

**Revised Impact Analysis – Proposed Rule Change
January 2019**

Agency: DHHS/Division of Child Development & Early Education
Contact: Elizabeth Everette (919) 527-6598/Dedra Alston (919) 527-6502
Rule Title: 10A NCAC 10 Subsidized Child Care Rules

Statutory Authority: G.S. 143B-10; 143B-153; 143B-153(2a); 143B-153(8)a; 150B-23

State Impact: Yes
Local Impact: Yes
Substantial Economic Impact: Yes
Private Sector Impact: Yes

I. Necessity, Purpose, and Background:

The North Carolina Social Services Commission and the Division of Child Development and Early Education propose to readopt rules in 10A NCAC 10 in accordance with G.S. 150B-21.3A as part of the periodic review of rules process. The proposed rules direct the purchase of child care services with state and federal child care funds administered by the Division through the Subsidized Child Care Assistance Program.

The Commission and the Division also propose to repeal rules .0201, .0202, .0301, .0306, .0311, .0312, .0501, .0502, .0503, .0504, .0505, .0506, .0701, .0901, .0902, .0903, .0908, .1003, and .1005. In addition to repealing many rules, there are also many rules that were rearranged and collapsed to provide greater clarity and understanding to the rules. There is no new substance to these rules nor is there a fiscal impact.

The Commission and the Division proposes:

Adoptions:

- .1201 Definitions
- .1202 Notice
- .1203 Appeal to the Local Purchasing Agency
- .1204 Operator Appeal to Division of Child Development and Early Education

Readoptions:

- .0101 Scope
- .0102 Definitions
- .0203 Rates for Subsidized Child Care
- .0307 Reimbursement
- .0310 Requirements for the Administration of the Subsidized Child Care Program
- .0601 Standards for Centers Participating in the Subsidized Child Care Program
- .0904 Optional Provision of Services
- .0905 Support to Employment: Training for Employment
- .0906 Support for Protective and Child Welfare Services
- .0907 Promote Child’s Development
- .0909 Parental Freedom of Choice
- .0910 Definition of Special Needs Child
- .1001 Basic Eligibility Criteria
- .1002 Income Eligible Status
- .1004 Without Regard to Income

- .1006 Determination of Income Eligibility
- .1007 Requirements for Determination and Redetermination of Eligibility
- .1101 General Fee Policy
- .1102 Amount and Collection of Client Fees
- .1103 Adjustments in Fees

Repeals:

- .0201 Applicability
- .0202 Payment Rates
- .0301 Definition of Fund
- .0306 Allocation
- .0311 Provider Appeal to Local Purchasing Agency
- .0312 Appeal to Division of Child Development and Early Education Subsidy Services Review Panel
- .0501 Scope
- .0502 Approval
- .0503 Length of Contract
- .0504 Administration of Funds
- .0505 Administration of Program
- .0506 Records
- .0701 Standards for Family Child Care Homes Participating in the Subsidized Child Care Program
- .0901 Scope
- .0902 Methods of Service Provision
- .0903 Definition of Service
- .0908 Limitations
- .1003 Adjustments in Fees
- .1005 Responsibility for Eligibility Determination

II. Summary of Proposed Rule Changes:

Rules with No Fiscal Impact

Rule	Changes and Rationale	Impact
.0101 Scope	Readopt as written	No fiscal impact
.0102 Definitions	Added definition for funds, legal guardian, North Carolina Families Accessing Services Through Technology (NC FAST), recipient fees, and supplemental payment	No substantive change or fiscal impact
.0203 Rates for Subsidized Child Care	Clarified language in rule	No substantive change or fiscal impact
.0310 Requirements for the Administration of the Subsidized Child Care Program	Changed name of program throughout rule language; clarified language in rule	No substantive change or fiscal impact

.0601 Standards for Centers Participating in the Subsidized Child Care Program	Clarified language in rule	No substantive change or fiscal impact
.0904 Availability of Funding	Clarified language in rule	No substantive change or fiscal impact
.0906 Support for Protective and Child Welfare Services	Clarified language in rule	No substantive change or fiscal impact
.0907 Promote Child's Development	Clarified language in rule	No substantive change or fiscal impact
.0909 Parental Freedom of Choice	Clarified language in rule	No substantive change or fiscal impact
.0910 Definition of Special Needs Child	Clarified language in rule	No substantive change or fiscal impact
.1001 Basic Eligibility Criteria	Clarified language in rule	No substantive change or fiscal impact
.1002 Income Eligible Status	Clarified language in rule	No substantive change or fiscal impact
.1004 Without Regard to Income	Clarified language in rule	No substantive change or fiscal impact
.1006 Determination of Income Eligibility	Clarified language in rule	No substantive change or fiscal impact
.1007 Requirements for Determination and Redetermination of Eligibility	Changed school to training or an education program to provide great clarity	No substantive change or fiscal impact
.1101 General Fee Policy	Clarified language in rule	No substantive change or fiscal impact
.1103 Adjustments in Fees	Clarified language in rule	No substantive change or fiscal impact
.1201 Definitions	Added definitions for Appeals Section	No substantive change or fiscal impact

.1202 Notice	Clarified language in rule	No substantive change or fiscal impact
.1204 Operator Appeal to Division of Child Development and Early Education	Clarified language in rule	No substantive change or fiscal impact

Rules with Fiscal Impact

Rule	Changes	Rationale
.0307 Reimbursement	Changed language about how attendance is entered in order to reimburse providers for services provided.	The SCCA Program previously used the Subsidized Child Care Reimbursement System which required Local Purchasing Agencies to key attendance information directly into the system. The Program is now using NC FAST which requires that providers enter attendance directly into the NC FAST Provider Portal.
.0905 Support to Employment: Training for Employment	Clarified language in rule: changed post-secondary education maximum from 2 years to 20 months.	The post-secondary education maximum was changed to 20 months to reflect current NC legislation. 2025 families currently in post-secondary education that will lose 4 months of subsidy payments. The 4 months of subsidy payments is savings to state offset by cost to families.
.1007 Requirements for Determination and Redetermination of Eligibility	Changed school to training or an education program to provide greater clarity; changed time limit for continued assistance from 90 days to 12 months if a family's income exceeds the State's income eligibility limits but is at or below 85% State Median Income at the time of redetermination.	The limit of continued services was changed from 90 days to 12 months to align with federal rule which requires continued eligibility for 12 months when a family's income exceeds the State's eligibility limits but is at or below 85% State Median Income at the time of redetermination.
.1102 Amount and Collection of Client Fees	Clarified language in rule: changed language about collection of recipient fees	The SCCA Program previously used the Subsidized Child Care Reimbursement System which disregarded any recipient fee that was less than \$5.00. The Program

		is now using NC FAST which assesses a recipient fee at any amount. The removal of fee waiver will be a surplus to providers offset by the cost to the families.
.1203 Appeal to the Local Purchasing Agency	Changed name of rule; clarified language in the rule; separated appeals process for operators and recipients.	This change was made in the rule to provide clarity of the exact process for operator appeals and recipient appeals as the two appeal processes are not exactly the same. The impact of separating to a two-appeal process is unknown; possibly no change.

Impact:

.0307 Reimbursement

The primary impact for the changes in these rules involves the onboarding of the subsidized child care program into the North Carolina Families Accessing Services through Technology (NC FAST) program. This project is designed to improve and streamline the subsidized child care program application process, provide better case management capabilities across services, and incorporate a new process for collecting and assuring time and attendance within the subsidized child care program. NC FAST will include a provider self-service component known as the Provider Portal. This portal will be used by providers to enroll in the Subsidized Child Care Assistance program, accept children into their care, update rates for services, and record attendance.

The change to Rule .0307 Reimbursement involves the provision that NC FAST is utilized for provider enrollment, recording of attendance and payment reimbursement. The transition to an electronic system for provider enrollment, attendance, and reimbursement is expected to decrease the amount of time necessary to complete these tasks. Based on surveys of county staff that currently perform these functions manually, electronic enrollment through the Provider Portal is estimated at to save 30 minutes on this function. Electronic check processing will reduce staff time requirements by approximately 40 hours per month per county.

The major impact will involve the shifting of responsibility from the County Social Service Agencies to the local providers and the State. The Counties will no longer have the responsibility of provider enrollment, entering attendance, and processing reimbursement checks. This time savings, estimated based on county staff surveys, is estimated at \$1.25M per year.¹

Provider enrollment and entering of attendance into the NC FAST system will be the responsibility of the providers. The estimated cost of the time it will take providers to complete these tasks in the new electronic system, based on surveys of county staff currently performing these tasks manually, is \$426 thousand per

¹ All calculations of hourly wages for county and provider time are based the average child care administrator hourly wage reported in the *Working in Early Care and Education in North Carolina 2015 Workforce Study*. Wage growth projections were based on IHS Market’s regional industry wage projections for North Carolina, for the health care and social assistance industry. Finally, national data from the Bureau of Labor Statistics on wages and benefits for this industry group were used to estimate total compensation costs. See industry data here: <https://www.bls.gov/iag/tgs/iag62.htm#about>.

year. Providers estimate that it takes 1.5 minutes per child to enter attendance, which would result in an estimated cost of \$441 thousand per year¹.

The electronic reimbursement will be the responsibility of the State through a contract with FIS, estimated at \$33 thousand per year. (a monthly maintenance cost of \$2000 fee plus 20 cents per provider)².

While the subsidized child care program will be administered through NC FAST, the technology system was developed to serve similar functions for multiple programs and Divisions within DHHS. It is difficult to isolate and apportion the cost of the functions discussed above from the overall costs of the agency-wide project. The estimated cost of developing the NC FAST system for the Division was \$51.3 million, with an additional \$3.7M spent on training in the new system (including the cost of the time that 100 counties and 3838 providers spent in training). Ongoing operation and maintenance costs are estimated at \$2.3M per year, assuming that the Division’s ongoing operation and maintenance costs are proportional to its development costs (10% of entire project).³

However, these estimated costs for the Division include the cost of integrating Low Income Energy Assistance Program (LIEAP) and Crisis Intervention Program (CIP) programs into the system, as well as the Subsidized Child Care program. Child care is the largest of these programs and presumably accounts for the greatest portion of the costs. However, the Division is unable to further disaggregate the costs by program. Therefore, the net time savings from transitioning the Subsidized Child Care program’s administrative processes into NC FAST, described above, should not be compared to the Division’s costs for developing and maintaining the system directly; these figures provide a conservatively high estimate of the state’s total costs. Given these data limitations, the Division is unable to determine whether the benefits of integrating the Subsidized Child Care program into this system exceed the costs. However, as mentioned above, NC FAST will provide administrative and case management functions for multiple programs crossing several Divisions of DHHS. Quantifying and monetizing the secondary benefits of a centralized, electronic system are beyond the scope of this analysis.

.1102 Amount and Collection of Client Fees

Another change due to NC FAST is the removal of the fee waiver for fees under \$5. NC FAST assesses a recipient fee at any amount. The removal of fee waiver will be a surplus of \$61 thousand to providers annually, offset by the cost of the same amount incurred by the families, resulting in an overall fiscal impact of \$0.⁴

Net Impact of Rules .0307 and .1102 by Entity

Entity	NC FAST development and training costs to date	NC FAST implementation FY18-19 and beyond (annual)
Providers	\$(3,640,000)	\$(426,000)
Counties	\$(95,000)	\$1,250,000
Families	\$-	\$(61,000)
State Government Includes Subsidized Child Care, LIEAP, CIP	\$(51,280,000)	\$(2,303,000)

² Data provided by DHHS’s Program Compliance Section

³ The estimated costs of NC FAST are based on calculations performed by the NC Office of State Budget and Management on the total costs of NC FAST provided by DHHS’s Budget and Analysis.

