be made payable to and sent to: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, North Carolina 27699-3001.

(m) The amount of fees transferred to another area program or to the Division as indicated in (j) through (l) of this Rule shall be recorded in the accounting records to TRANSFER OF DUI FEES. Under no circumstances shall the transfer of fees be recorded as an operating expense in which the Division would participate.

*History Note: Authority G.S. 20-179.2; 122C-143; 143B-10;*



*Eff. April 21, 1980;*  
*Amended Eff. February 1, 1996; December 1, 1981; July 1, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0206 FUNDS FOR MULTIDISCIPLINARY EVALUATIONS: GUARDIANSHIP**

*History Note: Authority G.S. 122C-147.1; 143B-10;*  
*Eff. July 1, 1981;*  
*Amended Eff. February 1, 1996; April 1, 1990;*  
*Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.*

**10A NCAC 27A .0207 FUNDS FOR FORENSIC SCREENING: CAPACITY TO PROCEED TO TRIAL**

- (a) To the extent state funds are available, the division shall provide reimbursement for court-ordered screening and evaluation of persons to determine their capacity to proceed to trial.
- (b) The screening or evaluation shall be performed by a qualified mental health professional or a qualified substance abuse professional who is registered with the Division as a forensic evaluator or a person deemed a medical expert by the court.
- (c) Only area programs are eligible for reimbursement.
- (d) To obtain reimbursement the area program shall submit to the Division Fiscal Office the following:
  - (1) two copies of an itemized invoice which reflects the following:
    - (A) name of respondent screened or evaluated;
    - (B) name of certified forensic evaluator for each respondent;
    - (C) amount of time in hours or portion thereof required for each screening examination or evaluation;
    - (D) rate per hour for each examination or evaluation; and
    - (E) dollar amount for each examination or evaluation.
  - (2) one copy of the individual court order. The court order shall be attached to the invoice.
- (e) The rate per hour for each forensic evaluator required on the invoice under (d)(1)(D) of this Rule shall be the usual and customary charges of the area program before adjustment to the sliding fee scale. The amount invoiced to the division shall not exceed the rate approved by the Division.
- (f) The procedures of this Rule apply only to reimbursement for screening examinations or evaluations to determine the capacity of an individual to proceed to trial and do not apply to reimbursement for any treatment determined to be necessary as a result of the evaluation.

*History Note: Authority G.S. 122C-147.1; 143B-10;*  
*Eff. July 1, 1981;*  
*Amended Eff. February 1, 1996; October 1, 1990; April 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0208 FUNDING DRUG EDUCATION SCHOOLS**

- (a) Pursuant to G.S. 90-96.01 the Department of Health and Human Services shall have the authority to approve programs, budgets and contracts with public and private governmental and nongovernmental bodies for drug education schools operated by an area program or operated by a contractor through a contract with an area program.
- (b) Fees paid by persons enrolling in a drug education school established pursuant to G.S. 90-96.01 shall be used to support the schools except as indicated in Paragraph (e) of this Rule. Other funds to support the schools may come from multiple sources such as, but not limited to, county general funds, state appropriations, federal appropriations, and receipts for services (patient fees). This Rule is established to set accounting requirements for the fees received pursuant to G.S. 90-96.01.
- (c) Fees received pursuant to G.S. 90-96.01 shall be limited to purchases of the following:
  - (1) to rent or lease space to conduct drug education school classes if sufficient space is not available in area program facilities;
  - (2) personnel and support costs necessary to assure a systematic and timely processing of referrals to drug education schools;
  - (3) supplies and materials necessary for the efficient and timely operation, evaluation and administration of drug education schools and for developing and maintaining an efficient liaison process with the judicial system, interested community groups, and the Department of Human Resources;
  - (4) non-administrative equipment necessary for the operation of drug education schools;

