

## SUBCHAPTER 70M - ADOPTION STANDARDS

### SECTION .0100 - GENERAL

#### 10A NCAC 70M .0101 SCOPE

Rules in this Subchapter contain adoption standards for county departments of social services, which are the public agencies in North Carolina mandated by law to provide adoption services. Included are requirements which shall be met by county departments of social services in carrying out their responsibilities under Chapter 48 of the General Statutes and in the administration of the Adoption Assistance Program under G.S. 108A-49 and 108A-50, a funding program to facilitate the adoption of certain children with special needs.

*History Note: Authority G.S. 131D-10.5; 143B-153;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. October 1, 2008; June 1, 1990; February 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### 10A NCAC 70M .0102 DEFINITIONS

(a) For the purpose of the rules in this Subchapter, 42 USC 673, 45 CFR 1356.41, and the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, are applicable to both the State and public adoption agencies and are hereby incorporated by reference including any subsequent amendments and editions. These documents may be accessed at [www.gpo.gov](http://www.gpo.gov) or [www.congress.gov](http://www.congress.gov) at no charge.

(b) The following definitions shall apply to the rules in this Subchapter:

- (1) "Adoption assistance agreement" means a signed written agreement that is developed by the Department ("North Carolina Adoption Assistance Agreement" Form DSS-5013, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and, at a minimum, the agreement shall:
  - (A) specify payments that meet the requirements in 42 USC 673(a)(3), and specifies the nature and amount of any payments, services, and assistance to be provided under the agreement;
  - (B) stipulates that the agreement shall remain in effect regardless of the state where the adoptive parents are residents of at any given time;
  - (C) require each adoptive parent to inform the public adoption agency of any circumstances that would make the parent ineligible for the payments or eligible for a different amount;
  - (D) if applicable, require the adoptive parents to provide receipt of vendor payments; and
  - (E) contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect.
- (2) "Applicable child" means a child who meets the requirements in 42 USC 673(e).
- (3) "Child with special needs" or "children with special needs" means a child who meets the requirements in 42 USC 673(c). The public adoption agency, or the North Carolina Department of Health and Human Services for the Special Needs Adoptions Incentive Fund assistance, shall make the specified determinations for the State in 42 USC 673(c). A child shall not be returned to the home of the child's parent if there is a court order terminating parental rights, a relinquishment to a public or private child-placing agency, a consent for adoption by the parent, a finding from the court in an adoption proceeding that a parent's consent is not required, or verification of the death of a parent. For a child to meet the requirement in 42 USC 673(c)(2)(B)(ii), the child must have a letter from the Social Security Administration that approves the child for Social Security Insurance benefits. For purposes of 42 USC 673(c)(1)(B) and 42 USC 673(c)(2)(B)(i), the child shall present one or more of the following specific factors or conditions:
  - (A) six years of age or older;
  - (B) two years of age or older and a member of a minority race or ethnic group;
  - (C) a member of a sibling group of three or more children who will all be placed in the same adoptive home;

- (D) a member of a sibling group of two children who will be placed in the same adoptive home and the child's sibling meets one of the factors or conditions in Parts (A), (B), (E), (F), (G), or (H) of this Paragraph;
- (E) a medically diagnosed disability that substantially limits one or more major life activities, requires professional treatment, requires assistance in self-care, or requires the purchase of special equipment;
- (F) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a psychiatric condition that impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services;
- (G) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a behavioral or emotional disorder characterized by inappropriate behavior that deviates substantially from behavior appropriate to the child's age or significantly interferes with child's intellectual, social, and personal functioning;
- (H) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as being intellectually or developmentally disabled; or
- (I) at risk, as opined by a medical professional, who is qualified through licensing or credentialing for one of the factors or conditions in Parts (E) through (H) of the definition in this Paragraph due to:
  - (i) prenatal exposure to toxins;
  - (ii) a history of abuse or serious neglect; or
  - (iii) genetic history.
- (4) "Department" means the North Carolina Department of Health and Human Services.
- (5) "Nonrecurring adoption expense" means the same as "nonrecurring adoption expenses" found in 42 USC 673(a)(6)(A).
- (6) "Public adoption agency" means any county department of social services, consolidated human services, or regional department of social services in North Carolina that is authorized by law to place children for adoption or that provides adoption services.
- (7) "Supplemental Agreement" means a signed written agreement that is developed by the Department ("North Carolina Special Children Adoption Incentive Fund Supplemental Adoption Assistance Agreement" Form DSS-5212, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and at a minimum:
  - (A) specifies the nature and amount of any Special Children's Adoption Incentive Fund payment; and
  - (B) includes an acknowledgement by the prospective adoptive parents that the payments are not an entitlement and are limited to available funds in the Special Children's Adoption Incentive Fund.