⁴ Based on an average fee of \$2.50 for the 24, 12 families currently in the system with fees under \$5.

.1007 Requirements for Determination and Redetermination of Eligibility

This rule addresses when a family’s income at redetermination exceeds the State’s income eligibility limits but is at or below 85% of State Median Income. When this happens, the family receives another 90 days of continued services. This time limit has been changed from 90 days to 12 months. This change is being made to align with the Child Care and Development Fund, 45 CFR 98.21, that requires all families to receive 12 months of continued eligibility. Although this change is being made in response to federal requirements, this change will have a positive impact on families by allowing them time to make a more manageable transition out of subsidy. Changing the graduated phase out from 90 days to 12 months will add an additional 9 months of service which does not have a direct fiscal impact on the state; however, it will on families that remain on the waitlist that would have been able to move off the waitlist and receive subsidy. Extending the phase-out for families may help ensure that they will establish the structure they need to remain at their non-eligible status and not need to return to needing services. It is the hope that gradually, over time, as more families continue to phase out, fewer families will need subsidized care. However, there will be an interim cost to families that are remaining on the wait list during the extended phase out. Families that would have received services will now have to wait for their services to begin, while the phase out families receive their extended services.

The average monthly subsidy payment = \$440.49.

There are approximately 86 cases that go into graduated phase out each month across the state.

Assuming 86 cases initiate the graduate phase-out per month and the payment for an additional 9 months, there will be 6192 cases per year.

Based on the average monthly subsidy payment, this will be a cost of $\$440.49 \times 6192 = \$2,727,514$

Entity	Old Rule	New Rule	Difference (Impact of Rule Change)
State gov	\$2,727,514	\$2,727,514	0
Child care providers	\$2,727,514	\$2,727,514	0
Phase-out Families	-\$2,727,514	\$2,727,514	\$2,727,514
Wait List Families	\$2,727,514	-\$2,727,514	-\$2,727,514

1

.0905 Support to Employment: Training for Employment

This rule stipulates that the length of time recipients in post-secondary education receive subsidy payments will be reduced from 24 months to 20 months, to reflect statutory changes (S.L. 2011 – 145 10.1.(c)). While the statutory change was implemented into policy in 2011, it is presently being codified in Rule. This necessitates calculating the present and ongoing impact of this change.

Currently, there are an estimated 2025 subsidy recipients in post-secondary education. This reduction of the length of time receiving subsidy payments from 24 to 20 months will result in a savings to state of 4 months of subsidy payments (approximately \$3.6 million per year)⁵.

However, this amount will become a cost to families of a loss of 4 months of subsidy payments. In addition, families will either incur the full cost of child care payments at the market rate, rather than the subsidized

⁵ The average subsidy payment \$440.49 multiplied by the number of recipients currently receiving post-secondary education (2025)

rate or forego services at their current provider⁶. Lack of access to quality child care could affect educational and employment outcomes for recipients. The Division is unable to predict how families will respond to the reduction in subsidy payments. Therefore, the analysis below presents the impact to families for 4 months of child care at market rates, an estimated cost of \$4.5 million per year.

Child care providers would benefit from receiving market rates rather than subsidized rates for those 4 months, estimated at a maximum of \$944 thousand per year.

Net Impact of Rule .0905 by Entity

Entity	FY18-19 and Beyond
State Government	\$3,600,000
Providers	\$944,000
Families	\$(4,500,000)
Total	\$-

Uncertainties:

Rule .0905 stipulates that the length of time recipients in post-secondary education receive subsidy payments will be reduced from 24 months to 20 months, to reflect recent statutory changes (S.L. 2011-145 10.1.(c)). While the analysis above recognizes the loss for families in terms of 4 months of subsidy payment and the potential added cost of incurring the full market rate price for child care, there is uncertainty as to the wider implications of this Rule change. Lack of access to quality child care could affect educational and employment outcomes for recipients. The Division is unable to predict how families will respond to the reduction in subsidy payments. There are unquantifiable potential costs of failing to finish an education program in terms of loss of investment of the time and funds spent attempting to receive the educational training, as well as the potential loss of future income that would have resulted from obtaining the training or credential.

Alternatives:

Despite the substantial impact of this rule, there are no alternatives that can be presented to the changes. The changes above are in response to legislation that necessitated the changes leaving no discretion in implementing the Rule, nor discretion in how the Rule is implemented.

⁶ The average market rate for a 4-Star child care multiplied by the number of recipients currently receiving post-secondary education (2025)

CHAPTER 10 – SUBSIDIZED CHILD CARE RULES

SECTION .0100 - IDENTIFYING AND GENERAL INFORMATION

1 **10A NCAC 10 .0101 SCOPE**

2 ~~The rules in this Chapter govern the purchase of child care services with state and federal child care funds administered~~
3 ~~by the Division.~~ The rules in this Chapter shall apply to child care facilities participating in the Subsidized Child Care
4 Assistance Program.

5

6 *History Note: Authority G.S. 143B-10; 143B-153; S.L. 1985, c. 757, s. 155(q);*
7 *Eff. October 26, 1979;*
8 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990; February 1, 1986;*
9 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
10 *2016; 2016;*
11 *Readopted Eff. March 1, 2019.*

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13 **10A NCAC 10 .0102 DEFINITIONS**

14 In addition to the terms defined in G.S. ~~410-86, 110-86(2), (3), (4a), (6), (7), and (8)~~ the following definitions ~~apply~~
15 ~~to the term used in this Chapter.~~ shall apply:

16 (1) "Child with special needs" means:

17 (a) a child who is determined by the Division of Public Health, Children's Developmental
18 Services Agency, to be developmentally delayed or have an established condition pursuant
19 to 10A NCAC 43G .0110, incorporated by reference including subsequent amendments.

20 A copy of the Rule can be found at
21 <http://reports.oah.state.nc.us/ncac/title%2010a%20%20health%20and%20human%20services/chapter%2043%20%20personal%20health/subchapter%20g/10a%20ncac%2043g%20.0110.pdf>

22 (b) a child who is determined by the local educational agency (LEA) to have a disability as
23 defined in G.S. 115C-106.3; or

24 (c) a child who is determined to be a child with special needs by a Local Managing Entity –
25 Managed Care Organization (LME-MCO) as defined in G.S. 122C-3(20b) and (20c).

26 (1)(2) "Director" means the Director of the Division of Child Development and Early Education.

27 (2)(3) "Division" means the Division of Child Development and Early Education, Department of Health
28 and Human Services, located at 820 South Boylan Avenue, Raleigh, North Carolina 27603.

29 (3)(4) "Foster Parent² parent" means anyone other than ~~that~~ a child's parent parent(s) or legal custodian
30 eustodian(s) who is providing full time care for a child who is in the custody of a North Carolina
31 county department of social services.
32
33

- 1 (5) “Funds” means all state and federal funds appropriated and otherwise made available to the
2 Department of Health and Human Services that are administered by the Division of Child
3 Development and Early Education for the Subsidized Child Care Assistance Program.
- 4 (4)(6) ~~“Homeless Children”~~ children” means the definition [as] is defined in section 725(2) of the
5 McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), ~~which is hereby~~ incorporated by
6 reference ~~and includes~~ including subsequent amendments and editions. A copy of the Act can be
7 found at <https://www.gpo.gov/fdsys/pkg/FR-2016-03-17/pdf/2016-06073.pdf>.
- 8 (7) “Legal Guardian” means a person appointed by a court to be legally in charge of the affairs of a
9 minor.
- 10 (5)(8) ~~“Local Purchasing Agency”~~ means the local agency responsible for administering the ~~state’s~~
11 ~~subsidized child care program.~~ Subsidized Child Care Assistance Program.
- 12 (9) “Market Rates” means the child care subsidy market rates set forth in the annual appropriations act.
13 [rates that more than half of private paying parents in the locality are paying for child care.]
- 14 (10) “NC FAST” means the electronic integrated case management system, developed and managed by
15 the North Carolina Department of Health and Human Services.
- 16 (6)(11) ~~“Owner”~~ means any person with a five percent or greater equity interest in a child care facility.
17 ~~center or family child care home as defined in G.S. 110-86(3)b.~~
- 18 (7)(12) ~~“Private Agency”~~ means a ~~private, for profit, profit or non-profit, non-profit~~ non-governmental
19 entity.
- 20 (8)(13) ~~“Provider”~~ means the owner of a child care center or family child care home.
- 21 (9)(14) ~~“Recipient”~~ means the parent or responsible adult approved for subsidized child care ~~services~~
22 assistance pursuant to Section .1000 of this Chapter.
- 23 (15) “Recipient Fee” means that portion of an operator’s payment that is paid to the operator by a
24 recipient approved for subsidy assistance.
- 25 (10)(16) ~~“Subsidized Child Care Assistance Program”~~ means the North Carolina program to assist eligible
26 families in paying the cost of child care services. the administrative, programmatic, and fiscal
27 activities related to the use of public funds to pay for child care services for families.
- 28 (17) “Supplemental Payment” means payment or reimbursement by the Division for additional expenses
29 incurred by the operator to care for a child with special needs.

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31 History Note: Authority G.S. 143B-153(2a);
32 Eff. February 1, 1986;
33 Amended Eff. June 1, 2016; December 1, 2011; April 1, 2001; February 1, 1996. 1996;
34 Readopted Eff. March 1, 2019.
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1 **SECTION .0200 - REQUIREMENTS FOR THE PURCHASE OF CHILD CARE**

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3 **10A NCAC 10 .0201 APPLICABILITY**

4 ~~All child care providers from which child care is purchased for eligible children with child care services funds shall~~
5 ~~adhere to the rules of this Subchapter that apply to that type of provider.~~

6
7 *History Note: Authority G.S. 143B-153(2a);*
8 *Eff. October 26, 1979;*
9 *Amended Eff. April 1, 2001; January 1, 1987; April 1, 1985;*
10 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
11 ~~*2016. 2016;*~~
12 *Repealed Eff. March 1, 2019.*
13

14 **10A NCAC 10 .0202 PAYMENT RATES**

15 ~~(a) Rates for daily care purchased from a child care center shall be established according to the procedures described~~
16 ~~in Rule .0203 of this Section and according to the instructions included in the annual appropriations act.~~

17 ~~(b) The payment rate for child care purchased from a child care home as defined in G.S. 110-86(3) shall be limited to~~
18 ~~the county market rate for home based child care established by the Department in accordance with the annual~~
19 ~~appropriations act.~~

20 ~~(c) The payment rate for child care purchased from a home based child care arrangement which meets the~~
21 ~~requirements established by the Social Services Commission for a nonlicensed child care home, as codified in 10A~~
22 ~~NCAC 10 .0800, shall be limited to the county market rate for home based nonlicensed child care established by the~~
23 ~~Department in accordance with the annual appropriations act.~~

24 ~~(d) The payment rates for daily transportation purchased from any approved provider shall be established by the~~
25 ~~Department in accordance with the annual appropriations act.~~

26 ~~(e) Payment rates for part time care shall be prorated according to the number of hours per day or the number of hours~~
27 ~~per week the child is scheduled to attend. Payment rates for care provided by shift or during the weekend shall be~~
28 ~~limited to the market rate or the provider's private rate, whichever is lower.~~

