North Carolina Department of Health and Human Services
Division of Medical Assistance

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Sandra Terrell, MS, RN
Acting Director

MEMORANDUM

TO: Aldona Z. Wos, M.D.
Secretary

FROM: Sandra Terrell
Acting Director

SUBJECT: State Plan Amendment
Title XIX, Social Security Act
Transmittal #2014-0001-MM1 Single State Agency

DATE: March 17, 2014

Please find attached an amendment for North Carolina's State Plan under Title XIX of the Social Security Act for the Medical Assistance Program.

The purpose of this state plan amendment (SPA) is to implement Medicaid Modified Adjusted Gross Income (MAGI) Bucket 4 Single State Agency. This SPA establishes the single state agencies delegation of appeals and determinations. The state plan pages cover the basic administration of the Medicaid program and the legal authority of the state to submit and administrator the state plan. Bucket 4 SPA will address the organization, Administration and Assurances. This SPA will cover the structure of the state's executive branch demonstrating how the administrative functions, performed by the state Medicaid agency, and compliance with certain regulatory requirements.

This amendment is effective January 1, 2014.

Your approval of this state plan amendment is requested. If you have any questions or concerns, please contact Teresa Smith or me at 919-855-4116.

Approval for Submission to CMS: _____ _____
Signature Date:

ST/tjs

Attachments

www.ncdhhs.gov • www.ncdhhs.gov/dma
Tel 919-855-4100 • Fax 919-733-6608
Location: 1985 Umstead Drive • Dorothea Dix Hospital Campus • Raleigh, NC 27603
Mailing Address: 2501 Mail Service Center • Raleigh, NC 27699-2501
An Equal Opportunity / Affirmative Action Employer

Medicaid Administration

OMB Control Number 0938-1148
OMB Expiration date: 10/31/2014

State Plan Administration
Designation and Authority A1

42 CFR 431.10

Designation and Authority

State Name: North Carolina

As a condition for receipt of Federal funds under title XIX of the Social Security Act, the single state agency named below submits the following state plan for the medical assistance program, and hereby agrees to administer the program in accordance with the provisions of this state plan, the requirements of titles XI and XIX of the Act, and all applicable Federal regulations and other official issuances of the Department.

Name of single state agency: Department of Health and Human Services

Type of Agency:

- (•) Title IV-A Agency
- ( ) Health
- ( ) Human Resources
- ( ) Other

Type of Agency

The above named agency is the single state agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid agency" mean the agency named as the single state agency.)

The state statutory citation for the legal authority under which the single state agency administers the state plan is:

General Statutes 108A-25, 108A-54, 108A-56, 108A-70.9A, 108A-79, 108C-12

The single state agency supervises the administration of the state plan by local political subdivisions.

(•) Yes ( ) No

The state statutory citation for the legal authority under which the agency supervises the administration of the plan on a statewide basis is:

General Statutes 108A-25, 108A-54, 108A-56, 108A-70.9A, 108A-79, 108C-12

The state statutory citation under which the single state agency has legal authority to make rules and regulations that are binding on the political subdivisions administering the plan is:

General Statutes 108A-25 (b), 108A-54, 108A-70.5, 108A-54.2, 108A-58.1, 108A-68

☑ The certification signed by the state Attorney General identifying the single state agency and citing the legal authority under which it administers or supervises administration of the program has been provided.

The methods for coordinating responsibilities among the agencies involved in administration of the plan under the alternate organizational arrangement are as follows:

The parties to this waiver acknowledge that the Division of Medical Assistance(DMA) delegates the authority to make final decisions regarding beneficiary and provider appeals cases as defined in paragraphs (d)(1) and (d)(2) below to the North Carolina Office of Administrative Hearings (OAH).

As a condition precedent for the State of North Carolina to receive federal financial participation for the functions authorized by this waiver of the single state agency requirement found at 42 C.F.R. § 431.10(e), the North Carolina Office of Administrative Hearings ("OAH") must acknowledge and agree in writing that it will act as a neutral and impartial decision-maker on behalf of the North Carolina single state Medicaid agency in adjudicating contested Medicaid cases and that it will comply with all applicable federal and state laws, rules and regulations governing the Medicaid program.