- (5) administrative equipment for drug education school personnel employed full-time and a pro-rated amount for personnel assigned less than 100 percent of the time to drug education schools;
  - (6) renovations that do not result in the acquisition of real property by the area program;
  - (7) travel required for the effective operation of the drug education schools;
  - (8) area program administrative costs that can be documented as chargeable to the schools; and
  - (9) other necessary operating expenses as approved by the Division.
- (d) Fees received pursuant to G.S. 90-96.01 shall not be used for acquisition of real property by the area program.
- (e) Fees received pursuant to G.S. 90-96.01 shall be used to support the operation, evaluation and administration of the drug education schools. Any excess fees received pursuant to G.S. 90-96.01 shall be used to continue or to expand alcohol and drug services.
- (f) Fees received pursuant to G.S. 90-96.01 shall not be used in any manner to match state or division funds or to be included in any computation for state or division formula funded allocations.
- (g) Fees received pursuant to G.S. 90-96.01 shall be consistently identified as such. All such fees remaining at the end of the area program's fiscal year shall retain their identity and the fund balance of the area program shall be so restricted as to assure continued use of the fees for the drug education schools or to continue or to expand other alcohol and drug abuse services.
- (h) Area programs shall maintain records which indicate which individuals have paid for the drug education schools.
- (i) Pursuant to G.S. 90-96.01, area programs shall receive fees from either the person enrolled in the class or from the judiciary. The individual enrolled in the school shall pay the fee to the area program providing the school, except that if the clerk of court in the county in which the person is sentenced agrees to collect the fees, the clerk shall collect all fees for persons sentenced in that county. The clerk shall pay the fees collected to the area program serving the catchment area in which the clerk is located regardless of where the person attends the school.
- (j) Area programs receiving fees from the judiciary for individuals who will be enrolled in schools operated by other area programs shall transfer 80 percent of the fees received from the judiciary for those individuals to the area programs enrolling the individuals upon receipt of an invoice. The 80 percent shall be transferred to the area program providing the school regardless of whether the individual attends the school.
- (k) Area programs receiving fees directly from an individual who has been sentenced in a county outside the area program's catchment area shall transfer 15 percent of the fees collected to the area program which serves the county where the individual was sentenced upon receipt of an invoice from the area program serving the county where the sentencing occurred. Any area program not desiring to collect the 15 percent from another area program is not required to invoice that program. A decision not to collect the 15 percent shall be approved by the area board and documented in the board minutes. An area program that does not desire to invoice another area program shall honor invoices presented to it from other area programs that desire to collect the 15 percent.
- (l) Five percent of all fees received by the area program pursuant to G.S. 90-96.01 shall be forwarded to the Division of MH/DD/SAS on a monthly basis. The check for 5 percent of the fees received shall be accompanied by a transmittal indicating from whom the fees were received. The area program that initially receives the fees from the persons paying the fees or from the judiciary system shall be responsible for transferring the 5 percent to the Division. Checks shall be made payable to and sent to: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, North Carolina 27699-3001.
- (m) The amount of fees transferred to another area program or to the division as indicated in (j) through (l) of this Rule shall be recorded in the accounting records as transfer of DES Fees. Under no circumstances shall the transfer of fees be recorded as an operating expense in which the Division would participate.
- (n) In order to secure approval of the program and budget supported by fees received pursuant to G.S. 90-96.01, the area program shall include the programmatic and budgetary data in the annual plan of work submitted to the Division each fiscal year.

*History Note: Authority G.S. 90-96.01; 122C-132; 122C-143;  
Eff. July 1, 1982;  
Amended Eff. February 1, 1996; October 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0209 COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT**

- (a) The Division shall administer a grant program for the federal Community Mental Health Services Block Grant which is made available to the Division under the authority of Public Law 102-321.
- (b) The appropriate portion of funds which are made available to the Division for Community mental health services shall be made available to eligible programs. The purpose of these funds is to provide comprehensive community mental health

services to adults with a serious mental illness and to children with a serious emotional disturbance who meet the unit cost reimbursement (UCR) criteria for Level 1 or Level 2.