29 ~~(f) Client fees imposed in accordance with the annual appropriations act shall be subtracted from the county payment~~
30 ~~rate to determine the state payment amount for an individual child.~~

31
32 *History Note: Authority G.S. 143B-153(8)a;*
33 *Eff. January 1, 1987;*
34 *Amended Eff. April 1, 2001; August 1, 1994; July 1, 1990. 1990;*
35 *Repealed Eff. March 1, 2019.*
36

37 **10A NCAC 10 .0203 PAYMENT RATES FOR SUBSIDIZED CHILD CARE**

38 ~~(a) With the exception of Centers that are certified as developmental day centers by the Division, the The payment~~
39 ~~rates for child care facilities eenters, and family child care homes, and nonlicensed child care homes are shall be~~
40 ~~implemented in accordance with the annual appropriations ~~act.~~ act and shall be limited to the market rate or the child~~
41 ~~care facility's private rate, whichever is lower.~~

1 (b) ~~Centers, as defined in G.S. 110-86(3), which~~ For centers that are certified as developmental day centers by the
2 Division of Child Development and Early Education and serve children who meet the definition of special needs set
3 forth in 10A NCAC 10 .0910, ~~are exempt from the provisions of Paragraph (a) of this Rule. The payment~~ the following
4 shall apply:

5 (1) payment rates for ~~special needs~~ children with special needs served in developmental day centers ~~are~~
6 shall be calculated by deducting the total revenues per child per month from the total costs per child
7 ~~month. That rate is shall then be~~ multiplied by the current inflation percentage provided by the
8 Office of State Budget and ~~Management. Management:~~

9 (2) payment rates for ~~For~~ typically developing children ~~enrolled~~ served in developmental day centers
10 ~~the rates~~ shall exclude those costs associated exclusively with serving children with special ~~needs.~~
11 needs; and

12 (3) ~~The payment~~ payment rates for ~~special needs~~ children with special needs and typically developing
13 children served in developmental day centers ~~are~~ shall be calculated every two years and ~~are~~ shall
14 be implemented as state and federal funding allows.

15 (c) ~~Any A facility approved for participation in the Subsidized Child Care Assistance Program Local Purchasing~~
16 ~~Agency (LPA) approved child care provider not included in Paragraph (b) of this Rule who that~~ provides care to
17 children ~~who meet the definition of special needs set forth~~ with special needs, as defined in 10A NCAC 10 .0910
18 .0910, that is not a certified developmental day facility may be paid a ~~supplemental rate above the provider's LPA~~
19 supplement to the facility's approved rate, rate for a particular age group; subject to available funding, as follows:

20 (1) the facility shall submit a request to the Local Purchasing Agency for approval for a supplemental
21 payment;

22 (2) ~~The the~~ supplemental rate payment shall be based on ~~actual~~ additional documented costs incurred
23 by the ~~provider~~ facility in serving the child with special ~~needs. needs, such as learning materials,~~
24 equipment, and additional staff for one-on-one care;

25 (3) ~~The the~~ costs shall be determined by ~~the early intervention specialist, the local education agency's~~
26 ~~exceptional children program specialist, the local purchasing agency;~~ Local Purchasing Agency and
27 the ~~provider~~ facility based on the plan developed to meet the child's individual ~~needs. needs; and~~

28 (4) the Local Purchasing Agency shall submit requests for all one-time supplemental payments in
29 excess of one thousand dollars (\$1,000) and all recurring supplemental payments in excess of three
30 hundred dollars (\$300.00) to the Division. The Division shall approve all requests that the Division
31 determines meet the child's development needs. All other supplemental payments must be approved
32 by the Local Purchasing Agency.

33 (d) ~~The reimbursement of additional fees as charged by centers is limited to registration fees. The payment rate for~~
34 ~~registration fees is determined by the annual appropriations act. Registration fees may not be paid more than twice~~
35 ~~per year per child regardless of the type of center.~~

36 (e) ~~Purchasing agencies may negotiate with child care center providers for purchase of child care services at payment~~
37 ~~rates lower than those prescribed by this Rule, only with approval from the Division. Approval shall be granted if it~~

1 can be determined that a non-negotiated payment rate would have a negative impact on the purchasing agency's ability
2 to purchase subsidized child care services, based on the following factors:

- 3 (1) the number of children on the waiting list for subsidized child care services;
- 4 (2) whether the non-negotiated rates exceed the rates for services paid by private paying families in the
5 service area; and
- 6 (3) the amount of subsidized child care funds available.

7 (d) Payment rates for part time care shall be prorated according to the number of hours the child is scheduled to attend.

8 (e) Recipient fees imposed in accordance with the annual appropriations act shall be subtracted from the facility's
9 payment rate to determine the state payment amount for an individual child.

10 ~~(f) Child care services~~ Subsidized Child Care Assistance funds shall not be used to pay for services provided by the
11 Department of Health and Human Services, Division of Public Health or the Department of Public Instruction,
12 Division of Exceptional Children's ~~Services~~ Services, for that portion of the service delivery costs ~~which~~ that are
13 reimbursed by the Division of Public Health or Department of Public Instruction.

14
15 *History Note:* Authority G.S. 143B-153(8)a; 143B-153(2a);
16 Eff. January 1, 1987;
17 Amended Eff. March 1, 2012; April 1, 2001; February 1, 1996; December 1, 1992; July 1, 1990.
18 1990;
19 Readopted Eff. March 1, 2019.
20

21 **SECTION .0300 - ~~REQUIREMENTS FOR~~ SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM**
22 **REQUIREMENTS SERVICE FUNDS**

23
24 **10A NCAC 10 .0301 DEFINITION OF FUND**

25 "~~Child Care Services Funding~~" means all state and federal funds appropriated and otherwise made available to the
26 Department of Health and Human Services which are administered by the Division of Child Development, to purchase
27 or provide child care services for needy families in programs which have been approved for participation by the
28 Division.

29
30 *History Note:* Authority G.S. 143B-153(2a); S.L. 1985, c. 479, s. 95-97;
31 Eff. October 26, 1979;
32 Temporary Amendment Eff. July 1, 1982, for a period of 120 days to expire on October 28, 1982;
33 Legislative Objection Lodged Eff. July 20, 1982;
34 Amended Eff. April 1, 2001; February 1, 1996; February 1, 1986; August 1, 1982;
35 Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,
36 2016. 2016;
37 Repealed Eff. March 1, 2019.
38

39 **10A NCAC 10 .0306 ALLOCATION**

40 Funds are allocated in accordance with procedures specified with the appropriation. In the absence of such instructions,
41 the funds will be allocated according to rules adopted by the Secretary. All allocation procedures are kept on file in
42 the Division.

1 *History Note: Authority G.S. 143B-153(2a);*
2 *Eff. October 26, 1979;*
3 *Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, 1985. 1985;*
4 *Repealed Eff. March 1, 2019.*
5

6 **10A NCAC 10 .0307 REIMBURSEMENT PAYMENT**

7 ~~Local purchasing agencies shall key information regarding expenditures for subsidized child care services into the~~
8 ~~Division's Subsidized Child Care Reimbursement System on a monthly basis in order for the services to be reimbursed.~~
9 ~~Operators shall enter accurate attendance, as defined in 10A NCAC 10 .0602(b), into the NC FAST Provider Portal~~
10 ~~no later than the fifth day of the month for the preceding month's attendance in order to receive payment for services~~
11 ~~provided.~~

12
13 *History Note: Authority G.S. 143B-153(2a);*
14 *Eff. October 26, 1979;*
15 *Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, 1985. 1985;*
16 *Readopted Eff. March 1, 2019.*
17

18 **10A NCAC 10 .0310 REQUIREMENTS FOR THE ADMINISTRATION OF THE SUBSIDIZED**
19 **CHILD CARE ASSISTANCE PROGRAM**

20 ~~(a) Any agency that administers child care services funding through the state's subsidized child care program shall~~
21 ~~maintain records of administration of the program for a period of three years, following the final report issued to the~~
22 ~~funding agency, or until all audits begun within the retention period are complete, whichever is longer. Each Local~~
23 ~~Purchasing Agency shall maintain records of program administration including recipient records documenting~~
24 ~~eligibility and ongoing service, and provider records related to investigations of fraudulent misrepresentation,~~
25 ~~sanctions, and noncompliance with program requirements. These records shall be retained in accordance with most~~
26 ~~recent Records Retention and Disposition Schedule Spreadsheet issued by the Office of the Controller, North Carolina~~
27 ~~Department of Health and Human Services or until all audits begun within the retention period are complete,~~
28 ~~whichever is longer. The Records Retention and Disposition Schedule Spreadsheet is incorporated by reference,~~
29 ~~including subsequent amendments and editions, and is available free of charge at~~
30 ~~<https://www2.ncdhhs.gov/control/retention/retention.htm>.~~

31 ~~(b) Any Each Local Purchasing Agency agency that administers funding for the State's state's subsidized child care~~
32 ~~program Subsidized Child Care Assistance Program shall provide records of administration of the program~~
33 ~~administration upon request for review by local, state, or federal agency representatives.~~

34 ~~(c) The Division shall require the Local Purchasing Agency to repay funds not spent in accordance with applicable~~
35 ~~state or federal regulations. Upon review of agency records of administration of the subsidized child care program~~
36 ~~the Division determines if it is found child care services funding was not spent in accordance with applicable state or~~
37 ~~federal regulations, the Division shall require the agency to pay back funds improperly spent.~~

38 ~~(d) Any agency Each Local Purchasing Agency that both administers the State's state's subsidized child care program~~
39 ~~Subsidized Child Care Assistance Program and also owns and operates a child care facility receiving Subsidized Child~~

1 ~~Care Assistance Program funds and is a provider of subsidized child care services~~ shall develop and implement a
2 conflict of interest policy that shall include ~~provision~~ provisions for:

- 3 (1) parental choice of child care facility for recipients of subsidized child care; and
- 4 (2) separate management of the Subsidized Child Care Assistance Program and the child care facility
5 owned or operated by the agency.

6 (e) Operators enrolled in the Subsidized Child Care Assistance Program shall maintain all records and forms for a
7 period of at least three years or until all audits continued beyond the three-year period are completed by local, state,
8 or federal officials. Program records and forms shall be maintained at the location of the child care facility and shall
9 be made available for review upon request by local, state, or federal officials. Operators shall make available for
10 review a record of payments received from other sources and each schedule of parent payments due if requested. For
11 the purposes of this Paragraph, program records and forms include:

- 12 (1) all enrollment and attendance records, including those contained in 10A NCAC 10 .0602;
- 13 (2) private paying parent rates;
- 14 (3) receipts; and
- 15 (4) other fiscal records related to the operator's participation in the Subsidized Child Care Assistance
16 Program, including records related to a child care facility's operating budget.

