Fiscal Impact Analysis of Permanent Rule
Readoption – 10A NCAC 23C

Agency Proposing Rule Change
North Carolina Department of Health and Human Services, Division of Health Benefits

Contact Persons
Carolyn McClanahan, Associate Director, Eligibility Services – (919) 813-5342
Pamela Cooper, Supervisor, Eligibility Services – (919) 813-5344
Ryan Eppenberger, Interim Rulemaking Coordinator – (919) 814-0078

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

Title of Rule Changes and Citations

10A NCAC 23C – Application for Medicaid Benefits

Section .0200 Application Processing, Monitoring and Corrective Action
- 10A NCAC 23C .0201 – Application Processing Standards (Readopt)

See proposed text of this rule in Appendix 1.

Statutory Authority
G.S. 108A-54, G.S. 108A-54.1B, G.S. 108A-70.37; 42 C.F.R. 435

Background
Under authority of NCGS § 150B-21.3A, Periodic Review and Expiration of Existing Rules, the Department of Health and Human Services, Rules Review Commission, and the Joint Legislative Administrative Procedure Oversight Committee approved the subchapter report with classifications for the rules located at 10A NCAC 23C – Application for Medicaid Benefits. The following rule was classified as necessary with substantive public interest: 10A NCAC 23C .0201. The agency is presenting 23C .0201 for readoption with one minor substantive and several minor non-substantive changes.

Rule Summary and Anticipated Fiscal Impact

Rule .0201 – Application Processing Standards
10A NCAC 23C .0201 describes and sets forth the agency's application processing standards for county department of social services (DSS) offices in determining eligibility for Medicaid. The

agency is proposing one substantive change to the rule in subparagraph (b)(1) to align with a change in federal law. Under the Affordable Care Act, 42 C.F.R. 435.956(e) was promulgated to require Medicaid to accept self-attestation of pregnancy, without independent verification, unless the agency has information that is not reasonably compatible with such attestation. The other change to subparagraph (b)(1) is a non-substantive change that replaces the reference to 10A NCAC 23E .0102, which is proposed for repeal, with a reference to the Medicaid State Plan, where the content of that rule now resides. All other changes are non-substantive changes that do not impact how the rule is implemented and are intended to clarify existing language.

Fiscal Impact

Although the removal of pregnancy from the list of elements requiring county verification is substantive, there is no fiscal impact because it does not impact the number of individuals eligible for Medicaid nor does it significantly impact the eligibility verification process. It is one less form that county caseworkers are required to fill out during the eligibility verification process. In addition, removal of this requirement imposes a less stringent burden on regulated persons. All other changes to this rule are minor, non-substantive, technical changes. 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. For that reason, there is no fiscal impact to the federal government, state government, local governments, or private industry associated with the readoption of this rule.

10A NCAC 23C .0201 is proposed for readoption with substantive changes as follows:

SECTION .0200 – APPLICATION PROCESSING, MONITORING AND CORRECTIVE ACTION

10A NCAC 23C .0201 APPLICATION PROCESSING STANDARDS

(a) The county department of social services shall comply with the following standards in processing applications:

(1) A decision shall be made within the timeframes set out in G.S. 108A-70.37. ~~on an individual's eligibility for Medicaid shall be made within 45 calendar days from the date of application for Medicaid except for applications in which a disability determination has already been made or is needed. For those applications, a decision on an individual's eligibility shall be made within 90 days from the date of application.~~ These timeframes shall apply in accordance with 42 CFR 435.912. ~~435.911.~~

(2) Only require information or verification ~~necessary~~ to establish eligibility for assistance;

(3) Make a minimum of ~~at least~~ two requests for all ~~necessary~~ information from the applicant or third party;

(4) Allow a minimum of ~~at least~~ 12 calendar days between the initial request and a follow-up request and at least 12 calendar days between the follow-up request and denial of the application;

(5) Inform the client in writing ~~writing, and verbally when possible,~~ of the right to request help in obtaining information requested from the client. The county department of social services shall not discourage any client from requesting such help;

(6) An application may pend up to six months for verification that the deductible, a defined in 10A NCAC 23A .0201, ~~deductible~~ has been met or disability established.