(c) The mental health services shall be provided within the limits of the capacity of the area program, to any individual residing or employed in the service area of the center, regardless of ability to pay for such services, in a manner which preserves human dignity and assures continuity and high quality care.

(d) Funds shall not be expended for any of the following uses:

- (1) to provide inpatient services,
- (2) to make cash payments to clients,
- (3) to purchase or improve land; purchase, construct or permanently improve any building or other facility; or purchase major medical equipment,
- (4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds,
- (5) to provide assistance to any entity other than a public or nonprofit private entity ,or
- (6) to support any individual salary in excess of one hundred twenty five thousand dollars (\$125,000).

(e) The Division Director shall allocate annually funds to the area programs.

(f) Block grant funds allocated shall be used to supplement and increase the level of state, local, and other non-federal funds and shall, in no event, supplant such state, local, and other non-federal funds. The Division shall monitor compliance by comparing total budgeted revenues for the current fiscal year with those budgeted for the prior fiscal year for each area program exclusive of block grant funds. If block grant funds are reduced, the area program may reduce its participation in a proportionate manner.

*History Note: Authority G.S. 12C-141; 122C-143.1; 122C-143.2; 122C-144.1; 122C-147; 122C-147.1; 122C-147.2; P.L. 102-321; Eff. October 1, 1982; Amended Eff. February 1, 1996; April 1, 1990; July 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0210 PATH-HOMELESS GRANT**

(a) The Division shall administer a program of grants for children and adults to area programs called Path-Homeless Grant.

(b) These funds shall be used to provide comprehensive services for homeless individuals who have chronic mental illness. Path-Homeless Grant funds shall be used to develop community mental health and related services to provide treatment and support to homeless mentally ill adults and children consistent with the provisions of Public Law 100-77, Title VI, Subtitle B, Part C and within the following guidelines:

- (1) Homelessness is defined as individuals who lack a fixed, regular and adequate residence;
- (2) An individual who has a primary residence that is:
  - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
  - (B) a facility that provides a temporary residence for individuals who would otherwise be institutionalized; or
  - (C) a public or private place not designated for, or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Homelessness does not include any individual imprisoned or otherwise detained under federal or state law.

(c) Eligible adults are individuals who are 18 years of age or older and who have long term, severe disabling mental illness. Long term severe mental illness is defined as a serious and persistent mental or emotional disorder, e.g., schizophrenia, severe depression, manic-depressive disorder, etc. that disrupts functional capacities for relationships and work or school. Persons with long term mental illness complicated by alcohol and or drug abuse problems and individuals who are both mentally ill and mentally retarded are also eligible recipients.

(d) Eligible children are individuals under the age of 18 who either:

- (1) have an emotional disturbance of such severity as to significantly interfere with functioning within the family, school or community environment and to require intensive intervention by mental health or other related agencies; or
- (2) are at high risk of severe emotional disturbance because of severe mental illness or substance abuse in the immediate family or excessive disruption of normal educational and developmental process; or
- (3) are in addition to mental illness, also suffering from an added disability, such as neurological impairment, chemical dependency and or mental retardation.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-47; 122C-147.1; 122C-147.2;  
Public Law 100-77, Title IV, Subtitle B, Part C;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0211 GOVERNOR'S SUBSTANCE ABUSE PREVENTION PROGRAM**  
**10A NCAC 27A .0212 CLOZAPINE**

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
General Education Provision Act, Education Department; General Administrative Regulations in 34 Code  
of CFR, Part 74, Part 76 and Part 77; and the Drug Free Schools and Community Act of 1986 and its  
amendments;  
Eff. February 1, 1996;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**10A NCAC 27A .0213 COMMUNICABLE DISEASE RISK/SERVICES TO INTRAVENOUS (IV) DRUG USERS**

- (a) The Division shall administer a program for substance abuse services to adolescents or adults who inject controlled substances; or have sexual contact with partners who inject controlled substances, including methadone; or have tested positive for Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS), Hepatitis B, Hepatitis C, sexually transmitted diseases or tuberculosis; or who have engaged in high risk behaviors with identified substance abusers.
- (b) Funds shall be used for the provision of services in accordance with the special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (c) Funds shall be awarded, paid and settled in accordance with the Annual Memorandum of Agreement.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0214 TREATMENT ALTERNATIVES FOR WOMEN**

