

1 10A NCAC 23E .0105 is proposed for re adoption without substantive changes as follows:

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3 **10A NCAC 23E .0105 DISABILITY**

4 (a) ~~As set out in the Medicaid State Plan,~~ individuals ~~Individuals~~ eligible for Medicaid in December 1973 as disabled
5 individuals and who meet conditions required by 42 CFR 435.133 shall be permanently and totally disabled based on
6 a physical or mental impairment ~~that which substantially~~ precludes him or her from ~~obtaining~~ engaging in substantial
7 gainful activity, as defined at 20 CFR 404.1510, which is adopted and incorporated by reference with subsequent
8 changes or amendments and available free of charge at <https://www.ecfr.gov/>, employment, and such impairment can
9 be expected to result in death, or has lasted or can be expected to last twelve months or longer. ~~appears reasonably~~
10 ~~certain to continue without substantial improvement throughout his life time.~~

11 (b) Any client who has applied for Medicaid since January 1, 1974 on the basis of disability is required to ~~shall~~ be
12 found disabled ~~under the definition of disability and procedures established for evaluation of vocational and medical~~
13 ~~factors~~ under the supplemental security income program.

14 (c) A social history on a form prescribed by the state shall be completed by the caseworker ~~Income Maintenance~~
15 ~~Caseworker~~ and submitted to the Division of Vocational Rehabilitation Services, Disability Determination Services
16 Section with the request for disability determination.

17 (d) Except for clients ~~client's~~ receiving social security or supplemental security income on the basis of disability, the
18 decision on disability is made by the Disability Determination Services Section. ~~Section of the Division of Social~~
19 ~~Services.~~

20 (e) Social Security Administration (SSA) decisions made for social security disability or supplemental security
21 income shall be adopted for persons applying for Medicaid.

22 (f) Disability determination shall be verified from the client's award letter, SDX, BENDEX, Disability Determination
23 Services Section approval, Administrative Law Judge decision, ~~decision~~ or other documentary evidence. SDX and
24 BENDEX are defined in 10A NCAC 23A .0102.

25 (g) Disability for purposes of Medicaid eligibility shall cease when the client is determined by the Social Security
26 Administration or the Disability Determination Services Section to be capable of engaging in substantial gainful
27 activity. The client may appeal the termination of Medicaid, pursuant to G.S. 108A-70.9A. ~~Medicaid based on his~~
28 ~~disability cessation.~~

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