



NOTICE OF TEXT

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

OAH USE ONLY

VOLUME: 36

ISSUE: 10

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-notices/rules-actions>

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

ADOPTION:

AMENDMENT: [10A NCAC 23A .0102](#)

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [03/01/2022](#)

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

Date	Time	Location
12/01/2021	11:30 am	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):

The definition of "Caretaker Relative" is being removed from rule 10A NCAC 23A .0102. This term is no longer used in any other rule and conflicts with the definition in the North Carolina Medicaid State Plan.

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 A. Keller](#)
Address: [NC DHHS Division of Health Benefits, 2501 Mail Service Center](#)
[Raleigh, NC 27699-2501](#)
Phone (optional): [919-218-1372](#)
Fax (optional):
EMail (optional) MedicaidRulesComments@dhhs.nc.gov

10. Comment Period Ends: [01/14/2022](#)

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

[No fiscal note required](#)

12. Rule-making Coordinator:

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

Agency contact, if any:

Name:
Phone:
Email:

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

Date: [10/20/2021](#)

1 10 NCAC 23A .0102 is proposed for amendment as follows:
2

3 **10A NCAC 23A .0102 DEFINITIONS**

4 For purposes of this Chapter, the following definitions apply:

- 5 (1) "M-AA" means a program of medical assistance to persons 65 years of age and older, and also
6 means the assistance itself.
- 7 (2) "M-AB" means a program of medical assistance to blind persons, and also means the assistance
8 itself.
- 9 (3) "M-AD" means a program of medical assistance to disabled persons less than 65 years of age, and
10 also means the assistance itself.
- 11 (4) "M-AF" means a program of medical assistance for families and children, and also means the
12 assistance itself.
- 13 (5) "M-IC" means a program of medical assistance for infants and children, and also means the
14 assistance itself.
- 15 (6) "M-PW" means a program of medical assistance for pregnant women, and also means the
16 assistance itself.
- 17 (7) "M-QB" means a program of medical assistance for qualified Medicare beneficiaries described at
18 42 U.S.C. 1396d(p), and also means the assistance itself.
- 19 (8) "AFDC" means a program of assistance for families with dependent children, and also means the
20 assistance itself.
- 21 (9) "AFDC-MA" has the same meaning as "M-AF".
- 22 (10) "Adequate Notice" means a written notice to inform the client of intended action. The client must
23 receive this notice no later than the effective date of the action.
- 24 (11) "Advance Notice" means a written notice to inform the client at least 10 work days prior to
25 terminating assistance, beginning or increasing a deductible, or beginning or increasing patient
26 monthly liability.
- 27 (12) "Agency" means the Division of Health Benefits and the county departments of social services,
28 unless separately identified.
- 29 (13) "Appeal" means an oral or written request from a client for a hearing to review the action of a
30 county department of social services or the disability decision when the client is dissatisfied with
31 the decision in his case.
- 32 (14) "Application" means a written request for assistance on a form prescribed by the state that is
33 signed under penalty of perjury by a client or an individual authorized by the client to be his
34 representative for establishing his eligibility for medical assistance.
- 35 (15) "Authorization Period" means the period for which all conditions of eligibility have been
36 established and for which the client is authorized to receive a Medicaid card and benefits.
- 37 (16) "Award Letter" means a statement to an individual from a governmental or private agency
38 indicating benefits for which he is eligible.

1 (17) "BENDEX" means Beneficiary Data Exchange with the Social Security Administration for social
2 security status and amount of benefits.

3 (18) "Budget Unit" means all persons whose income and needs are considered in the determination of
4 eligibility for Medicaid.

5 ~~(19) "Caretaker Relative" means a parent or a person in one of the following groups with whom a child
6 lives:~~

7 ~~(a) any blood relative, including those of half blood, and including first cousins,
8 nephews, or nieces, and persons of preceding generations as denoted by prefixes of
9 grand, great, or great-great;~~

10 ~~(b) stepfather, stepmother, stepbrother, and stepsister;~~

11 ~~(c) persons who legally adopt a child, their parents as well as the natural and other
12 legally adopted children of such persons, and other relatives of the adoptive parents
13 in accordance with state law;~~

14 ~~(d) spouses of any persons named in the groups in Subitem (19)(a) – (c) of this Rule
15 even after the marriage is terminated by death or divorce.~~

16 ~~(19)(20)~~ "Certification Period" means the months for which eligibility is being established.