- (a) The Division shall administer a program to provide comprehensive services to substance abusing pregnant women or substance abusing women with dependent children.
- (b) Services may include primary medical, prenatal and pediatric care immunization, child care, transportation, gender specific substance abuse treatment and therapeutic intervention for children that address their developmental needs.
- (c) Funds shall be used for the provision of services in accordance with the special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (d) Funds shall be awarded, paid and settled in accordance with the Annual Memorandum of Agreement.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 12C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0215 UNIT COST REIMBURSEMENT (UCR) CHILD AND ADULT**

- (a) The Division shall administer a system of reimbursement of state, federal and other funds to area programs for eligible children and adult clients based on the provision of eligible mental health, developmental disabilities and substance abuse services. These payments exclude those services paid for under either the Willie M. or Thomas S. unit cost reimbursement systems.
- (b) This system of funding shall be based on a consistently applied methodology which includes the following:
  - (1) the identification of service expense centers,
  - (2) the allocation of allowable costs,
  - (3) the determination of expected units of service,
  - (4) the calculation of a unit cost reimbursement rate,
  - (5) the identification and assignment of revenue
  - (6) the reporting of units of service and revenue,
  - (7) the reimbursement of funds, and

- (8) settlement procedures.
- (c) Funds shall be used for the provision of services in accordance with the Annual Memorandum of Agreement.

*History Note: Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2; 122C-151.1; Eff. February 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0216 SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

- (a) The Division shall administer a grant program for the federal Substance Abuse Prevention and Treatment Block Grant which is made available to the Division under the authority of Public Law 102-321 Subpart II.
- (b) The appropriate portion of funds in the block grant which are made available to the Division for substance abuse treatment and prevention services shall be used to make grants to eligible programs for the provision of comprehensive services.
- (c) To be eligible to receive block grant funds, an area program shall provide the following services:
- (1) outpatient services, including outpatient services for children and adults who have substance abuse disorders or who are at risk for substance abuse and residents of its service area;
  - (2) 24 hour-a-day emergency care services;
  - (3) day treatment or other partial hospitalization services;
  - (4) screening for patients being considered for admission to state facilities to determine the appropriateness of such admission;
  - (5) consultation, education, and primary prevention services;
  - (6) TB screening and referral in accordance with federal requirements; and
  - (7) substance abuse services for pregnant and parenting women and adolescents.
- (d) On a statewide basis, block grant funds for alcohol and drug services shall be expended in accordance with the following:
- (1) At least 35 percent of the funds for alcohol and drug services shall be expended for programs and activities related to alcoholism and alcohol abuse;
  - (2) At least 35 percent of the funds for alcohol and drug services shall be expended for programs and activities relating to drug abuse;
  - (3) At least 20 percent of the amount used for alcohol and drug abuse services shall be expended for primary prevention and early intervention programs designed to discourage the abuse of alcohol, tobacco and other drugs. In order to ensure compliance with this requirement, each area program must expend no less than 20 percent of its allocation of SAPT-BG funds on primary prevention activities as outlined in the Memorandum of Agreement and Summary of Significant Federal Requirements;
  - (4) The state must spend at least five percent of the annual SAPT-BG amount to provide outreach intervention services for IV Drug Users using one of the following three models developed by the National Institute Drug Abuse Narcotic Addiction Treatment, incorporated by reference to include any subsequent amendments and deletions, and available from the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857 at no cost:
    - (A) Standard Intervention Model for Injecting Drug Users (NIDA);
    - (B) Health Education Model;
    - (C) Indigenous Leader Outreach Model;(Section 1924 - Requirements Regarding Tuberculosis and Human Immunodeficiency Virus)
  - (5) Treatment services designed for pregnant women and women with dependent children shall be increased at a rate not less than five percent for FY 1993. The base for FY 1993 shall be the FY 1992 alcohol and drug services block grant expenditures and State expenditures for pregnant women and women with dependent children and to this base shall be added the five percent of the FY 1993 grant amount for alcohol and drug treatment services. For FY 1994, the State shall spend five percent more than the FY 1993 total expenditure for pregnant women and women with dependent children. For grants beyond FY 1994, the State shall expend no less than the amount equal to the amount expended by the State for FY 1994. States shall report their methods to calculate their base for FY 1992 expenditures on treatment for pregnant women and women with children;  
(Section 1922 Set Aside for Women With Dependent Children)