17
18 *History Note: Authority G.S. 143B-153(2a);*
19 *Eff. April 1, 2001;*
20 *Amended Eff. December 1, 2011; 2011;*
21 *Readopted Eff. March 1, 2019.*
22

23 **10A NCAC 10 .0311 PROVIDER APPEAL TO LOCAL PURCHASING AGENCY**

24 ~~(a) A provider or recipient wishing to contest an action shall request an initial review with the local purchasing agency~~
25 ~~within 30 calendar days of effective date of the local purchasing agency action.~~

26 ~~(b) The local purchasing agency must make a determination on the initial review within 10 calendar days of the~~
27 ~~request for an initial review. Within 30 calendar days of notice of the determination on the initial review by the local~~
28 ~~purchasing agency, the provider may request a local appeal hearing by the local purchasing agency.~~

29 ~~(c) The local appeal hearing shall be held within five calendar days of when the request is received. The local~~
30 ~~purchasing agency shall grant a delay of up to 10 days at the written request of the provider, but in no event shall the~~
31 ~~local appeal hearing be held more than 15 calendar days after the receipt of the request for hearing.~~

32 ~~(d) The local purchasing agency must serve a written statement of decision within 10 calendar days following the~~
33 ~~local hearing. The decision shall include the facts and conclusions which support the determination by the local~~
34 ~~purchasing agency.~~

35 ~~(e) The local purchasing agency shall include with its written statement of decision instructions for appealing its~~
36 ~~decision.~~

37 ~~(f) A provider may appeal the written statement of decision of the local purchasing agency to the State Subsidy~~
38 ~~Services Appeals Panel by filing a notice of appeal within 15 calendar days of receipt of the written statement of~~
39 ~~decision.~~

1
2 *History Note: Authority G.S. 143B-153;*
3 *Eff. December 1, 2011. 2011.*
4 *Repealed Eff. March 1, 2019.*
5

6 **10A NCAC 10 .0312 APPEAL TO DIVISION OF CHILD DEVELOPMENT AND EARLY**
7 **EDUCATION SUBSIDY SERVICES REVIEW PANEL**

8 (a) ~~Definitions.~~—The following definitions apply in this Rule:

9 (1) ~~"Appealing Party" means the Provider or Recipient, as defined in 10A NCAC 10 .0102.~~

10 (2) ~~"File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express~~
11 ~~mail to the current Chief of Subsidy Services Section (Chief), North Carolina Division of Child~~
12 ~~Development and Early Education (Division), 2201 Mail Service Center, Raleigh, NC 27699-~~
13 ~~2201. A document or paper is deemed filed as of the date it is delivered to the Chief. Filings~~
14 ~~addressed to a person other than the Division Director, or which fail to be filed within the time~~
15 ~~periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in~~
16 ~~this Section shall be considered as improper filings and denied.~~

17 (3) ~~"State Subsidy Services Appeals Panel" means the North Carolina Division of Child Development~~
18 ~~and Early Education internal review panel established under this Rule.~~

19 (b) ~~Appeals Panel.~~—The State Subsidy Services Appeals Panel (Panel) is established. The Panel shall be impartial
20 and shall consist of one representative and one alternate representative for each Section of the
21 Division. Representatives and alternates shall be chosen by each Section Chief.

22 (c) ~~Who Can Appeal.~~—The following persons may appeal to the Panel after having exhausted the appeals process at
23 the appropriate Local Purchasing Agency:

24 (1) ~~A provider or recipient to whom a local purchasing agency has issued a sanction pursuant to 10A~~
25 ~~NCAC 10 .0308;~~

26 (2) ~~A provider whom a local purchasing agency has failed to approve for participation in or has~~
27 ~~terminated participation the subsidized child care program pursuant to Section .0600 of this Chapter;~~

28 (3) ~~A provider whom a local purchasing agency has failed to approve for participation in or has~~
29 ~~terminated participation the subsidized child care program pursuant to Section .0700 of this Chapter;~~
30 ~~and~~

31 (4) ~~A provider wishing to contest the determination of overpayment pursuant to 10A NCAC 10 .0309.~~

32 (d) ~~Hearing.~~—All members of the Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel
33 within 30 days of exhausting the appeals process at the local purchasing agency as described as follows:

34 (1) ~~The Subsidy Services Chief shall notify the Local Purchasing Agency (LPA) that an appeal has~~
35 ~~been filed; and~~

36 (2) ~~Upon notification of an appeal filed pursuant to this section, the LPA shall, within five days of the~~
37 ~~date of notification, forward to the Chief, with a copy to the appellant:~~

- 1 (A) ~~a copy of its final decision;~~
2 (B) ~~the signed agreement between the LPA and the provider or recipient, where applicable;~~
3 ~~and~~
4 (C) ~~all supplementary documentation considered during the local appeals process.~~
- 5 ~~(e) The Panel shall convene and shall maintain a record of their decision in the appeal and the reason(s) for their~~
6 ~~decision.~~
- 7 ~~(f) The Panel shall vote on each item being appealed.~~
- 8 ~~(g) Findings and decisions of the Panel shall be by majority vote.~~
- 9 ~~(h) The Panel may obtain any form of technical assistance or consultation relevant to the appeal in conducting the~~
10 ~~administrative review.~~
- 11 ~~(i) The Panel shall complete an administrative review and notify the appealing party and the LPA of its decision in~~
12 ~~writing within 20 business days of the Panel's receipt of the appeal record. The decision shall include the facts and~~
13 ~~conclusions which support the determination by the State Subsidy Services Appeals Panel.~~
- 14 ~~(j) Any decision shall be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information~~
15 ~~to render a decision at the initial administrative review.~~
- 16 ~~(k) The administrative review decision shall be distributed within 10 business days of the decision being rendered.~~
- 17 ~~(l) The appellant may appeal the administrative review decision by filing a petition for contested case pursuant to~~
18 ~~G.S. 150B-23 and in accordance with G.S. 110-94. Appeals from the State Subsidy Appeals Panel must be filed~~
19 ~~within 30 days of mailing of the Panel's decision to the parties.~~
- 20 ~~(m) Decision.—A decision may direct an LPA to take an action or to refrain from taking an action.~~

21
22 *History Note:* ~~Authority G.S. 143B-153;~~
23 ~~Eff. December 1, 2011; 2011;~~
24 ~~Repealed Eff. March 1, 2019.~~
25
26

27 **SECTION .0500 - REQUIREMENTS FOR CONTRACTS WITH PRIVATE AGENCIES**

28
29 **10A NCAC 10 .0501 SCOPE**

30 ~~The rules of this Section shall apply to all private agencies administering the state subsidized child care program in~~
31 ~~accordance with the rules in this Chapter, within any geographical area of North Carolina under contractual~~
32 ~~arrangement with the Department of Health and Human Services or a local department of social services.~~

33
34 *History Note:* ~~Authority G.S. 143B-153(2a);~~
35 ~~Eff. July 1, 1992;~~
36 ~~Amended Eff. April 1, 2001;~~
37 ~~Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,~~
38 ~~2016; 2016;~~
39 ~~Repealed Eff. March 1, 2019.~~

1 **10A NCAC 10 .0502 APPROVAL**

2 ~~(a) All contracts with private agencies administering the state subsidized child care program shall be approved by the~~
3 ~~Department prior to their execution.~~

4 ~~(b) Each private agency administering the subsidized child care program shall provide to the Department, prior to~~
5 ~~execution of a contract to administer the program, a complete and detailed copy of its budget, including both income~~
6 ~~and expenditures. If requested by the Department, the private agency shall demonstrate to the satisfaction of the~~
7 ~~Department sufficient dependable sources of income to insure its continued operation during the contract period.~~

8

9 *History Note: Authority G.S. 143B-153(2a);*
10 *Eff. July 1, 1992;*
11 *Amended Eff. April 1, ~~2001~~ 2001;*
12 *Repealed Eff. March 1, 2019.*
13

14 **10A NCAC 10 .0503 LENGTH OF CONTRACT**

15 ~~Contracts with private agencies to administer the state subsidized child care program shall be for a term not to exceed~~
16 ~~one year and shall expire on or before the end of the state fiscal year.~~

17

18 *History Note: Authority G.S. 143B-153(2);*
19 *Eff. July 1, 1992;*
20 *Amended Eff. April 1, ~~2001~~ 2001;*
21 *Repealed Eff. March 1, 2019.*
22

23 **10A NCAC 10 .0504 ADMINISTRATION OF FUNDS**

24 ~~State and federal funds for child care services shall be disbursed only as reimbursement to an agency for funds~~
25 ~~previously paid by the agency to child care providers for child care services.~~

26

27 *History Note: Authority G.S. 143B-153(2a);*
28 *Eff. July 1, 1992;*
29 *Amended Eff. April 1, ~~2001~~ 2001;*
30 *Repealed Eff. March 1, 2019.*
31

32 **10A NCAC 10 .0505 ADMINISTRATION OF PROGRAM**

33 ~~(a) Each agency administering the subsidized child care program shall exercise any powers and duties delegated to it~~
34 ~~under this Chapter or under contract in a fair and impartial manner. It shall not discriminate with respect to any child~~
35 ~~care parent child care provider in reaction to any complaint lodged with or against the agency by that parent or child~~
36 ~~care provider or in reaction to any opposition or support expressed by that parent or child care provider to a position~~
37 ~~taken by the agency on any child care issue. It shall comply fully with the parental freedom of choice provisions of~~
38 ~~10A NCAC 10 .0909.~~

39 ~~(b) An agency determined by the Secretary or his designee to have violated the provisions of this Rule shall be~~
40 ~~ineligible to contract for administration of the subsidized child care program funds for a period determined by the~~
41 ~~Secretary of up to three years from the date of the Secretary's determination that a violation has occurred.~~
42 ~~Determinations by the Secretary or his designee may be appealed pursuant to G.S. 150B-23 by the agency or by the~~
43 ~~complainant if that person or entity is the person or entity aggrieved as defined in G.S. 150B-2.~~

44

45 *History Note: Authority G.S. 143B-153(2a);*
46 *Eff. July 1, 1992;*
47 *Amended Eff. April 1, ~~2001~~ 2001;*

1 Repealed Eff. March 1, 2019.

2
3 **10A NCAC 10 .0506 RECORDS**

4 ~~(a) If the private agency is organized as a corporation or unincorporated association, it shall upon request of the~~
5 ~~Department or other contractor, open its minute books of meetings of directors, shareholders, or members for~~
6 ~~inspection.~~

7 ~~(b) Each private agency administering subsidized child care program funds shall maintain records of all receipts and~~
8 ~~disbursements for a period of three years following the final report issued to the funding agency, or until all audits~~
9 ~~begun within the retention period are complete, whichever is longer.~~

10 ~~(c) If a private agency ceases operation, it shall provide the Department with copies of the records specified in this~~
11 ~~Rule.~~

12 ~~(d) Each private agency administering state or federal child care services funds shall have a written policy for the~~
13 ~~inspection, examination, and copying of records maintained by the agency. The written policy shall comply with the~~
14 ~~provisions of Chapter 132 of the General Statutes.~~

15
16 *History Note:* Authority G.S. 143B-153(2a);
17 Eff. July 1, 1992;
18 Amended Eff. December 1, 2011; April 1, 2001; 2001;
19 Repealed Eff. March 1, 2019.
20

21
22 **SECTION .0600 - REQUIREMENTS FOR LICENSED CHILD CARE CENTERS FACILITIES**

23
24 **10A NCAC 10 .0601 STANDARDS FOR CENTERS FACILITIES PARTICIPATING IN THE**
25 **SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM**

26 ~~(a) Any center which~~ An operator that wishes to participate in the state Subsidized Child Care Assistance Program as
27 defined in 10A NCAC 10 .0102 shall satisfy all applicable state child care ~~requirements~~ requirements, as codified in
28 G.S. 110-85, *et seq.* and 10A NCAC 09, and ~~must be approved by the local purchasing agency for participation and~~
29 ~~payment.~~ shall enroll in the Subsidized Child Care Assistance Program as set forth in 10A NCAC 10 .0602(a).

