

1 10A NCAC 21A .0303 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 21A .0303 APPEAL DECISION**

4 (a) The hearing officer shall make a tentative decision ~~that which~~ shall be served upon the county department and the
5 appellant by mail. Decisions reversing ~~proposing to reverse~~ the county department's action shall be sent by certified
6 mail to the county ~~department.~~ ~~department while decisions~~ Decisions affirming the county department's actions shall
7 ~~will~~ be sent by certified mail to the appellant.

8 (b) The county and the appellant may present oral and written argument, for and against the decision ~~decision.~~ by
9 contacting the Chief Hearing Officer. ~~Written argument may be submitted to or contact made with the Chief Hearing~~
10 ~~officer to request a hearing for oral argument.~~

11 (c) If a written argument or a request for oral argument is not received by the Chief Hearing Officer ~~is not contacted~~
12 within 10 calendar days of the date the notice of the tentative decision is signed, the tentative decision shall become
13 final.

14 (d) If a request for a time extension to submit an argument is received by the Chief Hearing officer within 10 calendar
15 days of the date the notice of the tentative decision is signed, an extension may be granted for good cause or in the
16 interests of justice.

17 ~~(e)(d)~~ If the party that requested oral argument fails to appear ~~at the hearing~~ for the scheduled oral argument, the
18 tentative decision shall become ~~becomes~~ final.

19 ~~(f)(e)~~ If oral or and written arguments are ~~presented,~~ presented within the timeframes established in paragraphs (c)
20 and (d) of this rule, then all such arguments shall be considered and a final decision shall be rendered.

21 ~~(g)(f)~~ The final decision shall be served upon ~~mailed to~~ the appellant and any the county department by certified mail.

22 ~~(h)(g)~~ A decision upholding the appellant shall be put into effect within two weeks after the county department's
23 receipt of the final decision ~~decision.~~ by certified mail.

24 ~~(i)(h)~~ As provided for in 42 C.F.R. 431.245 ~~431.245,~~ and G.S. 108A-79(k), the decision shall contain the appellant's
25 right to ~~request a State agency hearing and seek judicial review.~~ review to the extent that either is available to him.

26
27 *History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-79; 42 C.F.R. 431.244; 42 C.F.R. 431.245; 42 C.F.R.
28 431.246;
29 Eff. September 1, 1984;
30 Amended Eff. September 1, 1992; ~~1992~~.
31 Readopted Eff. May 1, 2018.
32
33