*History Note:* Authority G.S. 143B-153(2)(a); 108A-49; 42 U.S.C. 673; Eff. August 1, 2021.

## **SECTION .0200 - ORGANIZATION AND ADMINISTRATION**

### **10A NCAC 70M .0201 PUBLIC ADOPTION AGENCIES**

- (a) Except for the provisions relating to an executive director, public adoption agencies shall comply with 10A NCAC 70H .0401 in determining the qualifications and job responsibilities for personnel.
- (b) Public adoption agencies shall comply with 10A NCAC 70F .0207 in the hiring of staff and use of volunteers.
- (c) The caseload size of social workers providing adoption services shall be in compliance with requirements set forth in 10A NCAC 70H .0401.

*History Note:* Authority G.S. 143B-153; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Amended Eff. October 1, 2008; September 1, 1986; Readopted Eff. August 1, 2021.

## SECTION .0300 - FUNCTIONS OF A PUBLIC ADOPTION AGENCY

### 10A NCAC 70M .0301 GENERAL

Public adoption agencies shall perform the following functions:

- (1) provision of casework and other supportive services to biological parents considering adoption;
- (2) provision of casework and other supportive services to the child considered for adoption;
- (3) provision of casework and other supportive services to adoptive applicants through pre-placement studies;
- (4) selection of home and placement process;
- (5) supervision after placement;
- (6) fulfillment of social and legal responsibilities;
- (7) compilation and preservation of case records;
- (8) provision of post-adoption consultation services, including, coordination and referrals for educational enrollment for children seven to sixteen years of age, and for therapeutic and physical health needs;
- (9) when this Subchapter requires, determine whether eligibility requirements have been met for adoption assistance in this Subchapter that is available for children with special needs who are in custody of the public adoption agency or who have been placed by a private child-placing agency in an adoptive home within its jurisdiction;
- (10) administer adoption assistance agreements for which it entered into pursuant to this Subchapter;
- (11) notify adoptive parents of tax credits that may be available for adoptive parents;
- (12) make information available for prospective adoptive families that describes the kinds of children needing placement, the availability of adoption assistance, and procedures for referring families they are unable to serve to other child placing agencies; and
- (13) recruit potential foster and adoptive families in accordance with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188.

*History Note: Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-303; 143B-153;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. June 1, 1990; September 1, 1986;  
Readopted Eff. August 1, 2021.*

### 10A NCAC 70M .0302 SERVICES TO ADOPTIVE APPLICANTS

Public adoption agencies shall comply with 10A NCAC 70H .0404, .0405, .0406, .0407, .0408 and .0409 in determining the procedures for the application process, preplacement assessment, notification to adoptive applicants of acceptance or denial of application, services to adoptive applicants and families, legal process, and record retention.

*History Note: Authority G.S. 143B-153;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. October 1, 2008; July 17, 2000; September 1, 1986;  
Readopted Eff. August 1, 2021.*

### 10A NCAC 70M .0304 MULTIETHNIC PLACEMENT ACT REQUIREMENTS FOR ADOPTIVE HOME RECRUITMENT

- (a) Public adoption agencies shall recruit potential adoptive and foster families that reflect the ethnic and racial diversity of children in the State.
- (b) Public adoption agencies shall not deny any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved.
- (c) Public adoption agencies shall not delay or deny the placement of a child for adoption or foster care, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.
- (d) Public adoption agencies shall not violate provisions of the Multiethnic Placement Act of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, that apply to state or local agencies.

