

1 10A NCAC 21A .0304 is proposed for adoption as follows:  
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3 **CHAPTER 21 MEDICAL ASSISTANCE ADMINISTRATION**  
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5 **SUBCHAPTER 21A GENERAL PROGRAM ADMINISTRATION**  
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7 **10A NCAC 21A .0304 CONDUCTING DEPARTMENT APPEAL HEARINGS BY TELEPHONE OR**  
8 **ELECTRONIC MEANS**

9 For public assistance and social services de novo appeals, including appeals of cases involving disability filed pursuant  
10 to G.S. 108A-79(i):

11 ~~(a)(1) The Department shall conduct the appeal hearing by telephone or other electronic means with the~~  
12 ~~parties attending at the county department of social services with jurisdiction over the case in~~  
13 ~~accordance with the mode of hearing selected by the appellant at the time the appeal is filed.~~

14 ~~(b)(2) The appellant must select the mode of the hearing at the time the appeal is filed.~~

15 (3) The county department of social services case worker shall notify the Department of the appeal by  
16 submitting the completed Request for State Appeal form with the following information:

17 (a) the date of appeal request;

18 (b) the appellant's name;

19 (c) the appellant's social security number and date of birth;

20 (d) the appellant's mailing address and telephone number;

21 (e) the date of application;

22 (f) the mode of hearing selected by the appellant;

23 (g) the appellant's email address, if the appellant requests a remote video hearing;

24 (h) selection of representative(s);

25 (i) the representative(s)' name and title;

26 (j) the representative(s)' mailing address and phone number;

27 (k) the representative(s)' email address;

28 (l) statement of reasonable accommodations required for the appellant to participate in the  
29 State hearing;

30 (m) indication of the program being appealed;

31 (n) identification of the issue being appealed at the State hearing; and

32 (o) indication of requested continuation of benefits, if applicable.

33 (q) The county department of social services case worker shall attach to the Request for State  
34 Appeal the following documents:

35 (i) a copy of the DSS notification letter that prompted the appeal;

36 (ii) local appeal hearing summary and decision, if applicable;

37 (iii) a copy of the D4037 Medicaid Disability Determination Transmittal;

- 1                    (iv) a copy of the DMA-5135 and related medical records, if applicable;  
2                    (v) a copy of relevant documents related to the appeal;  
3                    (vi) a copy of the DSS-1473A Addendum for Program Integrity, if applicable; and  
4                    (vii) a copy of the DSS-1473B Addendum & Medical Evidence if the appeal is an  
5                    Expedited Medicaid Appeal.

6                    (5) Based on the mode of hearing the appellant selected at the time the appeal was filed, the hearing  
7                    officer and the parties shall attend either:

- 8                    (a) in person at the county department of social services with jurisdiction over the case; or  
9                    (b) remotely by telephone or other electronic means.

10                  (6) If the appellant does not select a mode of hearing at the time the Request for State Appeal form is  
11                  filed, the hearing shall be conducted by telephone or other electronic means.

12                  (7) In the case of a disaster declaration by the President of the United States or the Governor, a national  
13                  emergency declaration by the President of the United States, or a state of emergency declaration  
14                  under G.S. 166A-19.3(19), the mode of hearing shall be by telephone or other electronic means.

15                  (8) The Department shall notify the appellant of the hearing by First Class U.S. Mail.

16                  ~~(e)(9) In the case of an emergency that causes a county department of social services to be closed to the~~  
17                  ~~public, the parties shall attend by telephone or other electronic means.~~ The county department of  
18                  social services shall make available by electronic mail, U.S. Mail or physical pick up the case file  
19                  materials the appellant is entitled to examine pursuant to G.S. 108A-79(i)(1).

20                  ~~(d)(10) The Department shall continue such the appeal hearing as necessary to fulfill procedural rights of~~  
21                  ~~the appellant as defined by 42 CFR 431.242, which is incorporated by reference including~~  
22                  ~~subsequent amendments and editions, and available free of charge at <https://www.ecfr.gov>.~~

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24                  History note: Authority G.S. 108A-54; 108A-79; 108A-80(d); 42 CFR 431.205; 42 CFR 431.240; 42 CFR  
25                  431.242;

26                  Emergency Adoption Eff. May 4, 2020;

27                  Temporary Adoption Eff. June 26, 2020;

28                  Temporary Adoption Expired Eff. April 11, 2021;

29                  Eff. October 1, 2021 February 1, 2022.