The Division shall review expenditures and if the percentage requirements for services and prevention specified in Subparagraphs (d)(1), (2), (3) and (4) of this Rule are not met, the Division shall require changes in area program expenditure patterns to meet these federally mandated requirements.

- (e) Non-Eligible Expenditures Funds shall not be expended for any of the following purposes:
- (1) to provide inpatient hospital services, unless a physician has certified that the clients primary diagnosis is substance abuse, the individual cannot be safely treated in a non-hospital setting, the daily rate charged does not exceed the rate charged by a comparable non-hospital service, and the service is medically necessary;
  - (2) to make cash payments to clients;
  - (3) to purchase or improve land; purchase, construct or permanently improve any building or other facility; or purchase major medical equipment;
  - (4) to satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
  - (5) to provide assistance to any entity other than a public or non-profit private entity;
  - (6) to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs; or
  - (7) to support any individual salary in excess of one hundred twenty five thousand dollars (\$125,000).
- (f) The Division Director shall allocate annually funds to the area programs. The funds shall be included in the Annual Service Plan and Memorandum of Agreement.
- (g) Block grant funds allocated shall be used to supplement and increase the level of state, local, and other non-federal funds and shall, in no event, supplant such state, local, and other non-federal funds. The Division shall monitor compliance by comparing total budgeted revenues for the current fiscal year with those budgeted for the prior fiscal year for each area program exclusive of block grant funds. If block grant funds are reduced, the area program may reduce its participation in a proportionate manner.

*History Note: Authority G.S. 122C-150; P.L. 102-321, Subpart II; Eff. February 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0217 NON-UNIT COST REIMBURSEMENT**

- (a) The Division may provide specific purpose funding with state, federal or other sources for activities authorized by the division and the granting agency and disburse these funds on a basis other than unit cost reimbursement.
- (b) Funds shall be expended in accordance with the special conditions set forth in the Memorandum of Agreement between the area program and Division.
- (c) Funds shall be settled on an expenditure basis in accordance with Rule .0110 of this Subchapter.
- (d) Non Unit Cost Reimbursement shall be available for child, adult and other services.
- (1) Unless more narrowly defined in the allocation letter, funds for children shall be for individuals under the age of 18 years.
  - (2) Unless otherwise defined in the allocation letter, funds for adults shall be for individuals 18 years of age and older.
  - (3) Funds which cannot be identified for services to children or adults shall be considered "other".

*History Note: Authority G.S. 122C-147; Eff. February 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0218 TRAUMATIC BRAIN INJURY**

- (a) The Division shall administer a program to provide periodic, day/night and 24 hour community based services to children and adults with traumatic brain injury.
- (b) Eligible recipients are individuals who have a traumatic brain injury resulting from a sudden insult to the brain caused by external physical force and who have substantial functional limitations according to the DD Adult Eligibility Screening Inventory.
- (c) Funds shall be used for the provision of services in accordance with the allocation letter and any special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (d) Funds shall be awarded and paid in accordance with the Annual Memorandum of Agreement.

*History Note: Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2; Eff. February 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0219 REVOLVING LOAN**

- (a) The Division may, upon authorization from the Office of State Budget and Management, make available funds for loans to provide for the implementation of new community based programs and services.
- (b) Authorization shall be based on written justification explaining the need for the loan; a list of expenditures to be incurred; a list of receipts to be received; and a repayment plan.
- (c) Funds shall be used only for expenditures listed in Paragraph (b) of this Rule.