*History Note: Authority G.S. 48-3-204; 131D-10.5; 143B-153;  
Eff. October 1, 2008;  
Readopted Eff. August 1, 2021.*

## **SECTION .0400 – STANDARD MONTHLY CASH ADOPTION ASSISTANCE AND VENDOR PAYMENTS**

### **10A NCAC 70M .0401 STANDARD MONTHLY CASH ADOPTION ASSISTANCE AND VENDOR PAYMENTS**

- (a) Standard monthly cash assistance payments are monthly payments made based on graduated rates set by the General Assembly and reflected in the executed adoption assistance agreement.
- (b) Vendor payments are made directly to a child's provider, which may include the adoptive parents, for medical, therapeutic, psychological, and remedial services not covered by Medicaid or another source if the requirements in this Subchapter are met.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;  
Eff. July 1, 1982;  
Amended Eff. July 18, 2002; July 1, 1991; September 1, 1986;  
Readopted Eff. August 1, 2021.*

### **10A NCAC 70M .0402 ELIGIBILITY REQUIREMENTS FOR STANDARD MONTHLY CASH ASSISTANCE PAYMENTS OR VENDOR PAYMENTS**

- (a) Adoption assistance in the form of standard monthly cash assistance payments based on graduated rates set by the General Assembly and vendor payments may be made when the child meets the following eligibility criteria:
  - (1) The child was legally adopted;
  - (2) The child meets at least one of the following criteria:
    - (A) is not an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(i). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(i)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate;
    - (B) shall be an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(ii). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(ii)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate; or
    - (C) the requirements set forth in 42 USC 673(a)(2)(C); and
  - (3) An applicable child is not eligible if he or she meets the conditions in 42 U.S.C. 673(a)(7)(A)(i) through (iii), unless 42 U.S.C. 673(a)(7)(B) is applicable and the public adoption agency makes the requisite determination for the State.
- (b) For vendor payments, in addition to the criteria in Paragraph (a) of this Rule, the child shall also meet the following criteria:
  - (1) at or prior to the issuance of the adoption decree, have a diagnosed medical, mental, or emotional condition that is documented by a medical professional, who is qualified through licensing or credentialing to make a diagnosis, that will require ongoing treatment or therapy of a medical or remedial nature; or
  - (2) after the issuance of the adoption decree but while still under the age of 18, have been determined by the public adoption agency administering adoption assistance benefits to have a medical, mental, or emotional condition, congenital problem, birth injury, or other documented problem that is determined by a medical professional, who is qualified through licensing or credentialing to have been preexisting at the time of his or her placement into an adoptive home.
- (c) The prospective adoptive parents shall meet the following criteria:
  - (1) Have a child placed with them in accordance with applicable State and local laws for purposes of an adoption who meets the requirements in Paragraph (a) of this Rule;
  - (2) be legally responsible for the support of the child and is providing support to the child, if the child is under the age of 18;
  - (3) enter into an adoption assistance agreement with the public adoption agency prior to issuance of the decree of adoption. The adoption assistance agreement shall identify the specific services for the child that the parents want to be covered by vendor payments;