In addition, OAH acknowledges and agrees that, except as allowed by law, enrolled Medicaid providers have no property or liberty right in initial or continued participation or enrollment in the North Carolina State Medicaid program.

OAH acknowledges and also agrees that the issue to be determined at final hearings conducted in accordance with this waiver is whether the single state Medicaid agency or one of its contractors or agents exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, and/or failed to act as required by law or rule; that it will conduct de novo reviews in beneficiary.

Cases as set forth below; that it will cooperate with any and all federal or state audits, monitoring, or oversight necessary to substantiate that OAH expenditures are valid and reasonable; that it will assist DMA in tracking and reporting of Medicaid appeal decisions as required by law; and that it will comply with each of the following conditions of this waiver:

1. "Contested Medicaid beneficiary cases" are those in which a Medicaid beneficiary of the single state Medicaid agency or one of its contractors or agents denies, reduces, terminates or suspends (or alleges such a decision was not acted upon with reasonable promptness), a Medicaid-reimbursable service. In all contested Medicaid beneficiary cases, OAH shall dismiss appeals when the conditions described in 42 CFR §431.223 are present, as set forth in N.C.G.S. §108A-70.9B(b)(4).

2. In all contested cases in which an enrolled Medicaid provider, or provider applicant, is challenging any decision of the single state Medicaid agency which directly or indirectly affected the provider or applicant substantially in their person, property, or employment as described in N.C.G.S. §§ 150B-2(6) and 150B-23 ("contested Medicaid provider cases"), OAH shall agree to dismiss all appeals: (a) that are filed outside of the timeline set forth in N.C.G.S. § 150B-23(f); (b) where the petitioner fails to timely serve the single state Medicaid agency; and (c) where the petitioner fails to pay the filing fee. Further, OAH shall agree to dismiss or impose another sanction as provided by law, all appeals where either party fails to file a Prehearing Statement or respond to discovery prior to the hearing, or where either party fails to appear at a scheduled hearing without good cause.

3. Except where agreed to by the parties or for other good cause, OAH agrees to schedule, hear and issue decisions in contested Medicaid beneficiary cases within the time period set forth in 42 C.F.R. § 431.244(f) and N.C.G.S. § 108A-70.9B(b)(1).

4. OAH shall schedule, hear and issue decisions in contested Medicaid provider cases within 180 days of the date the appeal is filed with OAH, except that hearings in cases where OAH has issued a temporary restraining order ("TRO"), stay or injunction shall be expedited as soon as practicable. The time for the appeal process may be extended in the event of delays caused or requested by the single state Medicaid agency.

5. OAH shall only issue TROs, stays or injunctions to maintain the status quo in contested beneficiary and provider Medicaid cases when the petitioner meets the requirements contained in Rule 65 of the North Carolina

Rules of Civil Procedure. Any TRO so issued shall be in effect for no longer than allowed by law and shall not be continued except as provided in Rule 65. In contested Medicaid beneficiary cases, OAH shall issue TROs, stays or injunctions which require the single state Medicaid agency or a Local Management Entity operating a Prepaid Inpatient Health Plan in accordance with 42 CFR Part 438 (LME/PIHP) to continue an authorization for Medicaid-reimbursable service(s), or to authorize service(s) at any particular level or frequency, during the pendency of an appeal to the extent required to meet the requirements of 42 CFR 431.230. DMA and OAH shall allow all parties' witnesses to appear and testify by telephone at hearings, including but not limited to any expert witnesses, unless good cause is shown to require in person appearance by specific witnesses.

6. When a continuance is necessary, OAH shall only grant requests filed by either party for good cause shown, and shall ensure that hearings are not unreasonably delayed.

7. In contested Medicaid cases, OAH shall issue decisions that are based on the evidence introduced before the record is deemed closed by the Administrative Law Judge.

