



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME: 35

ISSUE: 23

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [HHS - Division of Health Benefits](#)

2. Link to agency website pursuant to G.S. 150B-19.1(c): <https://medicaid.ncdhhs.gov/meetings-and-notices/rules-actions>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION: [10A NCAC 21A .0304](#)

AMENDMENT:

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [10/01/2021](#)

5. Is a public hearing planned? [Yes](#)
If yes:

Date	Time	Location
06/17/2021	10am	Join by dialing (877) 336-1839, entering access code 3956100.

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

Pursuant to GS 108A-79(i) (Public Assistance and Social Services Appeals and Access to Records) and 108A-54 (Authorization of Medical Assistance Program; administration), the Department is authorized to adopt rules to implement the program including appeals processes. DHB wishes to permit Medicaid hearing officers to conduct appeal hearings by electronic means with the parties attending at the DSS office in order to streamline disposition, reduce staff time spent on travel, and offer alternative means of holding hearings in the event a local DSS office is closed due to emergency.

Pursuant to G.S. 150B-21.2(c)(8) a copy of the fiscal note may be obtained from DHB.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: [Shazia Keller](#)
Address: [1985 Umstead Drive](#)
[Raleigh, NC 27699](#)
Phone (optional): [919-218-1372](#)
Fax (optional):
EMail (optional) MedicaidRulesComments@dhhs.nc.gov

10. Comment Period Ends: 08/02/2021

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

[State funds affected](#)
[Approved by OSBM](#)

12. Rule-making Coordinator:

Name: [Shazia Keller](#)
[919-855-4019](#)
shazia.keller@dhhs.nc.gov

Agency contact, if any:

Name: [Shazia Keller](#)
Phone: [919-218-1372](#)
Email: shazia.keller@dhhs.nc.gov

13. The Agency formally proposed the text of this rule(s) on

Date: 05/07/2021

1 10A NCAC 21A .0304 is proposed for adoption as follows:

2
3 **10A NCAC 21A .0304 CONDUCTING DEPARTMENT APPEAL HEARINGS BY TELEPHONE OR**
4 **ELECTRONIC MEANS**

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

7 (a) The Department shall conduct the appeal hearing by telephone or other electronic means with the
8 parties attending at the county department of social services with jurisdiction over the case.

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

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

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

17
18 *History note: Authority G.S. 108A-54; 108A-79; 108A-80(d); 42 CFR 431.205; 42 CFR 431.240; 42 CFR*
19 *431.242;*
20 *Emergency Adoption Eff. May 4, 2020;*
21 *Temporary Adoption Eff. June 26, 2020.*
22 *Eff. October 1, 2021.*