

1 10A NCAC 21A .0303 is readopted with changes as published in 32:13 NCR 1258–1268 as follows:

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3 **10A NCAC 21A .0303 APPEAL DECISION**

4 (a) The hearing officer shall make a tentative decision ~~that which~~ shall be served upon the county department,  
5 ~~department and~~ the appellant appellant, and representatives by mail. Decisions reversing ~~proposing to reverse~~ the  
6 county department's action shall be sent by certified mail to the county department. ~~department while decisions~~  
7 Decisions affirming the county department's actions shall will be sent by certified mail to the appellant. Decisions  
8 shall be sent by regular mail to representatives.

9 (b) The county and the appellant may present oral and written argument, for and against the decision ~~decision.~~ by  
10 contacting the Chief Hearing Officer. ~~Written argument may be submitted to or contact made with the Chief Hearing~~  
11 ~~officer to request a hearing for oral argument.~~

12 (c) If a written argument, a request for a time extension to submit a written argument, or a request for oral argument  
13 is not received by the Chief Hearing Officer ~~is not contacted~~ within 10 calendar days of the date the notice of the  
14 tentative decision is signed, the tentative decision shall become final.

15 (d) If a request for a time extension to submit ~~an~~ a written argument or a request for an oral argument is received by  
16 the Chief Hearing Officer ~~officer~~ within 10 calendar days of the date the notice of the tentative decision is signed,  
17 an extension ~~may~~ shall be granted and a letter shall be mailed stating the date the written argument is due or the date  
18 and time the oral argument shall be heard. ~~[for good cause or in the interests of justice.]~~

19 (e)~~(d)~~ If the party that requested oral argument fails to appear ~~at the hearing~~ for the scheduled oral argument, the  
20 tentative decision ~~shall become~~ becomes final.

21 (f)~~(e)~~ If oral ~~or~~ and written arguments are ~~presented,~~ presented within the timeframes established in Paragraphs (c)  
22 and (d) of this Rule, then all such arguments shall be considered and a final decision shall be rendered.

23 (g)~~(f)~~ The final decision shall be served upon ~~mailed to~~ the appellant and any the county department by certified mail.  
24 Decisions shall be sent by regular mail to representatives.

25 (h)~~(g)~~ A decision upholding the appellant shall be put into effect within two weeks after the county department's  
26 receipt of the final decision ~~decision.~~ by certified mail.

27 (i)~~(h)~~ As provided for in 42 C.F.R. 431.245 ~~431.245,~~ and G.S. 108A-79(k), the decision shall contain the appellant's  
28 right to ~~request a State agency hearing and seek judicial~~ review. ~~review to the extent that either is available to him.~~

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30 *History Note:* Authority G.S. 108A-54; 108A-54.1B; 108A-79; 42 C.F.R. 431.244; 42 C.F.R. 431.245; 42 C.F.R.  
31 431.246;  
32 Eff. September 1, 1984;  
33 Amended Eff. September 1, 1992; ~~1992~~.  
34 Readopted Eff. July 1, 2018.  
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