8. To the extent allowed under Rule 32 of the North Carolina Rules of Civil Procedure, OAH may consider deposition testimony in addition to other allowable testimony as evidence at the hearing on the merits. Affidavits and deposition testimony may be permitted for use as evidence in hearings on motions for preliminary injunctive relief as allowed by law.

9. In contested Medicaid beneficiary cases, OAH shall issue decisions that are based on the evidence introduced before the record is deemed closed by the Administrative Law Judge and the applicable provision(s) of federal or state laws, rules and regulations supporting the decision in accordance with 42 CFR § 431.244 and N.C.G.S. § 108A-70.9B(f).

10. In all contested Medicaid provider cases, OAH may allow both sides to prepare and file proposed decisions within thirty (30) days of the date of the hearing, unless either party requests a transcript of the hearing, in which case proposed decisions shall be due within thirty (30) days of the date the transcript is prepared and served on the parties.

11. Subject to the provisions of Article 3 of Chapter 150B of the North Carolina General Statutes and N.C.G.S. § 108C, OAH shall timely issue decisions in contested Medicaid provider cases which include Findings of Fact and Conclusions of Law and are based on the evidence presented before the record is deemed closed by the Administrative Law Judge. If applicable to an issue in the case, such decisions shall be based on the North Carolina State Plan for Medical Assistance and any amendments thereto or waivers therefrom which have been approved by CMS, properly promulgated DMA medical coverage policies, and any applicable federal and state laws, court decisions, rules, and regulations.

12. Subject to applicable law, OAH shall require in the absence of good cause that all discovery be completed at least thirty (30) days prior to the scheduled hearing date, shall comply with the North Carolina Rules of Civil Procedure in contested Medicaid provider cases, and may limit discovery in such cases to provide for the prompt disposition of the contested case and to ensure that the burden or expense of the proposed discovery does not outweigh its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

13. DMA retains oversight of the State Plan and will establish a process to monitor the entire appeals process, including the quality and accuracy of the final decisions made by OAH.

Add

☐ The agency that administers or supervises the administration of the plan under Title X of the Act as of January 1, 1965, has been separately designated to administer or supervise the administration of that portion of this plan related to blind individuals.

The entity or entities that have responsibility for determinations of eligibility for families, adults, and for individuals under 21 are:

☐ The Medicaid agency

☒ Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands

☐ An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act

The entity that has responsibility for determinations of eligibility for the aged, blind, and disabled are:

☐ The Medicaid agency

☒ Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands

☐ An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act

☐ The Federal agency administering the SSI program

The entity or entities that have responsibility for conducting fair hearings with respect to denials of eligibility based on the applicable modified adjusted gross income standard are:

☒ Medicaid agency

☐ An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act

☐ An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act

The agency has established a review process whereby the agency reviews appeals decisions made by the Exchange or Exchange appeals entity or other state agency, but only with respect to conclusions of law, including interpretations of state or federal policies.

◉ Yes ○ No

State Plan Administration
Organization and Administration A2

42 CFR 431.10
42 CFR 431.11

Organization and Administration

Provide a description of the organization and functions of the Medicaid agency.

The mission of the Division of Medical Assistance (DMA) is to provide access to high quality, medically necessary health care for eligible North Carolina residents through cost-effective purchasing of health care services and products.

Upload an organizational chart of the Medicaid agency.

An attachment is submitted.

Provide a description of the structure of the state's executive branch which includes how the Medicaid agency fits in with other health, human service and public assistance agencies.

This office, created by the Executive Organization Act of 1973, is a part of the Executive Branch of State Government. The Secretary, appointed by the Governor, serves as the principal officer of the Department and is responsible for the necessary management, development of policy, establishment of standards general health, social services and rehabilitation. Divisions and agencies within the Office of the Secretary are the Division of Human Resources, Office of Public Affairs, Office of Intergovernmental Relations, Office of Rural Health and Community Care, Division of Aging and Adult Services, Division of Medical Assistance, Division of Services for the Blind, Division of Child Development, Division of Services for the Deaf and Hard of Hearing, Council on Developmental Disabilities, Office of Economic Opportunities, Division of Health Service Regulation, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Division of Public Health, Division of Social Services, Division of State Operated Health Facilities, Division of Vocational Rehabilitation Services, Division of Budget and Analysis, Office of the Controller, General Counsel, Internal Audit, Division of Information Resource Management, Office of Medicaid Management Information Systems, Office of Privacy and Security, Office of Procurement and Contract Services and Office of Property and Construction.