30 ~~(b) Any center not required by G.S. 110 to be licensed, except for religious sponsored centers operating in accordance~~
31 ~~with G.S. 110-106, shall be licensed in order to participate in the state's Subsidized Child Care Program.~~ An operator
32 that wishes to participate in the Subsidized Child Care Assistance Program, with the exception of religious-sponsored
33 facilities operating in accordance with G.S. 110-106 and Department of Defense facilities operating in accordance
34 with G.S. 110-106.2, shall hold a North Carolina child care license.

35 (c) Out of state operators wishing to participate in the Subsidized Child Care Assistance Program shall hold a license
36 to operate a child care facility in the state where they are located.

37 ~~(e) (d)~~ The operator of any center a facility participating in the Subsidized Child Care Assistance Program shall assure
38 ensure that the center facility complies with all applicable provisions of the Civil Rights Act of 1964, 1964 and all
39 requirements imposed thereunder.

40 ~~(d) Each child care center shall submit appropriate information to enable the local purchasing agency to establish a~~
41 ~~payment rate for the center in accordance with the rate setting policies in the annual appropriations act and codified~~
42 ~~in Section .0200.~~

1 *History Note: Authority G.S. 143B-153(2a);*
2 *Eff. February 1, 1986;*
3 *Amended Eff. April 1, 2001; March 1, 1996; July 1, 1990; 1990;*
4 *Readopted Eff. March 1, 2019.*
5

6 **SECTION .0700 - REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

7
8 **10A NCAC 10 .0701 STANDARDS FOR FAMILY CHILD CARE HOMES PARTICIPATING IN THE**
9 **SUBSIDIZED CHILD CARE PROGRAM**

10 ~~(a) Any family child care home which wishes to participate in the state subsidized child care program as defined in~~
11 ~~10A NCAC 10 .0102 shall comply with the standards for family child care homes as codified in 10A NCAC 09 .1700~~
12 ~~and all other applicable state family child care home requirements in 10A NCAC 09 and G.S. 110 Article 7.~~

13 ~~(b) The operator of any family child care home participating in the subsidized child care program shall assure that the~~
14 ~~home complies with all applicable provisions of the Civil Rights Act of 1964 and all requirements imposed therein.~~

15 ~~(c) Any family child care home that wishes to participate in the subsidized child care program must be approved by~~
16 ~~the local purchasing agency for participation and payment.~~

17 ~~(d) Each family child care home shall submit appropriate information to enable the local purchasing agency to~~
18 ~~establish a payment rate for the home in accordance with the rate setting policies in the annual appropriations act and~~
19 ~~codified in Section .0200.~~

20 ~~(e) Approval indicates that all requirements have been met.~~

21
22 *History Note: Authority G.S. 143B-153;*
23 *Eff. January 1, 1985;*
24 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990; 1990;*
25 *Repealed Eff. March 1, 2019.*
26
27

28 **SECTION .0900 - GENERAL POLICIES FOR PROVISION OF SUBSIDIZED CHILD CARE SERVICES**
29 **ASSISTANCE**

30
31 **10A NCAC 10 .0901 SCOPE**

32 ~~The rules of this Subchapter set forth general policies governing conditions for the provision of subsidized child care~~
33 ~~services under the funding sources administered by the Division. General policies include methods of service~~
34 ~~provision, definition of the service, and eligibility criteria.~~

35
36 *History Note: Authority G.S. 143B-153;*
37 *Eff. July 1, 1983;*
38 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990;*
39 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
40 *2016; 2016;*
41 *Repealed Eff. March 1, 2019.*
42

1 **10A NCAC 10 .0902 METHODS OF SERVICE PROVISION**

2 ~~(a) Child care services may be provided directly by a Department of Health and Human Services agency or the county~~
3 ~~departments of social services or may be provided through contractual arrangement.~~

4 ~~(b) The service must be provided in child care facilities or arrangements that meet rules adopted by the Social Services~~
5 ~~Commission.~~

6
7 *History Note: Authority G.S. 143B-153;*
8 *Eff. July 1, 1983;*
9 *Amended Eff. April 1, 2001- 2001;*
10 *Repealed Eff. March 1, 2019.*
11

12 **10A NCAC 10 .0903 DEFINITION OF SERVICE**

13 ~~(a) Primary Service. Child care services means the provision of protection, care, and developmental experiences to~~
14 ~~children ages birth to 18 years, for a portion of a day but less than 24 hours, in the child's own home, in the home of a~~
15 ~~caregiver, or in a child care center. Each type of care arrangement shall meet all state and federal standards applicable~~
16 ~~to such arrangements. Services include providing information to families and the community about what constitutes~~
17 ~~a good child care experience and assisting eligible families as needed with the cost of purchasing the child care service~~
18 ~~consistent with state policies. In addition, transportation may be included in child care services. For each type of care~~
19 ~~arrangement, the equipment and materials necessary to carry out the daily program of activities shall be included in~~
20 ~~the services provided.~~

21 ~~(b) Component. Transportation, when needed and not otherwise available, shall be provided to access child care~~
22 ~~programs for persons receiving services in conjunction with protective services. Transportation, when needed and not~~
23 ~~otherwise available, may be provided to access child care services for other persons who are eligible for child care~~
24 ~~services.~~

25
26 *History Note: Authority G.S. 143B-153;*
27 *Eff. July 1, 1983;*
28 *Amended Eff. April 1, 2001; February 1, 1996- 1996;*
29 *Repealed Eff. March 1, 2019.*
30

31 **10A NCAC 10 .0904 OPTIONAL PROVISION OF SERVICES AVAILABILITY OF FUNDING**

32 ~~(a) Notwithstanding other rules in this Chapter, child day care services may be provided to children in counties~~
33 ~~receiving Smart Start funds authorized by G.S. 143B, Part 10B of Article 3, provided that the child care services are~~
34 ~~included in the local partnership's approved Smart Start plan.~~

35 ~~(b) When If the availability of funding is less than the amount needed to serve all eligible children, the local agency~~
36 ~~responsible for determining child eligibility for subsidized child care services may each Local Purchasing Agency~~
37 ~~shall establish the priority for serving families. The order of priority shall be stated in ~~writing~~ writing, approved by~~
38 ~~the Division in accordance with annual appropriations act and federal law, and made available the Local Purchasing~~
39 ~~Agency shall provide a copy of the written order of priority to applicants for child care assistance.~~

1 *History Note: Authority G.S. 143B-153; 45 CFR 98.46;*
2 *Eff. July 1, 1983;*
3 *Amended Eff. April 1, 2001; March 1, 1996; February 1, 1994; July 1, ~~1990~~ 1990;*
4 *Readopted Eff. March 1, 2019.*

5
6 **10A NCAC 10 .0905 SUPPORT ~~TO EMPLOYMENT~~; FOR EMPLOYMENT AND TRAINING FOR**
7 **EMPLOYMENT**

8 ~~(a) Child care services shall be provided to support employment of the recipient.~~

9 ~~(b) Child care services shall be provided to support training leading to employment of the recipient.~~

10 (a) The Subsidized Child Care Assistance Program shall pay for child care services provided to support:

11 (1) employment of the recipient; and

12 (2) training leading to employment of the recipient.

13 ~~(c)(b) Where a recipient remains in the home and is capable of providing care for the child, child care services shall~~
14 ~~not be provided as a support for employment or training. Where the local purchasing agency determines the recipient~~
15 ~~is incapable of providing care for the child, and child care services shall be provided for the needs of the child and to~~
16 ~~maintain family stability. The Subsidized Child Care Assistance Program shall pay for child care services for recipients~~
17 ~~the Local Purchasing Agency determines are unable to work or to participate in training leading to employment, and~~
18 ~~who are also incapable of providing care for the child. The Local Purchasing Agency shall document the ~~The~~ reasons~~
19 ~~for this determination shall be documented in the client's record and recipient's record, which may include the~~
20 ~~following:~~

21 ~~(1) illness;~~

22 ~~(2) disability;~~

23 ~~(3) complications related to pregnancy;~~

24 ~~(4) hospitalization;~~

25 ~~(5) substance abuse treatment; or~~

26 ~~(6) that the recipient is elderly, elderly and incapable of caring for the child.~~

27 ~~(d) Child care services may be provided when recipient is engaged in gainful employment on either a full time or~~
28 ~~part time basis.~~

29 ~~(e)(c) Where the~~ If a recipient is already receiving child care services funded through the Subsidized Child Care
30 Assistance Program and is temporarily absent from employment, training, or an educational program with
31 arrangements to continue the same employment, training, or educational program, child care services shall continue
32 for at least up to 90 days. Where If an absence from work, training, or an educational program extends beyond 90
33 days, the ~~local purchasing agency~~ Local Purchasing Agency shall determine on the basis of individual circumstances
34 whether child care services shall continue beyond that time period. Where child care is continued beyond 90 days,
35 The Local Purchasing Agency shall document the reasons for such extension ~~shall be documented in the client's record~~
36 ~~and recipient's record, which may include the following:~~

37 (1) the recipient is on maternity leave and intends to return to work;

38 (2) the recipient has been temporarily laid off and the employer has indicated that employment will
39 resume within a month; or

1 (3) the recipient works in a ~~high demand~~ high-demand field and is likely to find new employment within
2 a month.

3 ~~(f)(d) Where~~ If a recipient is already receiving child care services funded through the Subsidized Child Care Assistance
4 Program and becomes unemployed but is seeking employment, funding for child care services shall be provided for
5 at least 90 days, days if the recipient is already receiving subsidized child care services. Continuation of the Funding
6 for services service may be extended if the agency Local Purchasing Agency determines such extension is warranted,
7 provided the reason for the extension is documented in the client's recipient's record and may include be based upon
8 the following:

- 9 (1) the likelihood of obtaining employment based upon prior job search activities;
- 10 (2) the recipient has a job interview ~~scheduled in the near future;~~ scheduled; or
- 11 (3) the recipient is waiting to hear the results of a ~~recent~~ job interview.

12 ~~(g)(e) Where~~ When a recipient is already receiving child care services funded through the Subsidized Child Care
13 Assistance Program and no longer attends a training or educational program, child care services shall continue to be
14 provided for at least 90 days after the recipient stops attending the training or educational program. program to permit
15 the recipient to seek employment or resume attendance at a training or educational program if the recipient is already
16 receiving subsidized child care services. Continuation of the service funding for services may be extended if the
17 agency Local Purchasing Agency determines such extension as warranted, provided the reason for the extension is
18 documented in the client's recipient's record and may include the following: be based on:

- 19 (1) recommendations from teaching staff at educational institutions;
- 20 (2) the individual needs and abilities of the recipient;
- 21 (3) whether the recipient has developed career goals; or
- 22 (4) whether the recipient has developed a personal plan for completing training.

23 ~~(h)(f)~~ For purposes of this Rule, training leading to employment shall include: the following:

- 24 (1) continuation of high ~~school;~~ school within the school system;
- 25 (2) basic education or a high school education or its equivalent in community colleges or technical
26 institutes; and
- 27 (3) ~~post-secondary~~ post-secondary education or skills training, up to a maximum of 20 months ~~two years~~
28 enrollment. enrollment, but shall not include assistance when the recipient is participating in
29 graduate or post-graduate studies.

