

1 10A NCAC 22F .0402 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 22F .0402 RECONSIDERATION REVIEW FOR PROGRAM ABUSE**

4 (a) ~~The Division shall notify the provider in writing by certified mail of the tentative decision made pursuant to Rule~~
5 ~~.0302 of this subchapter and the opportunity for a reconsideration of the tentative decision. Upon notification of a~~
6 ~~tentative decision the provider will be offered, in writing, by certified mail, the opportunity for a reconsideration of~~
7 ~~the tentative decision and the reasons therefor.~~

8 (b) The provider ~~shall~~ will be instructed to submit to the Division in writing ~~a his~~ request for a Reconsideration
9 Review within ~~30 business fifteen working~~ days from the date of receipt of the notice. Failure to request a
10 Reconsideration Review in the specified time shall result in the implementation of the tentative decision as the
11 ~~Department's~~ Division's final decision.

12 (c) ~~If requested, the~~ The Notice of Reconsideration Review shall be ~~sent to the provider scheduled~~ within 30 business
13 ~~twenty calendar~~ days from receipt of the request. The provider ~~shall~~ will be notified in writing to appear at a specified
14 day, ~~time, time~~ and place. The provider may be accompanied by legal counsel if ~~the provider he~~ so desires.

15 (d) The provider shall provide a written statement to the Hearing Unit prior to the Reconsideration Review identifying
16 any claims that the provider wishes to dispute and setting forth the provider's specific reasons for disputing the
17 determination on those claims.

18 (e)~~(d)~~ The purpose of the Reconsideration Review includes:

- 19 (1) ~~clarification~~Clarification, formulation, and simplification of issues;
- 20 (2) ~~exchange~~Exchange and full disclosure of information and materials;
- 21 (3) ~~review~~Review of the investigative findings;
- 22 (4) ~~resolution~~Resolution of matters in controversy;
- 23 (5) ~~consideration~~Consideration of mitigating and extenuating circumstances;
- 24 (6) ~~reconsideration~~Reconsideration of the administrative measures to be imposed; and
- 25 (7) ~~reconsideration~~Reconsideration of the restitution of overpayments.

26 (f)~~(e)~~ The Reconsideration Review decision ~~shall~~ will be sent to the ~~provider, provider~~ in writing by certified mail,
27 mail within ~~30 business five working~~ days following the date ~~the review record is closed. The review record is closed~~
28 when all arguments and documents for review have been received by the Hearing Unit. of review. It will state the
29 schedule for implementing the administrative measures and/or recoupment plan, if applicable, and it will The decision
30 shall state that ~~if the Reconsideration Review decision is not acceptable to the provider, the provider he~~ may request
31 a contested case hearing in accordance with G.S. 150B, Article 3 and 26 NCAC 03.0103. the provisions found at 10A
32 NCAC 01. Pursuant to G.S. 150B-23(f), the provider shall have 60 days from receipt of the Reconsideration Review
33 decision to request a contested case hearing in the Office of Administrative Hearings. hearing. Unless the request is
34 received within the time provided, the Reconsideration Review decision shall become the Division's final decision
35 and no further appeal shall be permitted. decision. ~~In processing the contested case request, the Director of the~~
36 ~~Division of Medical Assistance shall serve as the secretary's designee and shall be responsible for making the final~~
37 ~~agency decision.~~

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History Note: Authority G.S. 108A-25(b); 108A-54; Chapter 150B, Article 3; S.L. 2011-375, Section 2; ~~150B-22;~~
42 C.F.R. Part 455.512; ~~455;~~
Eff. April 15, 1977;
Readopted Eff. October 31, 1977;
ARRC Objection October 22, 1987;
Amended Eff. November 1, 1988; March 1, 1988; May 1, 1984; ~~1984.~~
Readopted Eff. May 1, 2018.