17 ~~(20)(21)~~ "Client" means any applicant for or recipient of Medicaid, or someone who makes inquiries, is
18 interviewed, or has been otherwise served or someone acting for the client.

19 ~~(21)(22)~~ "Client Information" or "Client Record" means any information, including information stored in
20 computer data banks or computer files relating to a client that was received in connection with the
21 performance of any function of the agency.

22 ~~(22)(23)~~ "Collateral" means a person or agency who can substantiate or verify information necessary to
23 establish eligibility.

24 ~~(23)(24)~~ "Contiguous Property" means real property with boundaries joining the homesite of the client.

25 ~~(24)(25)~~ "Court Order" means any written order from a judge or a written document from a judicial
26 official that explicitly directs the release of client information.

27 ~~(25)(26)~~ "Deductible" means the amount that the client or budget unit member must personally spend or
28 incur for medical expenses before he can be authorized to receive a Medicaid card and services
29 that may be billed to the Medicaid program.

30 ~~(26)(27)~~ "Delegated Representative" means a staff member designated by the director to carry out the
31 responsibilities established by the rules in this Subchapter. Designation is implied when the
32 assigned duties of an employee require access to confidential information.

33 ~~(27)(28)~~ "Deprivation" means the lack of support or care from one or both parents (including adoptive
34 parents) of a dependent child, as a result of the absence, incapacity, unemployment, or death of
35 either parent.

1 ~~(28)~~(29) "Director" means the head of the Division of Health Benefits or the county department of social
2 services.

3 ~~(29)~~(30) "Disregard of Earned Income" means the procedure for exempting portions of earned income as
4 a resource when determining the amount of payment.

5 ~~(30)~~(31) "Documentary Evidence" means information or records that can be relied on to prove the client's
6 statements of fact.

7 ~~(31)~~(32) "Effective Date" means the date on which an action will take effect.

8 ~~(32)~~(33) "Equity" means the tax value of a resource less the amount of debts, liens, or other encumbrances.

9 ~~(33)~~(34) "Excluded Income" means money received by a member of the budget unit that is not counted in
10 determining eligibility for assistance.

11 ~~(34)~~(35) "Foster Care Resource" means any private home or facility licensed to provide full time care to
12 children.

13 ~~(35)~~(36) "Fraud" means an act in which a client makes false statements or withholds information willfully
14 and knowingly with the intent to deceive, or both, and as a result obtains assistance for which he is
15 not eligible.

16 ~~(36)~~(37) "Full-Time Student" means a student so designated by the school in which he is enrolled.

17 ~~(37)~~(38) "Good Cause" includes death, incapacity, hospitalization of the applicant/recipient (a/r), failure
18 to receive written notice, or failure of a representative acting on the a/r's behalf to meet required
19 timeframes.

20 ~~(38)~~(39) "Grandfathered Status" means Medicaid eligibility based on the individual's status as a blind or
21 disabled client or as an essential spouse of aged, blind, or disabled client in December, 1973.

22 ~~(39)~~(40) "Greater Weight of Evidence" means evidence of such quality as to persuade an ordinary and
23 prudent person of the truth or falsity of a statement.

24 ~~(40)~~(41) "Guardian" means an individual, corporation, or disinterested public agent appointed by the clerk
25 of superior court to replace an individual's authority to make decisions about his person, family, or
26 property when the individual does not have adequate capacity to make such decisions and has
27 been adjudicated incompetent. A guardian may be a guardian of the person, a guardian of the estate,
28 or a general guardian which is guardian of both the person and the estate.

29 ~~(41)~~(42) "HCT (Healthy Children and Teens)" means a program which provides health screenings and
30 treatment for clients from birth through age 20.

31 ~~(42)~~(43) "Incapacity" has the same meaning as in the North Carolina State plan approved under Part A of
32 Title IV of the Social Security Act as in effect on July 16, 1996, as is required by 42 U.S.C. 1396u-
33 1.

34 ~~(43)~~(44) "Income" means money that is available to members of the budget unit for their needs.