*History Note: Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2; Eff. February 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0220 DOMICILIARY CARE**

*History Note: Authority G.S. 122C-112; 122C-143.1; Eff. February 1, 1996; Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.*

**10A NCAC 27A .0221 USE OF DIVISION FUNDS FOR INPATIENT SERVICES**

(a) Inpatient funding for the purchase of services from local inpatient providers and medical doctors shall meet the following requirements:

- (1) Program Requirements
  - (A) Division funds may be used by area programs for the purchase of community inpatient care with local providers. All patients to be served under the plan shall be accepted as patients of the area program. Such a patient is one who is assigned an area program client record number, has a master client record card and services rendered are documented in a client record in accordance with area program standards requirements in 10A NCAC 27G .0206. Area authorities shall contract with a local inpatient provider accredited by the Joint Commission of Accreditation of Hospitals Organization or licensed by the Division of Health Service Regulation and designated by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
  - (B) Non-residents of the State of North Carolina may receive inpatient care under the area program inpatient program only under emergency situations. An emergency situation would be where a person needs immediate hospitalization which cannot be delayed until he is transported to an appropriate inpatient facility within his resident state.
  - (C) An area authority may contract with private psychiatrists or other medical doctors to provide professional services in inpatient settings. Such contracts shall be in accordance with 10A NCAC 27A .0106.
  - (D) Part-time consultant medical doctors employed by the area program for non-inpatient care may also be contracted to provide inpatient care. The area director shall assure that there will not be a conflict, such as dual payment, between the part-time physician's employment for outpatient care and in the inpatient program.
  - (E) Use of Division funds for inpatient services shall be limited to services for alcohol or drug detoxification and for treatment of emotional disorders.
- (2) Fiscal Requirements:
  - (A) A written contract between the area authority and the provider or attending medical doctor shall be established in accordance with 10A NCAC 27A .0106. The contract shall contain, at a minimum, provisions which deal with such matters as payment for patient; responsibility for reimbursement; services to be provided; responsibility for patient admission; records; statistical information; posting of payments; and maintenance of patient care cost.
  - (B) Requirement for Inpatient Facilities Reimbursement:
    - (i) Reimbursement to the inpatient provider for alcohol and/or drug detoxification or emotional disorders shall not exceed the lesser of the following:

- (I) the difference between any first and/or third party payments or both collected and the approved all inclusive prospective medicaid reimbursement rate for the provider on an individual patient basis; or
- (II) charges for inpatient services. The medicaid rate to be reimbursed shall be the effective rate at date of discharge. The inpatient provider shall follow usual collection procedures for each patient before billing the area program.
- (ii) A request for reimbursement for inpatient cost shall be submitted by the provider to the area program which will be the basis for reimbursement.
- (C) Requirements for Attending Physician Reimbursement:
  - (i) Area authorities which elect to contract with medical doctors for the provision of inpatient services shall use one of the following two methods to reimburse the medical doctor for services:
    - (I) The area program shall pay the medical doctor at his medicaid provider rate or usual and customary charge until a medicaid provider rate is established for all services rendered. Under this method, the area program shall bill all first and third party payors for all services rendered and retain all receipts.
    - (II) The medical doctor shall bill all first and third party payors for rendered. The medical doctor shall request reimbursement from the area program for any unreimbursed care, up to his medicaid provider rate.
  - (ii) Full-time medical doctors employed by the area program may be eligible for payment from inpatient funds according to the area policy for reimbursement of physicians providing on-call, extended duty and emergency call-back services. The area policy shall be included in the "other pay" provisions submitted to the State Personnel Director. These provisions are in addition to the regular pay plan submitted and may be submitted separately.
- (b) The area program shall not be required to make a cost settlement with the local inpatient provider.