(7) When a hearing decision reverses the decision of the county department of social services ~~County Department of Social Services~~ on an application, pursuant to 10A NCAC 21A .0303, the application shall be reopened within five business ~~working~~ days from the date the final appeal decision is received by the county department of social services ~~County Department of Social Services.~~ If the county department of social services has all of the information needed to process the application, ~~no additional information is needed,~~ the application shall ~~must~~ be processed within five additional business ~~working~~ days. If additional information is needed pursuant to the final decision, the county shall make such requests in accordance with this rule. ~~rules for all applications.~~ The first request for the additional information shall be made within five business ~~working~~ days of receipt of the final appeal decision. The application shall be processed within five business ~~workdays~~ of receipt of the last piece of required information.

(b) The county department of social services shall obtain verification, as defined by 10A NCAC 23A .0102, ~~verification~~ other than the applicant's statement for the following:

(1) Any element requiring medical verification. This includes verification of disability, ~~pregnancy,~~ incapacity, emergency dates for aliens referenced in the Medicaid State Plan, ~~10A NCAC 23E .0102(c),~~ incompetence, and approval of institutional care;

(2) Proof a deductible has been met;

(3) Legal alien status;

(4) Proof of the rebuttal value for resources and of the rebuttal of intent to transfer resources to become eligible for Medicaid. When a client ~~an applicant or recipient~~ disagrees with the determination of the county department of social services on the value of an asset, then the client ~~applicant/recipient~~ must provide proof of what the value of the asset is;

(5) Proof of designation of liquid assets for burial;

(6) Proof of legally binding agreement limiting resource availability;

(7) Proof of valid social security number or application for a social security number;

(8) Proof of reserve reduction when resources exceed the allowable reserve limit for Medicaid;

(9) Proof of earned and unearned income, including deductions, exclusions, and operational expenses when the applicant or caseworker ~~Income Maintenance Caseworker~~ has or can obtain the verification; and

(10) Any other information for which the applicant does not know or cannot give an estimate.

(c) The county department of social services shall be responsible for verifying or obtaining ~~verify or obtain~~ an item of information when:

(1) A fee must be paid to obtain the verification;

(2) It is available within the agency;

(3) The county department of social services is required by federal law to assist or to use interagency or intra-agency verification aids;

(4) The applicant requests assistance; or

(5) A representative does not accept responsibility for obtaining the information and the applicant is:

(A) ~~The applicant is~~ physically or mentally ~~, or otherwise~~ incapable of obtaining the information; ~~information,~~ or ~~is~~

(B) unable to speak English or read and write in English; ~~write,~~ or ~~is~~

(C) housebound, hospitalized, or institutionalized. ~~institutionalized, and a representative does not accept responsibility for obtaining the information.~~

History Note: *Authority G.S. 108A-54; 108A-54.1B; 108A-70.37; 42 C.F.R. 435.911; 435.912; 435.952; Alexander v. Flaherty, V.S.D.C., W.D.N.C., File No. C-C-74-183, Consent Order Filed 15 December 1989; Alexander v. Flaherty Consent Order filed February 14, 1992; Alexander v. Bruton Consent Order dismissed Effective February 1, 2002;*
Eff. September 1, 1984;
Amended Eff. April 1, 1993; August 1, 1990;

Temporary Amendment Eff. March 1, 2003;
Amended Eff. August 1, 2004;
Transferred from 10A NCAC 21B .0203 Eff. May 1, 2012; ~~2012.~~
Readopted Eff. May 2019.

NC DEPARTMENT OF
HEALTH AND
HUMAN SERVICES
Division of Health Benefits

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
DAVE RICHARD • Deputy Secretary, NC Medicaid

MEMORANDUM

TO: Office of State Budget and Management

FROM: Ryan Eppenberger, Interim DHB Rulemaking Coordinator

DATE: November 6, 2018

RE: Federal Certification for N.C. Department of Health and Human Services, Division of Health Benefits (DHB) Rule Readoption Subchapter 23C – Application for Medicaid Benefits

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

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10A NCAC 23C .0201 is proposed for readoption to be compatible with federal regulations governing Medical Assistance Programs. This rule applies to application processing standards for Medicaid Benefits.

Regulation by the State of North Carolina of application processing standards is subject to the provisions of 42 CFR Part 435, Subpart J (Eligibility in the States and District of Columbia). The readoption of the above-named rule is necessary to comply with these federal regulations.