

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

Agency Proposing Rule Change

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

Contact Persons

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Impact Summary

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

Title of Rules Changes and Statutory Citations

10A NCAC 22N – Provider Enrollment

Section .0100 - General

- 10A NCAC 22N .0101 – Definitions (Amend)
- 10A NCAC 22N .0102 – Signed Agreements (Readopt)

Section .0200 – Entities Licensed Under NCGS 122C or NCGS 131D

- 10A NCAC 22N .0201 – Definitions (Repeal)
- 10A NCAC 22N .0202 – Disclosure of Ownership (Readopt)
- 10A NCAC 22N .0203 – Enrollment Restrictions (Readopt)

Section .0300 – Entities Providing Specified Habilitative and Rehabilitative Services

- 10A NCAC 22N .0301 – Definitions (Repeal)
- 10A NCAC 22N .0302 – Disclosure of Ownership (Repeal)
- 10A NCAC 22N .0303 – Enrollment Restrictions (Repeal)

**See proposed text of these rules 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

Division of Medical Assistance, Rules Review Commission, and the Joint Legislative Administrative Procedure Oversight Committee approved the subchapter report with classifications for the rules located at 10A NCAC 22N – Provider Enrollment. The following five rules were classified as necessary with substantive public interest in this report: 10A NCAC 22N .0102, .0202, .0203, .0302, and .0303.

The agency is presenting 22N .0202 for readoption with substantive changes, 22N .0102 and .0203 for readoption with minor, non-substantive changes, and 22N .0302 and .0303 for repeal. In addition, the agency is presenting one rule for amendment, 22N .0101, and two rules for repeal, 22N .0201 and .0301, that were deemed necessary without substantive public interest.

Pursuant to NCGS § 150B-21.3A(d)(2), an agency is not required to prepare a fiscal note if a rule is readopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons. In addition, 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 the following rules: 22N .0101 and .0202. The agency has also prepared a brief explanation for the non-substantive changes made to 22N .0102 and .0203.

Rules Summaries and Anticipated Fiscal Impact

Rule .0101 – Definitions

10A NCAC 22N .0101 defines terms that will be used throughout this subchapter. The existing definitions in this rule (and Rule .0201, which is being combined with this rule) have been superseded by statutes enacted by the North Carolina General Assembly to govern NC Medicaid and Health Choice Provider Requirements at NCGS Chapter 108C. The proposed changes to this rule (and other rules in this subchapter) are to align with this statutory framework.

Fiscal Impact

As this rule is being updated to align with existing state statutes, there is no fiscal impact to federal government, state government, local governments, or private industry associated with the amendment of this rule.

Rule .0102 – Signed Agreements

10A NCAC 22N .0102 describes the agreement that providers are required to sign to participate in Medicaid. The agency is proposing to readopt this rule with several minor, non-substantive, technical changes. The agency is updating the name of agreement and clarifying that the agreement is with the Department, rather than the Division.

Fiscal Impact

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 readoption of this rule.

Rule .0202 – Disclosure of Ownership

10A NCAC 22N .0202 describes disclosure of ownership requirements for Medicaid providers. The agency is proposing to readopt this rule with several substantive changes. NCGS § 108C-10

now explicitly requires that notification be received at least 30 days prior to the effective date of any change, rather than no later than 30 days following the change. This rule is being updated to align with this statutory requirement.

Fiscal Impact

As this rule is being updated to align with an existing state statute, there is no fiscal impact to federal government, state government, local governments, or private industry associated with the readoption of this rule.

Rule 22N .0203 – Enrollment Restrictions

10A NCAC 22N .0203 concerns the provider enrollment restrictions. The agency is proposing to readopt this rule with minor, non-substantive, technical changes to clarify language and update formatting. None of these changes impact the way the rule is implemented.

Fiscal Impact:

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 readoption of this rule.