Entities that determine eligibility other than the Medicaid Agency (if entities are described under Designation and Authority)

Remove

Type of entity that determines eligibility:

- (●) Single state agency under Title IV-A (in the 50 states or the District of Columbia) or under Title I or XVI (AABD) in Guam, Puerto Rico, or the Virgin Islands
- ( ) An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act
- ( ) The Federal agency administering the SSI program

Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.

Medical Directors:
Provides consultation to staff, providers, professional associations, utilization review committees, other State agencies regarding medical matters. Provides consultation on difficult claims.

Dental Director:
Provides same service for dental program as those listed for Medical Doctor.

Registered Pharmacist:
Provides service in pharmacy program as outlined under Medical Doctor.

Registered Nurses:
Reviews utilization review reports, contractor reports on utilization of service, patient and provider profiles. Investigates and reports on patterns of over-utilization. Provides consultation on provider fee up-dates.

Health Administrators:
Provides program coordination and liaison with contractor, State and Federal Agencies and/or agents, providers, associations of health care professionals. Reviews, analyzes Federal and State regulations to ensure program compliance and maintenance of State Plan.

Chief Clinical Operating Officer of Medical Assistance:
Responsible for assisting Director with overall management and administration of Medical Assistance Program.

Director of Medical Assistance:
Responsible for overall management and administration of Medical Assistance Program.

Chief Financial Officer:
Responsible for assisting the Director with overall management and administration of the Medical Assistance Program. This position is responsible for the Budget and Forecasting, Purchasing and Contracting, Contract Management, Financial Policy, and Buildings/Safety/Mail Management.

Assistant Director of Policy and Regulatory Affairs:
Responsibilities of Policy and Regulatory Affairs is for the coordination of the Medicaid State Plan and waivers and our relationship with our federal partners at the Centers for Medicare and Medicaid Services (CMS) and the coordination of the Administrative Procedures Act and the Rules process for the Division at the State level. The Policy and Regulatory Affairs Section also coordinates the legislative process for the Division, including legislative reports, constituent requests, bill reviews, and budget preparations and provides relevant information to the Department and Legislature upon request. Develops policies and procedures associated with programs.

Assistant Director of Recipient and Provider Services:
Responsible for Recipient Eligibility Policy, Recipient Eligibility Information System (EIS), Medicaid Covered Services Assistance to Recipients, Claims Analysis, Provider Enrollment and Relations, Medicare Buy-In, and Managed Care.

Assistant Director of Facility and Community Care:
Responsible for Clinical Policies and Programs Section on the overall administration of programs and clinical services covered in North Carolina.

Assistant Director of Pharmacy and Auxiliary Services:
Responsible for Clinical Policies and Programs Section on the overall administration of programs and clinical services covered in North Carolina.

Director for Medical Policy and Utilization Control:
Evaluates utilization patterns and present medical policy for purposes, of proposing, implementing and evaluating those activities structured to reduce unnecessary use of Medicaid services, reviews and updates Medicaid medical policy, provides support in the areas of program integrity, community based services and changes in the level of care of Medicaid recipients in nursing homes and ensures medical review of nursing homes are carried out consistent with federal regulations.

Registered Nurse:
Monitors nursing home utilization review activity and grants prior approval for level of care changes recommended by utilization review committees and by on-site inspection of care review teams.

Registered Nurse:
Responsible for prior approval of services requested under the Community Alternatives Program for Adults and the Mentally Retarded.

Registered Nurse:
Responsible for monitoring and directing utilization review activities to assure compliance with state and federal requirements.