- (4) Shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 43-3-309;
  - (5) Shall provide the public adoption agency with the results of the criminal back history investigation;
  - (6) Shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file; and
  - (7) For vendor payments when the child meets the criteria in Subparagraph (b)(2) of this Rule, shall enter into an adoption assistance agreement amendment on a form provided by the Department ("North Carolina Division of Social Services Adoption Assistance Agreement Amendment" Form DSS-5307, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that identifies and includes supporting documentation of the child's preexisting condition and allows the parents to be reimbursed for vendor services related to the child's preexisting condition.
- (d) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent is unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (e) Prior to the adoption, all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed check of the North Carolina's Responsible Individuals List and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.
- (f) Upon adoption, the adoptive parents shall comply with all the terms of the adoption agreement assistance and notify the public adoption agency they are no longer legally or financially responsible for the adopted child, address, or contact information.
- (g) The public adoption agency shall:
- (1) prior to the adoption, make a determination as to whether the requirements of this Rule have been met on a form created by the Department ("Adoption Assistance Eligibility Checklist" Form DSS-5012, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reasons that the eligibility requirements have been met and inform the prospective adoptive parents of the right to appeal the decision.
  - (2) maintain a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home.
  - (3) after the adoption:
    - (A) annually send to the adoptive parents a letter reminding them to report any changes in their legal or financial responsibility of the adopted child;
    - (B) issue to the adoptive parents a notice if the adoption assistance payments are to be suspended ("North Carolina Division of Social Services Adoption Assistance Suspension Notice" Form DSS-5306, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the suspension and how to appeal the suspension; and
    - (C) issue to the adoptive parents a notice if the adoption assistance payments are to be terminated ("North Carolina Division of Social Services Adoption Assistance Termination Notice" Form DSS-5308, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the termination and how to appeal the termination.
  - (4) in order for vendor services to be reimbursed, the vendor must obtain prior approval by submitting to the public adoption agency completed and signed forms provided by the Department ("Adoption Assistance Vendor Payment Request Form" Form DSS-5112 and "Adoption Assistance Vendor Payment Instructions for Providers" Form DSS-5115, which may be accessed

at <https://www.ncdhhs.gov/divisions/dss>) that includes documentation of the child's diagnosis, the child's special needs related to the diagnosis, how the is service related to the special needs, what goals the service is intended to accomplish, how achievement of goals be measured, the projected duration of treatment or service, the projected total cost, and two copies of the provider's bill after all health insurance claims have been processed.

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153;  
Eff. July 1, 1982;  
Amended Eff. March 1, 2017; July 18, 2002; July 1, 1991; March 1, 1990;  
Readopted Eff. August 1, 2021.

#### **10A NCAC 70M .0403 PROCEDURES/REIMBURSEMENT OF ADOPTION ASSISTANCE BENEFITS**

(a) Adoption assistance benefits for which a child is eligible shall become effective the first month following the month in which the Decree of Adoption is issued.

(b) Claims from service providers and standard monthly cash assistance shall be reimbursed or provided from adoption assistance funds subject to the following limitations:

- (1) Vendor payments to adoptive parents, medical providers, and to providers of psychological, therapeutic, and remedial services shall be made only for treatment or services given to alleviate or correct those conditions for which the child has been determined eligible to receive benefits.
- (2) The total amount for vendor payments for any combination of medical services not covered by Medicaid including psychological, therapeutic, or remedial services for any child shall not exceed two thousand four hundred dollars (\$2,400.00) per State fiscal year.
- (3) Vendor payments shall not be made to reimburse providers for the following:
  - (A) routine medical examinations;
  - (B) illnesses or conditions not related to or resulting from the conditions for which the child was determined eligible for vendor payments;
  - (C) services or treatment provided to the child prior to issuance of the Decree of Adoption; and
  - (D) services or treatment that may have been provided on or after the first day of the month following the month in which the child's eligibility ceases.

(c) No local match, in terms of dollars, is required for funds for those children certified to receive benefits under the State Fund for Adoptive Children with Special Needs as set forth in G.S. 180A-50.1, who are the placement responsibility of licensed private child-placing agencies with the exception of monthly cash payments for those children who are eligible for benefits from Title IV-E of the Social Security Act. No monthly cash assistance payments from the State Fund for Adoptive Children with Special Needs shall be made for any adoption in which the Decree of Adoption is issued on or after October 1, 2011.

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153;  
Eff. July 1, 1982;  
Amended Eff. October 1, 2011; July 18, 2002; July 1, 1991; March 1, 1990;  
Readopted Eff. August 1, 2021.

