

**Fiscal Impact Analysis of
Permanent Rule Readoption – 10A NCAC 22G**

Agency Proposing Rule Change

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

Contact Persons

Christal Kelly, Associate Director for Provider Reimbursement - (919) 814-0056

Virginia Niehaus, Rulemaking Coordinator – (919) 855-4111

Impact Summary

Federal Government:	No Impact
State Government:	No Impact
Local Government:	No Impact
Private Individuals/Entities:	No Impact
Substantial Impact:	No

Titles of Rule Changes and Statutory Citations

10A NCAC 22G – Reimbursement Plans

Section .0100 – Reimbursement for Nursing Facility Services

- 10A NCAC 22G .0108 – Reimbursement Methods for State-Operated Facilities (Readopt)
- 10A NCAC 22G .0109 – Nursing Home Provider Assessment (Readopt)

Section .0200 – Hospital Inpatient Reimbursement Plan

- 10A NCAC 22G .0208 – Administrative Reconsideration Reviews (Repeal)

Section .0500 – Reimbursement for Services

- 10A NCAC 22G .0502 – Mental Health Clinic Services (Repeal)
- 10A NCAC 22G .0504 – Health Plan Maintenance Organizations and Prepaid Health Plans (Readopt)
- 10A NCAC 22G .0509 – Reimbursement Principles, Hearing Aids/Accessories/Batteries (Repeal)

****See proposed text in Appendix 1.***

Statutory Authority

NCGS §§ 108A-25(b), 108A.54, 108A.54.1B

Background

Under authority of NCGS §150B-21.3A, periodic Review and Expiration of Existing Rules, the Department of Health and Human Services, Rule Review Commission, and the Joint Legislative Administrative Procedure Oversight Committee approved the subchapter report with classifications for the rules located at 10A NCAC. 22G – Reimbursement Plans. The following

rules were classified as necessary with substantive public interest: 10A NCAC 22G .0108, .0109, .0208, .0502, .0504, and .0509.

The agency is presenting 22G .0108 for re Adoption with minor substantive changes, 22G .0109 and .0504 for re Adoption with minor, non-substantive technical changes, and 22G .0208, .0502, and .0509 for repeal. Pursuant to NCGS § 150B-21.3A(d)(2), an agency is not required to prepare a fiscal note if a rule is re Adopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons. Pursuant to NCGS § 150B-21.4(d), agencies are not required to prepare a fiscal note when proposing to repeal an existing rule. For that reason, this fiscal note focuses on 22G .0108, but also describes the non-substantive changes to 22G .0109 and .0504.

Rule Summaries and Anticipated Fiscal Impact

Rule .0108 – Reimbursement Methods for State-Operated Facilities

This rule contains language on the reimbursement methods for state-operated facilities. The agency is proposing to re Adopt this rule with a minor substantive change. Paragraphs (a) and (b) of this rule are now covered in the Medicaid State Plan at Attachment 4.19-D. To avoid duplication of language and the potential for a discrepancy should the State Plan be amended, this language was removed and replaced with a reference to the State Plan.

Fiscal Analysis

There is no fiscal impact associated with the re Adoption of this rule because, pursuant to N.C.G.S. § 108A-54.1B(d), the Medicaid State Plan separately has the force and effect of administrative rule.

Rule .0109 – Nursing Home Provider Assessment

This rule contains language detailing the agency’s provider assessments for nursing homes. The agency is proposing to re Adopt this rule with minor, non-substantive changes. These changes include appropriately incorporating materials by reference in accordance with N.C.G.S. § 150B-21.6, updating the agency’s phone number, updating rule formatting, amending the history note for more precise reference, and otherwise clarifying language.

Fiscal Analysis

All changes to this rule are minor, non-substantive, technical changes. There is no fiscal impact to federal government, state government, local governments, or private industry associated with the re Adoption of this rule.

Rule .0504 – Health Maintenance Organizations and Prepaid Health Plans

This rule contains language detailing the agency’s reimbursement to health maintenance organizations and prepaid health plans. The agency is proposing to re Adopt this rule with minor, non-substantive changes to clarify where the monthly capitation fee is specified.

Fiscal Analysis

All changes to this rule are minor, non-substantive, technical changes. There is no fiscal impact to federal government, state government, local governments, or private industry associated with the re Adoption of this rule.