Registered Nurse:
Reviews inpatient hospital stays that exceed accepted lengths of stay for diagnosis, reviews SUR reports and medical records, reviews reports on inspection of care reviews for nursing homes and mental hospitals and monitors for corrective action.

Registered Nurse:
Provides for Medicaid program integrity by deleting, investigating, reporting, and referring Medicaid fraud, abuse, and over-utilization by providers and recipients participating in the Medicaid program.

Registered Pharmacist (Supervisor):
Provides for Medicaid program integrity by deleting, investigating, reporting and referring Medicaid fraud, abuse, and over-utilization by providers and recipients participating in the Medicaid program.

Clerical Staff:
Support above professional staff.

Add

~~Entities that conduct fair hearings other than the Medicaid Agency (if are described under Designation and Authority)~~

~~Remove~~

~~Type of entity that conducts fair hearings:~~

- (●) ~~An Exchange that is a government agency established under sections 1311(b)(1) or 1321(c)(1) of the Affordable Care Act~~
- ( ) ~~An Exchange appeals entity, including an entity established under section 1411(f) of the Affordable Care Act~~

~~Provide a description of the staff designated by the entity and the functions they perform in carrying out their responsibility.~~

Add

Supervision of state plan administration by local political subdivisions (if described under Designation and Authority)

Is the supervision of the administration done through a state-wide agency which uses local political subdivisions?

(●) Yes ( ) No

Name of state-wide agency: DHHS - Division of Medical Assistance

Description of staff and functions of the state-wide agency and its local political subdivisions:

State Plan Administration Assurances — A3

42 CFR 431.10
42 CFR 431.12
42 CFR 431.50

Assurances

- [x] The state plan is in operation on a statewide basis, in accordance with all the requirements of 42 CFR 431.50.
- [x] All requirements of 42 CFR 431.10 are met.
- [x] There is a Medical Care Advisory Committee to the agency director on health and medical services established in accordance with meeting all the requirements of 42 CFR 431.12.

☑ The Medicaid agency does not delegate, to other than its own officials, the authority to supervise the plan or to develop or issue policies, rules, and regulations on program matters.

Assurance for states that have delegated authority to determine eligibility:

■ There is a written agreement between the Medicaid agency and the Exchange or any other state or local agency that has been delegated authority to determine eligibility for Medicaid eligibility in compliance with 42 CFR 431.10(d).

Assurances for states that have delegated authority to conduct fair hearings:

■ There is a written agreement between the Medicaid agency and the Exchange or Exchange appeals entity that has been delegated authority to conduct Medicaid fair hearings in compliance with 42 CFR 431.10(d).

☐ When authority is delegated to the Exchange or an Exchange appeals entity, individuals who have requested a fair hearing are given the option to have their fair hearing conducted instead by the Medicaid agency.

Assurance for states that have delegated authority to determine eligibility and/or to conduct fair hearings:

☑ The Medicaid agency does not delegate authority to make eligibility determinations or to conduct fair hearings to entities other than government agencies which maintain personnel standards on a merit basis.

PRA Disclosure Statement

V.20130917

Attachment 1.1-A

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

State of North Carolina

ATTORNEY GENERAL'S CERTIFICATION

I certify that:

Department of Health and Human Services

is the single State agency responsible for:

___ administering the plan.

The legal authority under which the agency administers the plan on a Statewide basis is

(Statutory citation)

X supervising the administration of the plan by local political subdivisions.

The legal authority under which the agency supervises the administration of the plan on a Statewide basis is contained in

General Statutes 108A-25, 108A-54, 108A-56, 108A-70.9, 108A-79,108C-12
(Statutory citation)

The agency's legal authority to make rules and regulations that are binding on the political subdivisions administering the plan is