#### **10A NCAC 70M .0404 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND AND EFFECTIVE DATE**

#### **10A NCAC 70M .0405 PAYMENTS FROM THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND**

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16;  
Temporary Adoption Eff. January 1, 2001;  
Temporary Adoption Eff. August 31, 2001;  
Eff. July 18, 2002;  
Repealed Eff. August 1, 2021.

### **SECTION .0500 - OUT-OF-STATE ADOPTION FEES**

#### **10A NCAC 70M .0501 PURPOSE OF OUT-OF-STATE ADOPTION SERVICE FEES**

(a) When the requirements in this Rule have been met, with prior approval, the Department may reimburse in part or in full a fee incurred by a public adoption agency for adoption services provided by an out-of-state adoption agency. Public adoption agencies shall pay the out-of-state adoption provider directly and provide proof of payment to the Department once payment is made.

(b) The requirements of this Rule are met when the child:

- (1) is a child with special needs;
- (2) is registered on the North Carolina Adoption Resource Exchange, which may be accessed at <https://www.ncdhhs.gov/divisions/social-services/child-welfare-services/adoption-and-foster-care>;
- (3) has parents who have each had one of the following occur:
  - (A) a court order terminated parental rights;
  - (B) executed a relinquishment of the child to a public or private child-placing agency;
  - (C) consented to the adoption;
  - (D) a finding by the court in the adoption proceeding that the parent's consent to the adoption is not required; or
  - (E) has died.

(c) Out-of-state adoption agencies shall be licensed by their respective states and as approved by conditions of the Interstate Compact on the Placement of Children (ICPC) pursuant to G.S. 7B, Article 38 to provide adoptive services for children with special needs.

(d) The service fee charged by the specialized out-of-state adoption agency shall be:

- (1) any one of the following services provided by the specialized adoption service agency:
  - (A) recruiting and securing an adoptive home for the child;
  - (B) pre-placement services for the family and child;
  - (C) post-placement services for the family and child; and
  - (D) post-finalization services.
- (2) only be available when an adoptive family has not been identified in North Carolina.

(e) The public adoption agency:

- (1) shall have custody and placement responsibility of the child and have the legal authority to consent to the child's adoption;
- (2) shall make a written request to the Department for reimbursement for the out-of-state adoption service fee at the time that a decision has been made to place the child with a specific adoptive parent or parents who have had an approved home study that was conducted by the specialized out-of-state adoption agency;
- (3) shall include in its reimbursement request to the Department written documentation that verifies the following:
  - (A) the public adoption agency has legal placement responsibility;
  - (B) the public adoption agency has the authority to legally consent to the adoption of the child;
  - (C) the child meets the requirements of this Rule;
  - (D) the out-of-state adoption agency meets the requirements of this Rule;
  - (E) the service fee to be charged meets the requirements of this Rule; and
  - (F) a quote for the service fee that includes the service to be provided and the amount of the fee;
- (4) shall obtain prior approval from the Department prior to initiating contracted services where reimbursement is expected;
- (5) Upon the Department's prior approval for an out-of-state adoption service fee, the public adoption agency shall enter into an agreement with the out-of-state adoption agency on a form provided by the Department ("North Carolina Division of Social Services Purchase of Out-of-State Adoption Services Agreement" Form DSS-5305, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) and provide a copy of the agreement to the Department. The agreement shall include the type and nature of the service to be provided, the fee amount to be charged, an agreement by the out-of-state adoption agency to provide the identified service, and an agreement by the public adoption agency to pay for the identified service; and
- (6) shall pay any amount of the out-of-state adoption agency service fee that is not approved by the Department.

(f) To the extent funds are available and the fee for services is not above the maximum allowable amount of one thousand eight hundred dollars (\$1,800) per child, the Department shall approve the public adoption agency's

request for prior approval for reimbursement of the out-of-state adoption service fee if it meets the requirements in this Rule and the Department notifies the public adoption agency in writing of the approval.

(g) The Department shall not reimburse a public adoption agency for any amount over one thousand eight hundred dollars (\$1,800) per child in out-of-state adoption service fees that are approved pursuant to this Rule.