1 10A NCAC 22G .0108 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 22G .0108 REIMBURSEMENT METHODS FOR STATE-OPERATED FACILITIES**

4 ~~(a) A NC Division of Health Service Regulation certified State operated nursing facility shall be reimbursed for the~~
5 ~~reasonable costs that are necessary to efficiently meet the needs of its patients and to comply with federal and state~~
6 ~~laws and regulations. The costs shall be determined in accordance with Rules .0103 and .0104 of this Section, except~~
7 ~~that annual cost reports shall be required for the fiscal year beginning on July 1 and ending on the following June 30~~
8 ~~and must be submitted to the Division of Medical Assistance within 150 days after their fiscal year end. Payments~~
9 ~~shall be suspended if reports are not filed. The Division of Medical Assistance shall extend the deadline for filing the~~
10 ~~report if the Division determines good cause. "Good cause" is an action uncontrollable by the provider. The Medicare~~
11 ~~principles for the reimbursement of skilled nursing facilities shall be utilized for the cost principles that are not~~
12 ~~specifically addressed in this Section.~~

13 ~~(b) A per diem rate based on the providers estimated annual cost divided by patient days shall be used to make interim~~
14 ~~payments. A desk audit and a tentative settlement shall be performed on each annual cost report to determine the~~
15 ~~amount of Medicaid reasonable cost and the amount of interim payments received by the provider.~~

16 ~~(c) The Division's reimbursement methodology is set forth in the Medicaid State Plan. Any payments in excess of~~
17 ~~costs shall be refunded to the Division. Any costs in excess of payments shall be paid to the provider. ~~An annual field~~~~
18 ~~audit shall be performed by a qualified independent auditor to determine the final settlement amounts.~~

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20 *History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C;*
21 *Eff. January 1, 1992;*
22 *Temporary Amendment Eff. August 3, 2004;*
23 *Amended Eff. January 1, 2005; ~~2005~~.*
24 *Readopted Eff. March 31, 2018.*

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1 10A NCAC 22G .0109 is proposed for readoption without substantive changes as follows:

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3 **10A NCAC 22G .0109 NURSING HOME PROVIDER ASSESSMENT**

4 (a) In accordance with 42 USC 1396b(w) and 42 CFR, Part 433, Subpart B, which are adopted and incorporated by
5 reference with subsequent changes or amendments; B; and consistent with the CMS Federal Waiver approved April
6 5, 2004 with an effective date of October 1, 2003, which is adopted and incorporated by reference with 2003 including
7 subsequent changes or amendments, amendments and revisions, a monthly nursing facility assessment based on all
8 occupied nursing facility bed days of service shall be ~~is~~ imposed on all nursing bed days in licensed nursing facilities,
9 except:

- 10 (1) any ~~Any~~ nursing facility bed day of service provided by a Continuing Care Retirement Community
11 (CCRC), as defined by G.S. GS 58-64 and licensed by the North Carolina Department of Insurance;
12 or
13 (2) any ~~Any~~ nursing facility bed day of service paid for under the Medicare program established under
14 Title XVIII of the Social Security Act.

15 A copy of the CMS Federal Waiver may be obtained by contacting the Division of Medical Assistance, 2501 Mail
16 Service Center, Raleigh, North Carolina 27699-2501, (919) 855-4000. 857-4016. Copies of 42 USC 1396b(w) and 42
17 CFR, Part 433, Subpart B are available free of charge at <http://uscode.house.gov/> and <https://www.ecfr.gov/>,
18 respectively.

19 (b) ~~Effective October 1, 2003, the~~ The assessment is payable monthly and due to the Department of Health and Human
20 Services or designee of the Department within 15 days of the last day of the reporting month. Facilities shall submit
21 payment and an account of all actual patient days during the month. Failure to provide accurate ~~and timely~~-reporting
22 of days, days and payment of assessment within 15 days of the last day of the reporting month shall result in a 10%
23 reduction in facility rates for Medicaid participating facilities and recoupment. ~~recoupment per the Department Cash~~
24 ~~Management Plan.~~

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26 *History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 2003-284, Sec. 10.28; CMS Waiver approved
27 April 5, 2004; 42 CFR Part 433, Subpart B; 42 USC 1396b(w);
28 Temporary Adoption Eff. August 3, 2004;
29 Eff. January 1, 2005; 2005.
30 Readopted Eff. March 31, 2018.