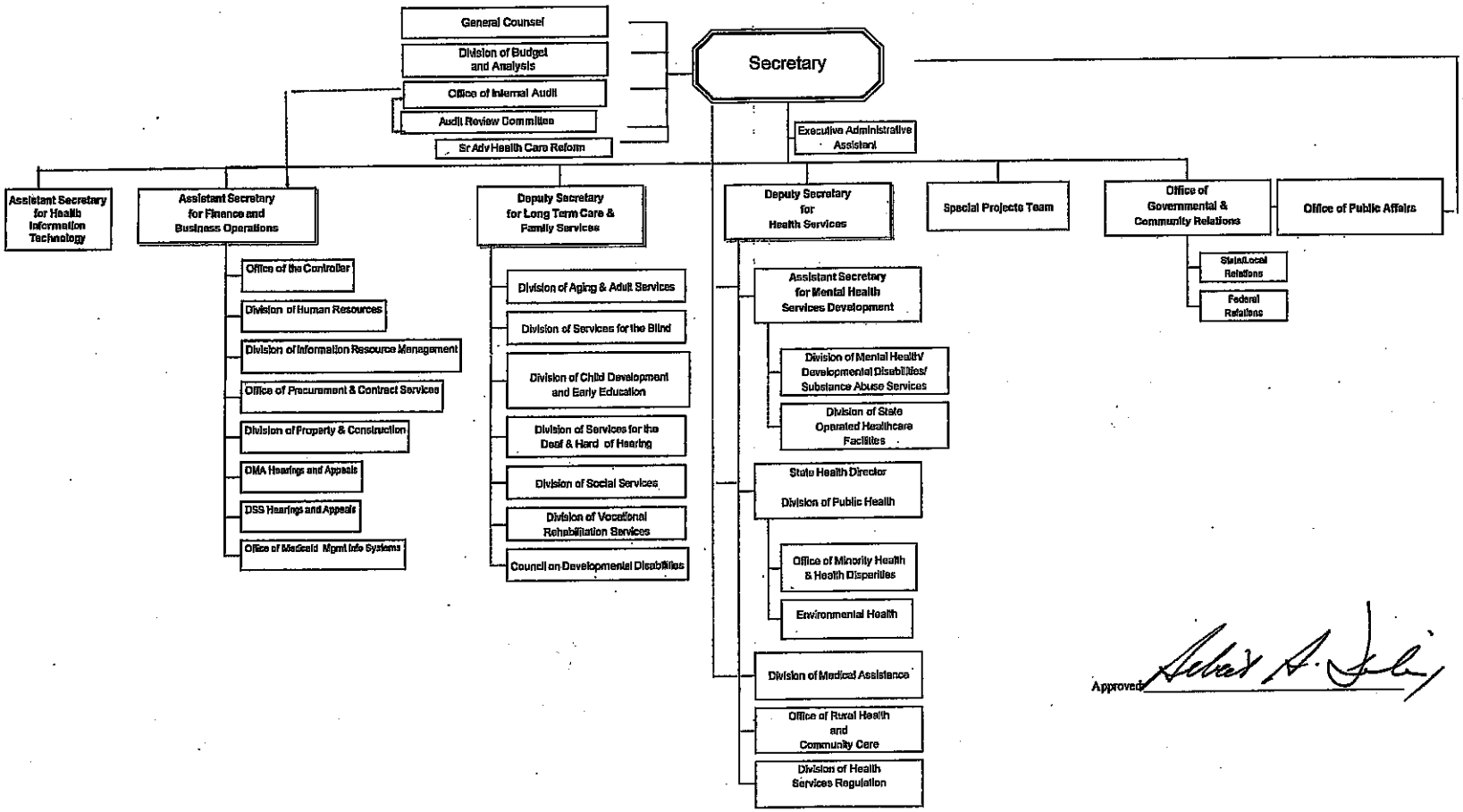
General Statutes 108A-25 (b), 108A-54; 108A-70.5, 108A-54.2, 108A-58.1, 108A-68
(Statutory citation)

March 13, 2014
DATE

Belinda A. Smith
Special Deputy Attorney General
NC Department of Justice

TN No. 14-0001-MM1 Approval Date _____ Eff. Date: 01/01/2014
Supersedes
TN No. 00-03

DEPARTMENT OF HEALTH AND HUMAN SERVICES
February, 2012



Approved: Adrian A. Tuli