

26 NCAC 03 .0103 COMMENCEMENT OF CONTESTED CASE: NOTICE AND FILING FEE

(a) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested case, the Chief Hearings Clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:

- (1) name of case and date of filing;
- (2) name, address, and telephone number of the assigned administrative law judge; and
- (3) a request that the party send within 30 days a copy of the document constituting the agency action that caused the filing of the petition or a written explanation of why the petitioner is a party or person aggrieved if a document constituting the agency action does not exist.

(b) In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner shall pay a filing fee of one hundred twenty-five dollars (\$125.00):

- (1) contested cases challenging certificate of need filed pursuant to G.S. 131E-188;
- (2) contested cases challenging permit actions under G.S. 143-215.1, G.S. 143-215.10C, G.S. 143-215.15, and G.S. 143-215.108; and
- (3) contested cases where the amount in controversy is fifty thousand dollars (\$50,000) or greater.

(c) In contested cases commenced by a person aggrieved that do not involve the causes of action listed in Paragraph (b) of this Rule, the petitioner shall pay a fee of twenty dollars (\$20.00).

(d) The filing fee shall be waived in a contested case involving a mandated federal cause of action. Examples of federal causes of action include cases involving Medicaid, foster care, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Special Education/IDEA, the Health Care Personnel Registry, and the Supplemental Nutrition Assistance Program (SNAP).

(e) When filing a petition for a contested case, the petitioner shall simultaneously submit the filing fee or a request to proceed in forma pauperis.

- (1) If the filing fee is not paid or is paid in an incorrect amount at the time of filing, the Office of Administrative Hearings shall notify the petitioner in writing and permit a late payment of the filing fee to be made within 60 days of the date the petition was filed. If the filing fee is not paid within 60 days of the date of filing, the petition may be dismissed pursuant to G.S. 150B-33(b)(10).
- (2) To proceed in forma pauperis, a petitioner shall submit an affidavit on a form provided by OAH containing the substantive requirements listed in G.S. 1-110(a). Late forms shall be accepted within the timeframe set in Subparagraph (e)(1) of this Rule.

(h) The filing fee shall be refunded when Rule .0105(7) of this Section applies.

(i) The method of payment of the filing fee shall be:

- (1) cash;
- (2) money order;
- (3) certified check;
- (4) check drawn on an attorney's trust or operating account; or
- (5) credit or debit card if the petition is filed electronically.

*History Note: Authority G.S. 150B-23; 150B-23.2; 150B-33;
Eff. August 1, 1986;
Amended Eff. October 1, 1991; November 1, 1987; September 1, 1986;
Emergency Amendment Eff. October 1, 2009;
Temporary Amendment Eff. December 1, 2009;
Amended Eff. June 1, 2014; October 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Amended Eff. April 1, 2023.*