*History Note:* Authority G.S. 122C-112; 122C-147; 122C-148;  
 Eff. December 29, 1978;  
 Amended Eff. February 1, 1996; April 1, 1990; July 1, 1983; February 25, 1980;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

## **SECTION .0300 – CLEAN CLAIMS**

### **10A NCAC 27A .0301 SCOPE**

This Section governs the requirements that constitute a clean claim for purposes of billing. These Rules are applicable to local management entities (LMEs) and public and private providers who seek to provide services that are payable from funds administered by an LME.

*History Note:* Authority G.S. 122C-3(30b); 122C-112.1(a)(32); S.L. 2006-142;  
 Eff. May 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0302 DEFINITIONS**

- (a) "Claim" means an itemized statement with standardized elements that is submitted for payment by a provider to the authorizing LME.
- (b) "Clean Claim" means an itemized statement with standardized elements, completed in its entirety in a format as set forth in Rule .0303 of this Section.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
 Eff. May 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0303 CLEAN CLAIM FORMAT REQUIREMENTS**



(a) A provider of a service that is payable from funds administered by an LME shall submit a claim for payment to the authorizing LME. The provider shall submit the claim in one of the formats listed as follows:

- (1) HIPAA compliant 837;
- (2) CMS-1500;
- (3) the standardized billing format provided by the DMH/DD/SAS; or
- (4) a single web based direct data entry system.

The provider shall complete each element contained in the selected format.

(b) The billing format provided by the DMH/DD/SAS shall contain standardized elements including:

- (1) date of claim;
- (2) provider information including:
  - (A) name; and
  - (B) number.
- (3) client information including:
  - (A) name;
  - (B) identification number;
  - (C) target population code; and
  - (D) ICD-9 diagnosis code.
- (4) service information including:
  - (A) name;
  - (B) date;
  - (C) units delivered;
  - (D) billing code; and
  - (E) authorization number.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
Eff. May 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0304 CLAIMS REVIEW PROCEDURES**

(a) The LME shall review the claim to determine if it is clean. The determination shall be based on whether the claim is submitted as follows:

- (1) the claim is submitted in one of the formats as set forth in Rule .0303 of this Section; and
- (2) the information requested in each element of the selected format is complete.

(b) When a claim meets the requirements as set forth in Paragraph (a) of this Rule, it shall be considered a clean claim. (c) The LME shall deny a claim that does not meet the requirements as set forth in Paragraph (a) of this Rule. The LME shall notify the provider of the denied claim. The notification shall specify the reason for denial and include the steps to be followed for resubmission.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
Eff. May 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **SECTION .0400 - PAYMENT, REPORTING AND SETTLEMENT FOR LOCAL MANAGEMENT ENTITIES SYSTEMS MANAGEMENT**

#### **10A NCAC 27A .0401 SCOPE**

The purpose of this Section is to set forth procedures for the payment, reporting and settlement of Local Management Entities System Management (LME SM) funding provided by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services to Local Management Entities.

*History Note:* Authority G.S. 122C-112.1(a)(12);  
Eff. July 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0402 DEFINITIONS**

- (a) "Systems Management Funding" when used in this Section means funding provided, pursuant to the LME SM Cost Model, to Local Management Entities (LMEs) to enable LMEs to carry out system management responsibilities set forth in G.S. 122C-115.4.
- (b) "LME SM Cost Model" when used in this Section means the cost model produced under contract, with all subsequent adjustments, as a tool to predict the cost of LMEs performing system management responsibilities set forth in G.S. 122C-115.4.
- (c) "State funding from state appropriations" when used in this Section means the amount of state appropriation required to fund the LME SM cost as projected via the LME SM Cost Model as determined for each LME.