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1 10A NCAC 22G .0208 is proposed for readoption as a repeal as follows:

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3 **10A NCAC 22G .0208 ADMINISTRATIVE RECONSIDERATION REVIEWS**

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5 *History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C;

6 Eff. February 1, 1995; ~~1995~~.

7 Repealed Eff. March 31, 2018.

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1 10A NCAC 22G .0502 is proposed for readoption as a repeal as follows:

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3 **10A NCAC 22G .0502 MENTAL HEALTH CLINIC SERVICES**

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5 *History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86;*

6 *Eff. February 1, 1984; ~~1984~~.*

7 *Repealed Eff. March 31, 2018.*

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1 10A NCAC 22G .0504 is proposed for reoption without substantive change as follows:

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3 **10A NCAC 22G .0504 HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS**

4 Reimbursement to Health Maintenance Organizations and Prepaid Health Plans for services rendered shall ~~will~~ be
5 paid as a monthly capitation fee developed by the Division and set out in contract with the Health Maintenance
6 Organization or Prepaid Health Plan. ~~of Medical Assistance.~~

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8 *History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. Part 434; 42*

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C.F.R. Part 438.6;

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Eff. August 1, 1984;

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Amended Eff. February 1, 1985; ~~1985~~.

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Readopted Eff. March 31, 2018.

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1 10A NCAC 22G .0509 is proposed for readoption as a repeal as follows:

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3 **10A NCAC 22G .0509 REIMBURSEMENT PRINCIPLES, HEARING**
4 **AIDS/ACCESSORIES/BATTERIES**

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6 *History Note: Authority G.S. 108A-25(b); 108A-54;*

7 *Eff. January 4, 1993;*

8 *Recodified from 10 NCAC 26H .0509 Eff. January 1, ~~1994; 1994.~~*

9 *Repealed Eff. March 31, 2018.*

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DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

DAVE RICHARD
DEPUTY SECRETARY FOR MEDICAL ASSISTANCE

MEMORANDUM

TO: Office of State Budget and Management

FROM: Virginia R. Niehaus, DMA Rulemaking Coordinator

DATE: October 25, 2017

RE: Federal Certification for N.C. Department of Health and Human Services,
Division of Medical Assistance (DMA) Rule Readoption
Subchapter 22G – Reimbursement Plans

Rule-making Coordinator's Certificate

As Required by GS 150B-19.1(g)
For Proposed Permanent and Temporary Rules Adopted to
Implement a Federal Law or which upon Receipt of Federal Funds is Conditioned

The following rules within 10A NCAC 22G are proposed for readoption to be compatible with federal law governing reimbursement plans:

1. 10A NCAC 22G .0108 applies to reimbursement methods for state-operated facilities. Regulation by the State of North Carolina of reimbursement methods for state-operated facilities is subject to the provisions of 42 CFR Part 447, Subpart C (Payment for Inpatient Hospital and Long-Term Care Facility Services). The readoption of 10A NCAC 22G .0108 is necessary to comply with these federal regulations.
2. 10A NCAC 22G .0109 applies to nursing home provider assessments. Regulation by the State of North Carolina of nursing home provider assessments is subject to the provisions of 42 CFR Part 433, Subpart B (General Administrative Requirements State Financial Participation) and 42 USC 1396b(w). The readoption of 10A NCAC 22G .0109 is necessary to comply with these federal regulations.

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TEL 919-855-4100 • FAX 919-733-6608
LOCATION: 1985 UMSTEAD DRIVE • Kirby BUILDING • RALEIGH, NC 27603
MAILING ADDRESS: 2501 MAIL SERVICE CENTER • RALEIGH, NC 27699-2501
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3. 10A NCAC 22G .0504 applies to reimbursement of health maintenance organizations and prepaid health plans. Regulation by the State of North Carolina of reimbursement of health maintenance organizations and prepaid health plans is subject to the provisions of 42 CFR Part 434 (Contracts) and 42 CFR 438.6 (Special contract provisions related to payment). The readoption of 10A NCAC 22G .0504 is necessary to comply with these federal regulations.