35 ~~(44)~~(45) "Income, Earned" means money received as a result of employment.

36 ~~(45)~~(46) "Income, Gross" means total income before allowable deductions.

37 ~~(46)~~(47) "Income, Net" means income after all allowable deductions.

1 ~~(47)~~(48) "Income, Unearned" means money received from any source other than employment.

2 ~~(48)~~(49) "Incompetent Adult" means an adult who lacks sufficient capacity to manage his own affairs or
3 to make or communicate decisions concerning his person, family, or property whether such lack of
4 capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, senility,
5 disease, injury, or similar cause or condition.

6 ~~(49)~~(50) "Inmate of a Public Institution" means a person who lives in an institution that is the
7 responsibility of a governmental unit or over which a governmental unit exercises administrative
8 control and that provides treatment or services, food and shelter.

9 ~~(50)~~(51) "Institutionalized Spouse" means an individual who:

10 (a) is in a medical institution or nursing facility or who is described under 42 U.S.C. 1396a
11 (a)(10)(A)(ii)(VI); and

12 (b) is married to an individual who is not in a medical institution or nursing facility; but does
13 not include any such individual who is not likely to meet the requirements of Subitem
14 (51)(a) for at least 30 consecutive days.

15 ~~(51)~~(52) "Life Estate Interest" means the right to use property and receive income from the property for
16 the remainder of one's life.

17 ~~(52)~~(53) "Long-Term Care" means care in:

18 (a) general or specialty hospital in excess of 30 continuous days;

19 (b) a state mental hospital; (c) a skilled nursing facility; or

20 (c) an intermediate care facility.

21 ~~(53)~~(54) "Patient Monthly Liability" means the amount of a long-term care patient's income that must
22 be paid towards his cost of care.

23 ~~(54)~~(55) "Remainder Interest" means ownership interest in property that will be inherited in full or
24 jointly with other remainder interest holders at a life interest holder's death.

25 ~~(55)~~(56) "Representative" means a person who is authorized by the client to act on behalf of the client.

26 ~~(56)~~(57) "Reserve" means assets owned by members of the budget unit and that have a market value.

27 ~~(57)~~(58) "Residence" means the county where a client lives with intent to remain for an indefinite time as
28 governed by 10A NCAC 23E .0103. Also, an individual under age 21 has the residence of the
29 person with whom he resides unless he is in the custody of a social services agency, in which case
30 he is a resident of the county of the custodial agency.

31 ~~(58)~~(59) "Revocable Trust" means funds held in trust that are available for the client's use.

32 ~~(59)~~(60) "RSDI (Retirement, Survivors, Disability Insurance)" means social security benefits.

33 ~~(60)~~(61) "SDX" means State Data Exchange with the Social Security Administration for the purpose of
34 providing a listing of all persons receiving supplemental security income, their current payment
35 status and amount of SSI and other sources of income.

36 ~~(61)~~(62) "SSI" means Supplemental Security Income, a federal assistance payment for aged, blind and
37 disabled persons administered by the Social Security Administration.

1 (62)(63) "Stepparent" means that a person is not the parent of a child but the person is married to the
2 parent of the child who wants to receive Medicaid.

3 (63)(64) "Timely Notice" means the same as "Advance Notice".

4 (64)(65) "Time Standard" means the requirement to process an application within 45 or 90 days from the
5 date of application in accordance with 42 C.F.R. 435.911.

6 (65)(66) "Verification" means the confirmation of facts and information used in determining eligibility.

7
8 *History Note: Authority G.S. 108A-25(b); 108A-54; P.L. 99-509; P.L. 100-360; P.L. 100-485; 42*
9 *C.F.R.*

10 *431.211;*

11 *42 C.F.R. 431.214; Alexander v. Bruton, U.S.D.C., File No. C-C-74-183-M, Consent Order*
12 *dismissed effective February 1, 2002;*

13 *Eff. September 1, 1984;*

14 *Amended Eff. August 1, 1990;*

15 *Temporary Amendment Eff. March 1, 2003;*

16 *Amended Eff. August 1, 2004;*

17 *Transferred from 10A NCAC 21A .0201 Eff. May 1, 2012;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July*
19 *23, 2016;*

20 *Amended Eff. March 1, 2020; March 1, 2022.*