30
31 *History Note: Authority G.S. 143B-153; 45 CFR 98.21;*
32 *Eff. July 1, 1983;*
33 *Amended Eff. June 1, 2016; April 1, 2001; March 1, 1996; July 1, 1990. 1990;*
34 *Readopted Eff. March 1, 2019.*
35

36 **10A NCAC 10 .0906 SUPPORT FOR CHILD PROTECTIVE AND CHILD WELFARE SERVICES**

37 (a) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance
38 when needed to enable a child to remain in his or her own home when while receiving child protective services.

1 ~~services for children.~~ The child shall not receive assistance unless he or she is ~~must be~~ receiving protective services
2 through the local department of social services pursuant to G.S. 7B.

3 (b) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance to
4 ~~children who need child care as a support to~~ receiving Child Welfare Services. Child Welfare Services means the
5 protection of a child from abuse, neglect, or ~~dependency; or support to the~~ dependency or; provision of a safe
6 permanent home for a child as described in G.S. 7B-101; G.S. 7B-300; G.S. 48-1-101; G.S. 108A-14 (11) and (12);
7 G.S. 108A-48; 10A NCAC 70A; and 10A NCAC 70B.

8 (c) The provisions of this Rule shall not apply to children living in a foster care arrangement.
9

10 *History Note: Authority G.S. 143B-153;*
11 *Eff. July 1, 1983;*
12 *Amended Eff. April 1, 2001; 2001;*
13 *Readopted Eff. March 1, 2019.*
14

15 **10A NCAC 10 .0907 PROMOTE CHILD'S DEVELOPMENT SUPPORT FOR CHILDREN WITH OR**
16 **AT RISK FOR DEVELOPMENTAL DELAYS**

17 (a) ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance to
18 a child who does not meet any eligibility criteria in this Section and whose emotional, cognitive, ~~social~~ social, or
19 physical development is delayed or is at risk of being ~~delayed~~ in accordance with this Rule.

20 (b) ~~This service may be provided by any approved center or home which meets the child's need for developmental~~
21 ~~care.~~ The Local Purchasing Agency shall document the type of developmental delay or the risk of delay in writing in
22 the recipient's record. Information regarding the delay or risk of delay shall be provided by the parent, child care
23 director, teacher, social worker, doctor, or other medical professional; however, medical or psychological reports shall
24 not be required for a determination of eligibility.

25 (c) In making a determination of eligibility, the Local Purchasing Agency shall consider factors that include whether
26 the child:

- 27 (1) has a severe disability or special needs;
28 (2) lives in a situation which inhibits his or her ability to develop normally, including living with elderly
29 or adults with disabilities; and
30 (3) would benefit from early intervention in a child care setting which may prevent the child from
31 experiencing serious, ongoing problems later in life.
32

33 *History Note: Authority G.S. 143B-153;*
34 *Eff. July 1, 1983;*
35 *Amended Eff. April 1, 2001; July 1, 1990; 1990;*
36 *Readopted Eff. March 1, 2019.*
37

38 **10A NCAC 10 .0908 LIMITATIONS**

39 (a) ~~Child care services as a support for protective services shall not be provided to children living in foster care~~
40 ~~arrangements.~~

1 (b) ~~Child care services as a support for training leading to employment for the parent or responsible adult shall not be~~
2 ~~provided when the parent is participating in graduate or post-graduate studies.~~

3 (c) ~~Child care services are limited to a total of two years when the parent or responsible adult is enrolled in a post-~~
4 ~~secondary degree program.~~

5
6 *History Note: Authority G.S. 143B-153;*
7 *Eff. July 1, 1983;*
8 *Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990. 1990;*
9 *Repealed Eff. March 1, 2019.*
10

11 **10A NCAC 10 .0909 ~~PARENTAL FREEDOM OF RECIPIENT CHOICE~~**

12 (a) ~~Parents receiving assistance for their children through the subsidized child care program~~ Recipients shall choose
13 ~~any a child care provider, facility~~ approved for participation in the ~~subsidized child care assistance program under~~
14 ~~Sections .0600, .0700, or .0800~~ Subsidized Child Care Assistance Program under Section .0600 of these Rules to
15 provide child care services for ~~their~~ the recipient's eligible children. ~~The parent's choice of provider shall be accepted~~
16 ~~when~~ The Local Purchasing Agency shall accept the recipient's choice of facility if there is space available in the
17 facility and the child's enrollment will not violate the provider's facility's licensed capacity. capacity as set forth in
18 G.S. 110-91(6).

19 (b) During the eligibility determination, Local Purchasing Agencies ~~Purchasing agencies administering funds through~~
20 ~~the subsidized child care program~~ shall notify recipients ~~parents applying for participation in the program~~ of their right
21 to choose ~~the any approved child care facility. provider which will provide child care services to their eligible children.~~

22
23 *History Note: Authority G.S. 143B-153; 45 CFR 98.30; 45 CFR 98.31;*
24 *Eff. July 1, 1991;*
25 *Amended Eff. April 1, 2001. 2001;*
26 *Readopted Eff. March 1, 2019.*
27

28 **10A NCAC 10 .0910 ~~DEFINITION OF SPECIAL NEEDS CHILD~~ CHILDREN WITH SPECIAL**
29 **NEEDS**

30 (a) ~~As used in this Chapter a special needs child is one who qualifies under one or more of the criteria listed in this~~
31 ~~Paragraph:~~

32 (1) ~~a child who is determined by the Division of Public Health, Children's Developmental Services~~
33 ~~Agency, to be developmentally delayed or have an established condition pursuant to 10A NCAC~~
34 ~~43G .0110; including subsequent amendments; or~~

35 (2) ~~a child who is determined by the local educational agency (LEA) to have a disability as defined in~~
36 ~~G.S. 115C-106.3.~~

37 ~~A copy of 10A NCAC 43G .0110 may be obtained from the Office of Administrative Hearings, 6714 Mail Service~~
38 ~~Center, Raleigh, North Carolina, 27699-6714, (919) 431-3000.~~

39 (b) ~~The Local Purchasing Agency~~ agency determining eligibility for the services shall have on file an Individualized
40 Education Program (IEP) as defined in G.S. 115C-106.3, an Individualized Family Service Plan (IFSP) as defined in

1 10A NCAC 27G .0903, a Section 504 Plan as defined in 29 USC ~~794~~ 794, or a Person-Centered Plan (PCP) as defined
2 in 10A NCAC 70G .0402 ~~to document the "special need" or "disability"~~ for all children with special needs who have
3 been determined eligible for the Subsidized Child Care Assistance Program that documents the special need or
4 disability in accordance with these Rules.

5 (c) ~~Eligibility for the supplemental rate is contingent upon the provider's compliance with the activities designated~~
6 ~~for the provider in the child's individualized plan.~~

7
8 *History Note:* Authority G.S. 143B-153(2a);
9 Eff. December 1, 1992;
10 Amended Eff. December 1, 2011; April 1, 2001; February 1, ~~1996~~ 1996;
11 Readopted Eff. March 1, 2019.
12

13 SECTION .1000 - ELIGIBILITY FOR SERVICES

14 15 10A NCAC 10 .1001 BASIC ELIGIBILITY CRITERIA

16 ~~In addition to the requirements of 10A NCAC .0900, in order for an individual to be determined eligible to receive~~
17 ~~subsidized child care services, it must be established that he or she is eligible on the basis of income eligible status~~
18 ~~unless the service is available without regard to income as referenced in Rule .1004 of this Section.~~

19 An individual shall be eligible to receive subsidized child care services in accordance with Section .0900 of these
20 Rules if:

- 21 (1) he or she meets the requirements in 10A NCAC 10 .1002 and .1003; or
- 22 (2) the service is available without regard to income pursuant to 10A NCAC 09 .1004.

23
24 *History Note:* Authority G.S. 143B-153;
25 Eff. July 1, 1983;
26 Amended Eff. April 1, 2001; February 1, 1996; October 1, 1991; July 1, ~~1990~~ 1990;
27 Readopted Eff. March 1, 2019.
28

29 10A NCAC 10 .1002 INCOME ELIGIBLE STATUS

30 (a) For the purpose of the ~~rules~~ Rules in this ~~Subchapter~~, Chapter, the term "income unit" shall apply to persons
31 who reside in the same household and ~~who~~ who, according to North Carolina law, are responsible for the financial
32 support of the individual whose eligibility for child care services is being determined. ~~Also for~~ For the purpose of
33 determining eligibility for child care services, the terms "income unit" and "family" ~~are used interchangeably~~ shall
34 have the same meaning in the rules Rules in this ~~Subchapter~~, Chapter.

35 (b) For the purposes of the Rules in this Chapter, "income unit size" or "family size" mean the number of
36 individuals in the income unit, and "gross income of the income unit" or "family income" mean the total amount of
37 the income used to determine child care eligibility. ~~When the amount of income available to an individual is a~~
38 ~~condition of eligibility for child care services, it is necessary to determine the number of persons in the individual's~~
39 ~~income unit and the amount of the gross income available to the income unit. The number of individuals in the~~
40 ~~income unit is referred to as the "income unit size" or "family size". These terms are used interchangeably in the~~

1 rules in this Subchapter. The total amount of the income used to determine child care eligibility is referred to as the
2 "gross income of the income unit" or "family income". These terms are used interchangeably in the rules in this
3 Subchapter.

4 (c) If an individual meets any of the criteria set forth in 10A NCAC 10 .0905 or .0907, the Local Purchasing Agency
5 shall determine:

- 6 (1) the number of persons in the individual's income unit through the eligibility application in NC FAST
7 or through the eligibility interview process; and
- 8 (2) the amount of gross income available to the income unit in accordance with 10A
9 NCAC 10 .1006.

10 (e) ~~(d)~~ Child care services may be provided to individuals other than those described in 10A NCAC 10 .0906 and in
11 Rule .1004 of this Section provided the gross annual income of the individual's income unit does not exceed the state's
12 maximum income eligibility limit (as defined in Rule .1003 of this Section) for the number of persons in that income
13 unit. Individuals who meet any of the criteria set forth in 10A NCAC 10 .0905 or .0907 shall be eligible to receive
14 Subsidized Child Care Services, provided that:

- 15 (1) for initial eligibility and annual redeterminations, the gross income of the income unit:
 - 16 (A) for children ages 0 to 5 years old shall not exceed the state's maximum income eligibility
17 limit of 200 percent of the federal poverty [level] line as set forth in 42 USC 9902(2) and
18 82 FR 8831, incorporated by reference, including subsequent amendments and editions,
19 for the number of persons in that income unit;
 - 20 (B) for children ages 6 to 12 years old shall not exceed the state's maximum income eligibility
21 limit of 133 percent of the federal poverty [level] line as set forth in 42 USC 9902(2) and
22 82 FR [8831] 8831, incorporated by reference, including subsequent amendments and
23 editions, for the number of persons in that income unit; or
 - 24 (C) for any child with special needs as defined 10A NCAC 10 .0910 shall not exceed the
25 state's maximum income eligibility limit of 200 percent of the federal poverty [level] line
26 as set forth in 42 USC 9902(2) and 82 FR [8831] 8831, incorporated by reference, including
27 subsequent amendments and editions, for the number of persons in that income unit.
- 28 (2) for individuals whose income increases during the annual eligibility period, the maximum income
29 eligibility limit for children of all ages and special needs status shall not exceed 85 percent of the
30 state median income [as set forth in 82 FR 8831] for that income unit size.