*History Note: Authority G.S. 122C-112.1(a)(12);  
Eff. July 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0403 MONTHLY PAYMENTS AND MONTHLY REPORTING**

- (a) Prior to the Division making any LME SM payments to an LME, the LME and Department shall sign a memorandum of agreement (MOA), as required in G.S. 122C-115.2(d), and the MOA shall be in place for the period of time for which an LME SM payment is to be made.
- (b) Subject to Paragraphs (a), (c), (d), (e) and (f) of this Rule, the Division shall pay LMEs their LME SM funds in monthly installments based on their annual LME SM allocation from the Division.
- (c) Subject to the availability of sufficient allotment approved by the Office of State Budget and Management, each LME SM monthly payment shall be made following receipt of a correctly submitted and signed "Monthly LME Report of Expenditures" to the Division for the month of expenditures being reported.
- (d) The LME shall submit "Monthly LME Report of Expenditures" on a form issued jointly by the Division and DHHS Office of the Controller. The LME Monthly Expenditure Reporting Form and instructions can be accessed at no cost at <http://www.dhhs.state.nc.us/mhddsas>.
- (e) The Division shall not participate in the portion of salary for personnel, other than Doctors of Medicine and Doctors of Osteopathic Medicine, in excess of the current Level I of the Executive Schedule as published by the United States Office of Personnel Management, and subsequent amendments, which can be obtained free of charge at <http://www.opm.gov/oca/>. In order for Doctors of Medicine and Doctors of Osteopathic Medicine to be exempt from this cap on funding participation, the individuals must be primarily performing duties which require the utilization of their medical training and licensure; otherwise, they are also subject to the limitation set forth in this Rule.
- (f) The portion of a salary which exceeds the limitation set forth in Paragraph (e) of this Rule, and the related fringe benefits, are disallowable for reporting purposes on "Monthly LME Report of Expenditures" and shall not be reported by the LME as an allowable cost.

*History Note: Authority G.S. 122C-112.1(a)(12); 122C-115.2;  
Eff. July 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0404 SETTLEMENT OF LME SYSTEMS MANAGEMENT PAYMENTS**

- (a) LME SM payments shall be settled annually for each LME individually taking into consideration actual LME SM expenditures, the earning of Medicaid administrative funds and the retention of up to the lesser of 15 percent of the full annual LME SM payment made to the LME by the Division or 15 percent of the actual allowable LME SM reported expenditures for fund balance. The settlement process set forth in this Rule is based on the Division having paid the LME the LME's full Division allocated LME SM funding prior to the time of settlement.
- (b) The settlement process shall not result in any LME receiving:
  - (1) LME SM payments greater than the amount of its total annual LME SM allocation from the Division; or
  - (2) State funding from state appropriations in an amount greater than the amount projected in the cost model.
- (c) To determine the settlement of LME SM payments for an LME, the Division shall utilize the following format:

Line 1: Lesser of Full Annual LME SM Payment Made  
to the LME by the Division or Actual Allowable LME  
SM Reported Expenditures. \$ \_\_\_\_\_

Line 2: Actual Medicaid Earnings Based on Actual

Allowable LME SM Expenditures Reported. If total LME SM expenditures exceeded the LME SM allocation, the amount of Medicaid earnings listed on Line 2 will be the prorated share of Medicaid earnings based on LME SM allocation compared to total LME SM expenditures. \$ \_\_\_\_\_

Line 3: Difference of Line 1 Minus Line 2. \$ \_\_\_\_\_

Line 4: State funding from state appropriations as defined in Rule .0402(c) of this Section. \$ \_\_\_\_\_

Line 5: If Line 3 is equal to or greater than Line 4, settlement is finalized at this point and no refund is due to the Division by the LME. If Line 3 is less than Line 4, continue with settlement computations by entering the difference of Line 4 minus Line 3. \$ \_\_\_\_\_

Line 6: Enter 15% of the amount from Line 1 above. \$ \_\_\_\_\_

Line 7: If Line 5 is equal to or less than Line 6, settlement is finalized at this point and no refund is due to the Division by the LME. If Line 5 is greater than Line 6, continue with settlement computations by entering the difference between Line 5 minus Line 6; this is the amount of refund owed by the LME to the Division. \$ \_\_\_\_\_

*History note: Authority G.S. 122C-112.1(a)(12);  
Eff. July 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*