1 10A NCAC 22N .0101 is proposed for amendment as follows:

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3 **SUBCHAPTER 22N – PROVIDER ENROLLMENT**

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5 **SECTION .0100 – GENERAL**

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7 **10A NCAC 22N .0101 DEFINITIONS**

8 ~~(a) For the purpose of this Subchapter, a "provider" is defined as in G.S. 108C-2(10), any individual, facility or entity~~
9 ~~that applies to furnish services to authorized Medicaid recipients and bill Medicaid directly for reimbursement. The~~
10 ~~term "provider" also includes suppliers of medical equipment and supplies.~~

11 ~~(b) For the purpose of this Subchapter, an "owner" is defined as in G.S. 108C-2(9).~~

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13 *History Note: Authority G.S. 108A-54; 108C-2(9),(10); 143B-139.1; 42 C.F.R. 400.203; 42 C.F.R. 455.101;*

14 *Eff. July 1, 2004;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
16 *2015;2015.*

17 *Amended Eff. March 31, 2018.*

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1 10A NCAC 22N .0102 is proposed for reoption without substantive change as follows:

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3 **10A NCAC 22N .0102 SIGNED AGREEMENTS**

4 Each provider shall sign a Provider Administrative Participation Agreement ~~participation contract agreement~~ with the
5 Department ~~Division of Medical Assistance~~ and shall not be reimbursed for services rendered prior to the effective
6 date of the participation agreement.

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8 *History Note: Authority G.S. 108A-54; 143B-139.1; 42 C.F.R. Part 455, Subpart E;*

9 *Eff. July 1, 2004; 2004.*

10 *Readopted Eff. March 31, 2018.*

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1 10A NCAC 22N .0201 is proposed for repeal as follows:

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SECTION .0200 - ENTITIES LICENSED UNDER NCGS 122C OR NCGS 131D

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10A NCAC 22N .0201 DEFINITIONS

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7 *History Note: Authority G.S. 108A-54; 143B-139.1;*

8 *Eff. July 1, 2004;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*

10 *2015;2015.*

11 *Repealed Eff. March 31, 2018.*

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1 10A NCAC 22N .0202 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 22N .0202 DISCLOSURE OF OWNERSHIP**

4 Providers ~~who undergo a change in ownership as defined in G.S. 108C-10 licensed under North Carolina G.S. 122C~~
5 ~~or G.S. 131D~~ shall comply with the following disclosure conditions:

- 6 (1) ~~when~~When applying to participate in the North Carolina Medicaid program, the provider shall
7 supply the legal name and social security number of each individual who is an ~~owner; owner.~~
8 (2) ~~an~~An enrolled provider shall notify the Division ~~of Medical Assistance~~ in writing of a change in the
9 legal name of any owner. The notification ~~must shall~~ be received within 30 calendar days of the
10 effective date of any change; within 30 business days following the change.
11 (3) ~~an~~An enrolled provider shall notify the Division ~~of Medical Assistance~~ in writing if a new owner
12 joins the provider. The notification shall include the new owner's legal name and social security
13 number. The notification ~~must shall~~ be received within 30 calendar days of the effective date of any
14 change; no later than 30 business days following the change. and
15 (4) ~~an~~An enrolled provider shall notify the Division ~~of Medical Assistance~~ in writing if an owner
16 withdraws his ownership interest in the provider. The notification shall include the name of the
17 departing owner and ~~must shall~~ be received within 30 calendar days of the effective date of any ~~no~~
18 ~~later than 30 business days following the change.~~

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20 *History Note:* Authority G.S. 108A-54; 108C-10; 143B-139.1; 42 C.F.R. 455.104; 42 C.F.R. 455.106;
21 Eff. July 1, 2004; 2004.
22 Readopted Eff. March 31, 2018.
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1 10A NCAC 22N .0203 is proposed for readoption without substantive change as follows:

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3 **10A NCAC 22N .0203 ENROLLMENT RESTRICTIONS**

4 (a) The Department shall deny enrollment, including enrollment for new or additional services in accordance with
5 G.S. 122C-23(e1) and G.S. 131D-10.3(h). ~~They may be accessed online at~~

6 ~~http://www.neleg.net/statutes/generalstatutes/html/bysection/chapter_122c/gs_122c_23.html and~~

7 ~~http://www.neleg.net/statutes/generalstatutes/html/bysection/chapter_131d/gs_131d_10.3.html.~~

8 (b) The Department may deny enrollment when an applicant meets any of the following conditions:

9 (1) if the Department has initiated revocation or summary suspension proceedings against any facility
10 licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 ~~which~~
11 that was previously held by the applicant and the applicant voluntarily relinquished the license;

12 (2) there is a pending appeal of a denial, revocation, ~~revocation~~ or summary suspension of any facility
13 licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 ~~which~~
14 that is owned by the applicant;

15 (3) the applicant had an individual as part of their governing body or management who previously held
16 a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D,
17 Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws; or

18 (4) the applicant is an individual who has a finding or pending investigation by the Health Care
19 Personnel Registry in accordance with G.S. 131E -256.