31 ~~(d)~~ (e) The following are defined as individuals living in a residence shall be separate income units for the purposes
32 of determining eligibility and client fees for child care services:

- 33 (1) ~~Biological~~ biological and adoptive parents and their minor children. A step-parent shall be included
34 in the income unit with ~~his/her~~ his or her spouse ~~when~~ if the children in need of care include the
35 step-parent and spouse's ~~their~~ biological or adoptive ~~child~~ children and step-siblings;
- 36 (2) ~~A~~ a minor parent and his or her children;

1 (3) ~~Each each person 18 years of age or older; adult whether related or unrelated, other than spouses;~~
2 and

3 (4) ~~Each each~~ child living with anyone other than their biological or adoptive parents.

4 (⊕) (f) Income to be considered when computing the gross income of the income unit ~~is as follows:~~ shall include:

5 (1) ~~Gross gross~~ earned wages or ~~salary salary~~, which are defined as ~~(earnings earnings~~ received for
6 work performed as an employee, including wages, salary, commissions, tips, piece-rate payments,
7 and cash bonuses earned, before any deductions ~~are made~~ such as for taxes, bonds, pensions, and
8 union ~~dues; dues, etc.);~~

9 (2) ~~Adjusted~~ gross income from taxable self-employment ~~income;~~ after deductions made for business
10 expenses and any other expense that is deductible for purposes of federal or state tax returns;

11 (3) Social Security benefits ~~(includes including~~ Social Security pensions, survivors' ~~benefits benefits,~~
12 and permanent disability insurance ~~payments);~~ payments;

13 (4) ~~Dividends, dividends,~~ interest ~~(on on~~ savings or ~~bonds);~~ bonds, income from estates or trusts,
14 royalties, and adjusted gross rental income on houses, ~~stores stores,~~ or other property;

15 (5) ~~Pensions pensions~~ and annuities paid ~~directly~~ by an employer or union or through an insurance
16 company;

17 (6) ~~Workers' workers'~~ compensation for injuries incurred at ~~work;~~ work;

18 (7) ~~Unemployment unemployment~~ insurance benefits;

19 (8) ~~Alimony alimony (includes including~~ direct and indirect ~~payments;~~ payments such as rent and utility
20 payments); payments;

21 (9) ~~Child child~~ support, direct or ~~indirect;~~ indirect, such as health care costs, school tuition, camps,
22 lessons, and afterschool activities;

23 (10) ~~Pensions pensions~~ paid to veterans or survivors of deceased veterans;

24 (11) On-the-Job Training (OJT) payments;

25 (12) Job Training Partnership Act (JTPA) payments made to an adult;

26 (13) AmeriCorps ~~stipend' stipend (living allowance);~~

27 (14) the taxable amount of Armed Forces pay; ~~(only the amounts taxable, such as base pay);~~

28 (15) ~~Work work~~ release payments;

29 (16) Cherokee Tribal Per Capita Income paid to adult family members;

30 (17) Work-study payments, if the income is from a program not administered under Title IV of the Higher
31 Education Act or the Bureau of Indian Affairs; and

32 (18) ~~Recurring recurring~~ cash contributions paid ~~directly~~ to the ~~parent.~~ parent, such as severance pay or
33 child support not paid pursuant to a written agreement or court-ordered arrangement.

34 (⊕) (g) The following sources of income shall not be counted when computing the gross income of the income unit:

35 (1) Work First Family Assistance;

36 (2) Supplemental Security Income (SSI);

- 1 (3) non-recurring lump ~~Lump~~ sum payments such as (e.g. Social Security benefits, workers'
2 compensation, alimony, veteran's benefits, HUD); and housing assistance paid to or on behalf of a
3 family member by HUD;
- 4 (4) Foster care assistance payments;
- 5 (5) Adoption Assistance payments;
- 6 (6) ~~Payments/trust~~ payments or trust funds under from the Indian Claims Commission;
- 7 (7) ~~Payments~~ payments from the Alaska Native Claims Settlement Act;
- 8 (8) ~~Income~~ income from sale of personal assets ~~(stocks, including stocks,~~ bonds, house, car, and
9 insurance); insurance;
- 10 ~~(9)~~ Bank withdrawals;
- 11 ~~(10)~~ Money ~~money~~ borrowed;
- 12 ~~(11)~~ Tax refunds; tax ~~refunds,~~ including Earned Income Tax Credits or Dependent Care Credits;
- 13 ~~(12)~~ Gifts or contributions; gifts or contributions, including cash, monetary gifts, and charitable
14 contributions given on a regular basis to meet the recipient's needs;
- 15 ~~(13)~~ Other in-kind other, non-cash contributions from non-legally responsible ~~adults; adults, such as~~
16 food, clothing, furniture, or non-cash military benefits such as insurance;
- 17 ~~(14)~~ (13) Emergency Assistance, Low Income Energy Assistance Program, Crisis Intervention Program,
18 General Assistance, or CP&L Share Program payments;
- 19 ~~(15)~~ (14) Section VIII housing subsidy;
- 20 ~~(16)~~ (15) ~~Capital~~ capital gains;
- 21 ~~(17)~~ (16) ~~Value~~ the value of food stamp benefits allotted under the Food Stamp Act of 1977;
- 22 ~~(18)~~ (17) ~~Free~~ free and reduced lunch program;
- 23 ~~(19)~~ (18) ~~Any and all~~ food subsidy programs;
- 24 ~~(20)~~ (19) ~~Relocation/Acquisition~~ Relocation or Acquisition Act payments;
- 25 ~~(21)~~ (20) ~~Earnings~~ earnings of a dependent child under 18 years of age, unless a minor parent of a child
26 needing child care;
- 27 ~~(22)~~ (21) ~~Loans, loans,~~ grants, scholarships, and money received to pay for job training; through training, Pell
28 or Carl Perkins grants;
- 29 ~~(23)~~ (22) ~~Home~~ home produce utilized for household consumption;
- 30 ~~(24)~~ (23) Volunteers in Service to America (VISTA) earnings;
- 31 ~~(25)~~ Payments received as Earned Income Tax Credits or Dependent Care Credits;
- 32 ~~(26)~~ (24) All all subsidized housing and housing allotments, including military housing allotments. If rent is
33 provided by an organization on a ~~regular~~ recurring basis, it shall be counted as income;
- 34 ~~(27)~~ (25) ~~Money~~ money received from an employer as an employee benefit for child care; and
- 35 ~~(28)~~ (26) Work-study payments, if the income is from the College Work-Study Program administered under
36 Title IV of the Higher Education Act or the Bureau of Indian Affairs. ~~(Likewise, if the income from~~
37 college work study goes directly to the college, it is not counted as income.)

1
2 *History Note:* Authority G.S. 143B-153; ~~42 USC 9902;~~ ~~45 CFR 98.20;~~
3 Eff. July 1, 1983;
4 Amended Eff. April 1, 2001; February 1, 1996; July 1, 1992; October 1, ~~1991;~~ 1991;
5 Readopted Eff. March 1, 2019.
6

7 **10A NCAC 10 .1003 INCOME ELIGIBILITY LEVELS**

8 ~~The maximum gross annual incomes for eligibility for subsidized child day care services, adjusted for family size,~~
9 ~~shall be established by the annual appropriations act.~~

10
11 *History Note:* Authority G.S. 143B-153;
12 Eff. July 1, 1983;
13 Amended Eff. April 1, 2001; July 1, 1992. 1992;
14 Repealed Eff. March 1, 2019.
15

16 **10A NCAC 10 .1004 WITHOUT REGARD TO INCOME**

17 ~~Child care services shall be provided~~ The Subsidized Child Care Assistance Program shall provide assistance without
18 regard to income for:

- 19 (1) when child care services are provided in conjunction with protective services as children described
20 in 10A NCAC 10 .0906(a); .0906(b) who need child care services as a support for Child Welfare
21 Services;
22 (2) children receiving foster care services who are in the custody of the county department of social
23 services and are residing in licensed foster care homes or in the care of adults other than their parents;
24 and
25 (3) when child care services are provided to a child receiving Child Welfare Services as children
26 described in 10A NCAC 10 .0906(b). .0906(a) who need child care in conjunction with protective
27 services.
28

29 *History Note:* Authority G.S. 143B-153(2a);
30 Eff. July 1, 1983;
31 Amended Eff. April 1, 2001; February 1, 1996; February 1, ~~1986;~~ 1986;
32 Readopted Eff. March 1, 2019.
33

34 **10A NCAC 10 .1005 RESPONSIBILITY FOR ELIGIBILITY DETERMINATION**

35 ~~Responsibility for eligibility determination, redetermination, and case management for child care services funded by~~
36 ~~subsidized child care services funding shall rest with those agencies authorized by the Secretary of the Department of~~
37 ~~Health and Human Services.~~

38
39 *History Note:* Authority G.S. 143B-153;
40 Eff. July 1, 1983;
41 Amended Eff. April 1, 2001; February 1, ~~1996;~~ 1996;
42 Repealed Eff. March 1, 2019.
43

1 **10A NCAC 10 .1006 VERIFICATION DETERMINATION OF INCOME ELIGIBILITY**

2 (a) An individual ~~that who~~ applies for child care services shall provide to the ~~local purchasing agency~~ Local Purchasing
3 Agency verification of the amount and sources of his or her countable ~~income.~~ income as set forth in 10A NCAC 10
4 .1002. The amount and source of income shall be verified by one of the following:

- 5 (1) ~~A a~~ copy of a source ~~document;~~ document, such as wage stubs, pay statements, and award letters;
6 or
7 (2) ~~A written statement by the social worker describing either the source document that was reviewed~~
8 ~~to verify the income or a telephone conversation that confirmed the required information;~~ or
9 ~~(3) (2) Identification~~ identification of an existing agency record confirming the required ~~information.~~
10 information; or
11 (3) electronic verification through Online Verification Service (OVS) within NC FAST as defined in
12 10A NCAC 10 .0102.

13 (b) If the Local Purchasing Agency cannot verify the recipient's income using the methods described in Paragraph (a)
14 of this Rule:

- 15 (1) the recipient shall provide a written statement of the amount and sources of their income to the
16 Local Purchasing Agency; or
17 (2) the Local Purchasing Agency shall confirm sources of income through a telephone conversation or
18 email communication with the source of the income.

19
20 *History Note: Authority G.S. 143B-153;*
21 *Eff. July 1, 1983;*
22 *Amended Eff. April 1, 2001; 2001;*
23 *Readopted Eff. March 1, 2019.*
24

25 **10A NCAC 10 .1007 REQUIREMENTS FOR DETERMINATION AND REDETERMINATION OF**
26 **ELIGIBILITY**

27 (a) ~~The Division shall establish the requirements for application and eligibility determination and redetermination for~~
28 ~~child care services. Eligibility shall be determined initially in accordance with 10A NCAC 10 .0900 and .1000, and~~
29 ~~annually thereafter unless a change occurs that impacts eligibility. Recipients who are employed or in school and~~
30 ~~whose income is at or below the federal income limit of 85 percent of State Median Income shall not have these~~
31 ~~activities disrupted during the 12 month eligibility period. The Local Purchasing Agency shall determine initial~~
32 eligibility in accordance with Sections .0900 and .1000 of this Chapter, and every 12 months thereafter.