(h) In order for the public adoption agency to receive reimbursement for a fee that has been approved pursuant to this Rule, the public adoption agency shall notify the Department of the date that payment of the fee is due and provide the Department with a copy of the bill for the out-of-state adoption service fee.

(i) Upon the public adoption agency's payment of the out-of-state adoption service fee, the public adoption agency shall provide the Department with a copy of the receipt of payment for the out-of-state adoption agency fee.

*History Note:* Authority G.S. 143B-153;  
Eff. March 23, 1981;  
Amended Eff. July 1, 1991;  
Readopted Eff. August 1, 2021.

## **10A NCAC 70M .0502 GENERAL ELIGIBILITY REQUIREMENTS**

*History Note:* Authority G.S. 143B-153;  
Eff. March 23, 1981;  
Amended Eff. October 1, 2008; July 1, 1991; June 1, 1990;  
Repealed Eff. August 1, 2021.

### **SECTION .0600 – NONRECURRING ADOPTION COSTS**

#### **10A NCAC 70M .0601 PUBLIC ADOPTION AGENCY REQUIREMENTS**

(a) Public adoption agencies shall:

- (1) at the time of or prior to the final decree of adoption, enter into an agreement for the reimbursement of nonrecurring adoption expenses with parents who adopt a child with special needs;
- (2) prior to entering into an agreement for the reimbursement of nonrecurring adoption expenses, the public adoption agency shall:
  - (A) Make a determination that the child is a child with special needs; and
  - (B) Make a determination that the child has been placed for adoption in accordance with applicable laws;
- (3) make payments for reimbursement of nonrecurring adoption expenses incurred by or on behalf of parents in connection with the adoption of a child with special needs if it enters into an agreement for the reimbursement of nonrecurring adoption expenses;
- (4) retain copies of the complete application for reimbursement of nonrecurring adoption expenses, along with supporting document and receipts, and the agreement for the reimbursement of nonrecurring adoption expenses for auditing purposes; and
- (5) upon receipt of a completed nonrecurring adoption expense reimbursement application, the public adoption agency shall submit the application to the Department.

(b) When there is an interstate placement of the child with special needs, the public adoption agency that entered into an adoption assistance agreement shall also reimburse the parent or vendor for the nonrecurring adoption expenses. When there has been an interstate placement of a child with special needs for the purpose of adoption and there is no adoption assistance agreement from the sending state, then the public adoption agency that is responsible for entering into an agreement for nonrecurring adoption expenses shall be the public adoption agency where the petitioner for adoption resides.

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153;  
Eff. July 1, 1991;  
Readopted Eff. August 1, 2021.

#### **10A NCAC 70M .0602 ELIGIBLE NONRECURRING ADOPTION EXPENSES**

An adoptive parent shall receive reimbursement for nonrecurring adoption expenses not to exceed two thousand dollars (\$2,000) when:



- (1) The child placed with the parent for the purpose of adoption is a child with special needs;
- (2) The adoptive parents have submitted a signed application for nonrecurring adoption expenses on a form provided by the Department ("State of North Carolina Application For Reimbursement of Nonrecurring Adoption Costs" Form DSS-5145, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>). The application shall:
  - (a) provide evidence that the child is a child with special needs;
  - (b) include acknowledgements by the adoptive parents that:
    - (i) nonrecurring adoption expenses are limited to a reimbursement of two thousand dollars (\$2,000) per child and are contingent on the child being a child with special needs;
    - (ii) the expenses that they are seeking reimbursement for were actually incurred by them;
    - (iii) the expenses that they are seeking reimbursement for are reasonable and necessary adoption expenses which were directly related to the legal adoption of the child that meets the requirements in 42 USC 673(A)(6); and
    - (iv) the expenses that they are seeking reimbursement for have not and will not be reimbursed by another source.
  - (c) if the placement was an interstate placement, include an acknowledgement by the adoptive parents that the placement was made in accordance with the Interstate Compact on the Placement of Children adopted by both the sending and receiving state and any other applicable federal, state, or local laws or rules related to the interstate adoptive placement of a child;
  - (d) the type and amount of the expense that will be incurred by the adoptive parents; and
  - (e) include documentation that verifies the information in the application and receipts for any nonrecurring service for which the parent is seeking reimbursement.
- (3) The foster parents and all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The foster parents shall provide the public adoption agency with the results of the criminal history investigation, and the public adoption agency shall maintain a copy of the results.
- (5) The adopting parents and all individuals 18 years of age or older who reside in the home shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.
- (6) Upon approval of the application in Item (2) of this Rule, the adoptive parents shall enter into a binding written agreement with a public adoption agency for the reimbursement of nonrecurring expenses on a form provided by the Department ("State of North Carolina Agreement for Reimbursement of Nonrecurring Adoption Costs" Form DSS-5146, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that meets the requirements in 42 USC 673(a)(3) and is signed at the time of or prior to the final decree of adoption.
- (7) The application for reimbursement was filed in accord with the quarter rule outlined in 45 CFR 1356.41(e)(2).