20 (c) When an application for enrollment of a new service is denied:

21 (1) pursuant ~~Pursuant~~ to G.S. 150B-22, the applicant shall be given an opportunity to provide reasons
22 why the enrollment should be granted or the matter otherwise settled;

23 (2) the Division ~~DMA~~ shall give the applicant written notice of the denial, the reasons for the denial
24 and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B; and

25 (3) the ~~The~~ provider shall not provide the new service until a decision is made to enroll the provider,
26 despite an appeal action.

27 (d) If the action is reversed on appeal, the ~~owner~~ provider may re-apply for enrollment in accordance with 42 C.F.R.
28 455, Subpart E, which is adopted and incorporated by reference with subsequent changes or amendments and available
29 free of charge at <https://www.ecfr.gov/>. ~~and may be approved back to the date of the denied application if all~~
30 ~~qualifications are met.~~

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32 *History Note: Authority G.S. 108A-54; 143B-139.1; 122C-23(e1),(e3); 131E-256; 110, Article 7; 42 C.F.R.*
33 *455.422; 42 C.F.R. 1002.213;*

34 *Eff. July 1, 2004; 2004.*

35 *Readopted Eff. March 31, 2018.*

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1 10A NCAC 22N .0301 is proposed for repeal as follows:

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3 **SECTION .0300 – ENTITIES PROVIDING SPECIFIED HABILITATIVE AND REHABILITATIVE**
4 **SERVICES**

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6 **10A NCAC 22N .0301 DEFINITIONS**

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8 *History Note: Authority G.S. 108A-54; 143B-139.1;*

9 *Eff. July 1, 2004;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*

11 *2015;2015.*

12 *Repealed Eff. March 31, 2018.*

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1 10A NCAC 22N .0302 is proposed for readoption as a repeal as follows:

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3 **10A NCAC 22N .0302 DISCLOSURE OF OWNERSHIP**

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5 *History Note: Authority G.S. 108A-54; 143B-139.1;*

6 *Eff. July 1, 2004; ~~2004~~.*

7 *Repealed Eff. March 31, 2018.*

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1 10A NCAC 22N .0303 is proposed for readoption as a repeal as follows:

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3 **10A NCAC 22N .0303 ENROLLMENT RESTRICTIONS**

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5 *History Note: Authority G.S. 108A-54; 143B-139.1;*

6 *Eff. July 1, 2004; ~~2004~~.*

7 *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 and Amendment Subchapter 22N – Provider Enrollment

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 22N are proposed for readoption to be compatible with federal law governing provider enrollment:

1. 10A NCAC 22N .0101 sets out provider enrollment definitions. Regulation by the State of North Carolina of provider enrollment definitions is subject to the provisions of 42 CFR 400.203 (Definitions specific to Medicaid) and 42 CFR 455.101 (Definitions). The readoption of 10A NCAC 22N .0101 is necessary to comply with these federal regulations.
2. 10A NCAC 22N .0102 applies to provider enrollment agreements. Regulation by the State of North Carolina of provider enrollment agreements is subject to the provisions of 42 CFR Part 455, Subpart E (Provider screening and enrollment). The readoption of 10A NCAC 22N .0102 is necessary to comply with these federal regulations.
3. 10A NCAC 22N .0202 applies to provider disclosure of ownership. Regulation by the State of North Carolina of provider disclosure of ownership is subject to the provisions of 42 CFR

455.104 (Disclosure by Medicaid provider and fiscal agents: Information on ownership and control) and 455.106 (Disclosure by providers: Information on persons convicted of crimes). The readoption of 10A NCAC 22N .0202 is necessary to comply with these federal regulations.

4. 10A NCAC 22N .0203 applies to provider enrollment restrictions. Regulation by the State of North Carolina of provider enrollment restrictions is subject to the provisions of 42 CFR 455.422 (Appeals rights) and 42 CFR 1002.213 (Appeals of exclusions). The readoption of 10A NCAC 22N .0203 is necessary to comply with these federal regulations.