33 (b) If the Local Purchasing Agency determines that a recipient is eligible, the recipient shall remain eligible for the
34 12 month eligibility period unless:

- 35 (1) the recipient ceases to be employed, in training leading to employment, or in an educational
36 program as described in 10A NCAC 10 .0905 for more than 90 days;
37 (2) the recipient changes residency to outside the state;
38 (3) the recipient's income exceeds 85 percent of the State Median Income; or

1 (4) the Local Purchasing Agency or the Division issues the recipient a sanction for fraudulent
2 misrepresentation in accordance with 10A NCAC 10 .0308.

3 ~~(b)~~ (c) If the Local Purchasing Agency, upon redetermination, determines that the family exceeds the State's income
4 eligibility limits, the family shall continue to receive subsidized child care services for ~~90 days~~ 3 12 months if their
5 income is at or below the federal income limit of 85 percent of State Median Income.

6 ~~(e)~~ (d) Annual federal income limits ~~are~~ shall be determined in accordance with the U.S. Federal Poverty Guidelines
7 issued by the U.S. Department of Health and Human Services, ~~is~~ incorporated by reference ~~and includes~~ including
8 subsequent amendments and editions. A copy of these guidelines ~~may be found~~ are available free of charge at
9 <http://aspe.hhs.gov/poverty/index.cfm>.

11 History Note: Authority G.S. 143B-153; 45 CFR 98.21(a)(1); 45 CFR 98.21(b)(1);
12 Eff. July 1, 1983;
13 Amended Eff. June 1, 2016; April 1, ~~2001~~. 2001;
14 Readopted Eff. March 1, 2019.

16 **SECTION .1100 - ~~CLIENT~~ RECIPIENT FEES FOR CHILD CARE SERVICES**

18 **10A NCAC 10 .1101 GENERAL RECIPIENT FEE POLICY**

19 (a) Recipient fees for child care services shall be 10 percent of the income unit's gross monthly income as set forth
20 in 10A NCAC 10 .1002; however, no ~~No~~ fees shall be charged to the ~~client when~~ recipient if child care services are
21 provided ~~to individuals~~ in the following circumstances:

- 22 (1) ~~children receiving~~ if child care services are provided in conjunction with protective services as
23 described in 10A NCAC 10 .0906(a);
24 (2) ~~when~~ if child care services are provided ~~as a support~~ to a child receiving Child Welfare Services as
25 described in 10A NCAC 10 .0906(b); and
26 (3) ~~when~~ if a child with no income is living with someone other than his or her biological or adoptive
27 parent or is living with someone who does not have court-ordered financial responsibility.

28 (b) Except as provided ~~for~~ in Paragraph (a) of this Rule, the ~~client~~ recipient shall be assessed a fee for child care
29 services.

31 History Note: Authority G.S. 143B-153(2a);
32 Eff. July 1, 1983;
33 Amended Eff. April 1, 2001; July 1, 1992; July 1, 1990; February 1, ~~1986~~. 1986;
34 Readopted Eff. March 1, 2019.

36 **10A NCAC 10 .1102 AMOUNT AND COLLECTION OF RECIPIENT ~~CLIENT~~ FEES**

- 37 (a) The amount of the fees charged to the ~~client~~ recipient shall be in accordance with the annual appropriations act.
38 ~~(b) Fee charges to the client may be disregarded when the total amount due is less than five dollars (\$5.00) per month.~~
39 ~~(e)~~ (b) Collection of fees assessed to the client shall be the responsibility of the child care provider. The child care
40 provider shall collect recipient fees on a monthly basis.

1
2 *History Note: Authority G.S. 143B-153;*
3 *Eff. July 1, 1983;*
4 *Amended Eff. April 1, 2001; July 1, ~~1990~~; 1990;*
5 *Readopted Eff. March 1, 2019.*
6

7 **10A NCAC 10 .1103 ADJUSTMENTS IN FEES**

8 (a) If family recipient medical expenses exceed 10 percent of the family's recipient's gross income as set forth in 10A
9 NCAC 10 .1002 in any eligibility period, the family's recipient's fee shall be reassessed based on the family's
10 recipient's adjusted income. The family's recipient's income shall be adjusted by deducting the amount of medical
11 expenses that exceed 10 percent of the family's recipient's gross income.

12 (b) If the plan of care is for less than a full day, the recipient fee shall be assessed in accordance with the annual
13 appropriations act. When the approved care plan is for less than full-day care, the assessed fee for the service shall be
14 adjusted by the appropriate percentage relative to the approved care plan.
15

16 *History Note: Authority G.S. 143B-153;*
17 *Eff. July 1, 1983;*
18 *Amended Eff. April 1, 2001; December 1, 1992; July 1, 1992; July 1, ~~1990~~; 1990;*
19 *Readopted Eff. March 1, 2019.*
20

21 **SECTION .1200 – APPEALS**

22
23 **10A NCAC 10 .1201 DEFINITIONS**

24 In addition to the terms defined in G.S. 110-86 and in 10A NCAC 10 .0102, the following definitions shall apply to
25 the terms used in this Section:

- 26 (1) “Administrative Review Decision” means the decision made by the State Subsidy Services Appeals
27 Panel that is made after review and analysis of all documentation related to an appeal pursuant to
28 this Section.
29 (2) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express
30 mailed to the current Division Director or the Subsidy Appeals Coordinator, North Carolina
31 Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC
32 27699-2200.
33 (3) “Initial Review” means the review by the Local Purchasing Agency of the operator’s appeal.
34 (4) “Local Appeal Hearing” means a hearing held by a hearing officer assigned by the Local Purchasing
35 Agency after the Initial Review.
36 (5) "State Subsidy Services Appeals Panel" or “Panel” means the North Carolina Division of Child
37 Development and Early Education internal review panel. The Panel shall be impartial and shall
38 consist of one representative and one alternate representative for each Section of the Division.
39 Representatives and alternates shall be chosen by the Division Director.
40

1 History Note: Authority G.S. 108A-79; 143B-153;
2 Eff. March 1, 2019.

3
4 **10A NCAC 10 .1202 NOTICE**

5 Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given
6 by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by
7 designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be
8 deemed to have been given on the delivery date appearing on the return receipt, copy of the proof of delivery
9 provided by the United States Postal Service, or delivery receipt. If notice cannot be accomplished by a method
10 under G.S. 1A-1, Rule 4(j) or Rule 4(j3), notice shall then be given in the manner provided in G.S. 1A-1, Rule 4(j1).

11
12 History Note: Authority G.S. 143B-153;
13 Eff. March 1, 2019.

14
15 **10A NCAC 10 .1203 FILING**

16 For purposes of this Chapter, the following apply:

- 17 (1) A document or paper shall be deemed filed as of the date it is delivered to the Division Director or
18 the Subsidy Appeals Coordinator; or
19 (2) Filings shall be denied under the following circumstances:
20 (a) the filing is not filed in accordance with this Rule.
21 (b) the filing fails to comply with the Rules of this Section.

22
23 History Note: Authority G.S. 143B-153;
24 Eff. March 1, 2019.
25

26 **10A NCAC 10 .1204 APPEAL TO THE LOCAL PURCHASING AGENCY**

27 (a) Appeals by recipients from services determinations pursuant to Section .1000 of this Chapter, changes in recipient
28 fees pursuant to Section .1100 of this Chapter, terminations of payment pursuant to 10A NCAC 10 .1007, or a
29 sanctions issued by the Local Purchasing Agency in accordance with 10A NCAC 10 .0308, shall be made in
30 accordance with G.S. 108A-79.

31 (b) Procedures for an operator to appeal to the Local Purchasing Agency are as follows:

- 32 (1) An operator wishing to contest an action shall contact the Local Purchasing Agency in writing to
33 request an initial review. Requests shall be made within 30 calendar days after the date of the Local
34 Purchasing Agency action.
35 (2) The Local Purchasing Agency shall make a determination on the initial review within 10 business
36 days of the request for an initial review. Within 30 calendar days of notice of the determination of
37 the initial review by the Local Purchasing Agency, the operator may request a local appeal hearing
38 by the Local Purchasing Agency.
39 (3) The local appeal hearing shall be held within five business days of when the request for a hearing is
40 received. The Local Purchasing Agency shall grant a delay of up to 10 additional business days at

1 the written request of the operator, but in no event shall the local appeal hearing be held more than
2 15 business days after the receipt of the request for a hearing.

3 (4) The Local Purchasing Agency shall serve a written statement of decision within 10 business days
4 following the local hearing. The decision shall include the facts and conclusions that support the
5 determination by the Local Purchasing Agency.

6 (5) The Local purchasing agency shall include with its written statement of decision instructions for
7 appealing its decision in accordance with 10A NCAC 10 .1204.

8 (6) If the operator is not satisfied with the final decision of the Local Purchasing Agency, he or she may
9 appeal to the State Subsidy Services Appeals Panel by filing a notice of appeal within 30 calendar
10 days of receipt of the written statement of decision in accordance with 10A NCAC 10 .1204.

11
12 *History Note:* Authority G.S. 143B-153; G.S. 108A-79;
13 Eff. March 1, 2019.
14

15 **10A NCAC 10 .1205 OPERATOR APPEAL TO DIVISION OF CHILD DEVELOPMENT AND EARLY**
16 **EDUCATION**

17 (a) The following persons may appeal to the Panel within 15 calendar days after having exhausted the appeals process
18 at the appropriate Local Purchasing Agency or within 15 calendar days after the Division takes action as described in
19 Subparagraphs (2) and (3) of this Paragraph:

20 (1) an operator to whom a Local Purchasing Agency has issued a sanction pursuant to
21 10A NCAC 10 .0308;

22 (2) an operator whom a Local Purchasing Agency or the Division has failed to approve for participation
23 in or has terminated participation from the Subsidized Child Care Assistance Program pursuant to
24 Section .0600 of this Chapter; or

25 (3) an operator contesting the determination of an overpayment pursuant to 10A NCAC 10 .0309.

26 (b) Upon notification of an appeal filed pursuant to this Section, the Local Purchasing Agency shall, within five
27 business days of the date of notification, forward the appeal record to the Division Director or Subsidy Appeals
28 Coordinator, with a copy to the appellant, consisting of the following:

29 (1) a copy of its final decision;

30 (2) the signed agreement between the Local Purchasing Agency and the operator, where applicable; and

31 (3) all supplementary documentation considered during the local appeals process.

32 (c) The Panel shall complete its review and notify the appealing party and the Local Purchasing Agency of its decision
33 in writing within 30 business days of the Panel's receipt of the appeal record as follows:

34 (1) the decision shall include the facts and conclusions that support the determination by the Panel; or

35 (2) the decision may be delayed up to an additional 15 business days if the Panel lacks sufficient
36 information to render a decision at the initial administrative review. The Panel may request
37 additional information from the Local Purchasing Agency or the operator.

1 (d) The appealing party may appeal the administrative review decision by filing a petition for a contested case hearing
2 pursuant to G.S. 150B-23 and in accordance with G.S. 110-94. Appeals from the Panel shall be filed within 30
3 calendar days of notice of the Panel's decision, in accordance with G.S. 150B-23(f).

4 (e) The administrative review decision may direct a Local Purchasing Agency to take an action or reverse an action
5 based upon its review of the record as set forth in Paragraph (b) of this Rule.

6 (f) An operator may appeal a final determination pursuant to 10A NCAC 10 .0308(k) by filing a petition for a
7 contested case hearing pursuant to G.S. 150B-23 and in accordance with G.S. 110-94.

8

9 *History Note: Authority G.S. 143B-153;*
10 *Eff. March 1, 2019.*