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153;  
 Eff. July 1, 1991;  
 Readopted Eff. August 1, 2021.

#### **10A NCAC 70M .0603 REQUIREMENTS**

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153; 42 U.S.C. 673;  
 Eff. July 1, 1991;

*Amended Eff. March 1, 2017;*  
*Repealed Eff. August 1, 2021.*

**10A NCAC 70M .0604 PROHIBITION ON REIMBURSEMENT CAPS**

The Department and any public adoption agencies shall not establish a maximum allowable reimbursement amount for any single eligible nonrecurring adoption expense, but the total reimbursement for nonrecurring adoption expenses shall not exceed two thousand dollars (\$2,000).

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;*  
*Eff. July 1, 1991;*  
*Readopted Eff. August 1, 2021.*

**SECTION .0700 – SPECIAL NEED ADOPTION INCENTIVE FUND**

**10A NCAC 70M .0701 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL NEED ADOPTION INCENTIVE FUND AND EFFECTIVE DATE**

Within the limits of available funding, the Department may approve and provide assistance in the form of standard monthly cash payments from the Special Need Adoption Incentive Fund when the following requirements have been met:

- (1) The child:
  - (a) Shall be a child with special needs and either has at least one of the factors or conditions listed in Rule .0102(b)(3)(E) through (H) of this Chapter of a child with special needs or meets the requirement in 42 USC 673(c)(2)(B)(ii);
  - (b) Shall meet the requirements for standard monthly cash adoption assistance in this Chapter;
  - (c) Shall be in the custody of the public adoption agency and placement responsibility of an adoption agency for at least six consecutive months prior to the finalization of the adoption;
  - (d) The special needs condition from Sub-Item (1)(a) of this Item is expected to limit the child's ability, both currently and throughout childhood, to function in the home, school, or community absent eight or more hours of in-person daily supervision or care for personal health care or prevention of self-destructive or assaultive behavior;
  - (e) The child will have resided in the foster parent's home for six consecutive months prior to the finalization of the adoption; and
  - (f) The child was legally adopted on or after January 1, 2001.
- (2) Each foster parent:
  - (a) be licensed as a foster parent;
  - (b) has been receiving standard monthly cash assistance from any governmental source, such as federal, state, or local, above the State adoption assistance rate established by the General Assembly for the previous six consecutive months prior to the finalization of the adoption to provide the direct care or supervision required for the child's health condition that meets the requirement in Item (4) of this Rule;
  - (c) prior to the issuance of the adoption decree, the foster parent made a request for financial assistance in addition to the State adoption assistance rate established by the General Assembly in order to provide the care required for the child's health condition that meets the requirements in Item (4) of this Rule;
  - (d) prior to the issuance of the adoption decree, the foster parent provided the public adoption agency with a signed letter that details the daily supervision needs of the child;
  - (e) shall only be willing to adopt the child if the monthly cash assistance from any other governmental source, such as federal, state, or local, above the State adoption assistance rate received for foster parents and is not terminated upon the adoption of the child;
  - (f) shall enter into an adoption assistance agreement with a public adoption agency prior to the decree of adoption;
  - (g) entered into a supplemental agreement with a public adoption agency prior to the adoption decree;

