

1 10A NCAC 22H .0204 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 22H .0204 HEARING PROCEDURES**

4 (a) Upon timely receipt of a request for a hearing, as set out in Rule .0203 of this Section, the Hearing Unit shall
5 ~~promptly~~ notify the parties ~~facility~~ of the request.

6 (b) The parties shall be notified by certified mail of the date, time, ~~time~~ and place of the hearing. Hearings shall be
7 conducted by telephone, unless an in-person hearing is requested. If the hearing is to be conducted in person, it shall
8 be held in Raleigh, North Carolina.

9 (c) ~~At least five working days prior to the hearing, the~~ The facility administrator shall make available to the resident
10 all documents and records to be used at the hearing, to be received at least five business days prior to the hearing.
11 ~~hearing~~. The facility administrator shall forward identical information to the Hearing Unit, to be received at least five
12 business ~~working~~ days prior to the hearing.

13 (d) The hearing officer may grant continuances for good cause. ~~continuances~~.

14 (e) The hearing officer may dismiss a request for hearing if the resident or family member or legal representative of
15 the resident fails to appear at a scheduled hearing.

16 (f) The hearing officer shall ~~may~~ proceed to conduct a scheduled hearing if a facility representative fails to appear at
17 a scheduled hearing.

18 (g) The Rules of Civil Procedures as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and
19 District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes
20 shall not apply in any hearings held by a Division Hearing Officer. ~~Officer unless another specific statute or rule~~
21 ~~provides otherwise~~. Division hearings are not contested case hearings within the meaning of G.S. 150B and shall not
22 be governed by the provisions of that Chapter unless otherwise stated in these Rules. Parties may be represented by
23 counsel or other representative at the hearing.

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25 *History Note: Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 483, Subpart E; 483.12;*
26 *Eff April 1, 1994; 1994.*
27 *Readopted Eff. May 1, 2018.*
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