- (h) agree to provide the public adoption agency with a copy of the adoption decree once the adoption has been finalized;
  - (i) shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309;
  - (j) shall require all individuals 18 years of age or older who reside in the prospective adoptive home to undergo a criminal history investigated pursuant to G.S. 48-3-303 and 49-3-309; and
  - (k) shall provide the public adoption agency with the results of the criminal back history investigation.
- (3) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The public adoption agency having custody of the child shall:
- (a) voluntarily agree to participate in the Special Need Adoption Incentive Fund and agree to assume 50 percent of the payment above the State adoption assistance rate established by the General Assembly.
  - (b) enter into an adoption assistance agreement as provided in this Rule.
  - (c) enter into a supplement agreement as provided in this Rule.
  - (d) maintain a record for the child that contains written documentation that the child and foster parent(s) have met or will meet the requirements for the foster child and the foster parents in this Rule at the time of the adoption decree and shall include the following:
    - (i) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Agency Verification of Legal Custody and Child's Living Arrangement For Past Six Months" Form DSS-5214, which may be accessed at <https://www.ncdhhs.gov/divisions/dss> signed by the Director of the public adoption agency that verifies:
      - (A) each foster parent is licensed;
      - (B) the public adoption agency has legal custody and placement authority of the child;
      - (C) the child has lived with the foster family for six consecutive months prior to the adoption;
      - (D) that the foster parent(s) have received monthly cash assistance from a governmental source in excess of the standard board rate established by the General Assembly for the previous six months on a continuous basis and the amount of the payments; and
      - (E) the foster parent(s) have stated a willingness to adopt this child if the monthly cash assistance that they have received as foster parents is not terminated;
    - (ii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Health Condition" Form DSS-5213, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by a medical professional, who is qualified through licensing and credentialing to diagnose the child's condition prior to the adoption that demonstrates that the child meets all the requirements in Item (1) of this Rule;
    - (iii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Need for Daily Supervision" Form DSS-5215, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the foster parent(s) prior to the adoption that demonstrates the child meets all the requirements in this Item;
    - (iv) a letter from the foster parent(s) explaining the daily needs of the child;
    - (v) a signed adoption assistance agreement;

- (vi) a signed supplement agreement;
- (vii) a copy of the foster parent's license;
- (viii) a copy of the decree of adoption once it has been received pursuant to this Rule;
- (ix) a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home; and
- (x) make a request, on behalf of the foster parent(s), prior to the adoption decree to the Department for Special Need Adoption Incentive Fund assistance for the foster parents.

*History Note:* Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153;  
Eff. August 1, 2021.

**10A NCAC 70M .0702 PAYMENTS FROM THE SPECIAL NEED ADOPTION INCENTIVE FUND**

- (a) Payments from the Special Need Adoption Incentive Fund will be made by the State Division of Social Services to the adoptive parent(s).
- (b) Participating county departments of social services shall submit claims for payments to the State Division of Social Services.
- (c) The initial payment claim must include the following items:
  - (1) verification of child's placement authority;
  - (2) verification that the child has lived with the foster family six consecutive months submitted on the "Living Arrangements for Past Six Months" Form DSS-5214;
  - (3) a copy of written statement from a licensed physician regarding the child's health condition;
  - (4) a copy of written statement from a licensed health, mental health, or developmental disability professional regarding the status of the child's condition;
  - (5) a copy of signed adoption assistance agreement;
  - (6) a copy of signed supplemental assistance agreement; and
  - (7) a copy of Decree of Adoption.
- (d) Monthly payment claims shall be submitted on the "Request for Special Children Adoption Incentive Fund Payment" Form DSS-5211, which may be accessed at <https://www2.ncdhhs.gov/info/olm/forms/dss/dss-5211-ia.pdf>.

*History Note:* Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153;  
Eff. August 1, 2021.