

1 10A NCAC 22J .0106 is proposed for reoption without substantive change as follows:

2  
3 **10A NCAC 22J .0106 PROVIDER BILLING OF PATIENTS WHO ARE MEDICAID RECIPIENTS**

4 (a) A provider may refuse to accept a patient as a Medicaid patient and bill the patient as a private pay patient only if  
5 the provider informs the patient that the provider will not bill Medicaid for any services but will charge the patient for  
6 all services provided.

7 (b) Acceptance of a patient as a Medicaid patient by a provider includes, but is not limited to, entering the patient's  
8 Medicaid number or card into any sort of patient record or general record-keeping system, obtaining other proof of  
9 Medicaid eligibility, or filing a Medicaid claim for services provided to a patient. A patient, or a patient's  
10 representative, must request acceptance as a Medicaid patient by:

- 11 (1) presenting the patient's Medicaid card or presenting a Medicaid number either orally or in writing;  
12 ~~or~~  
13 (2) stating either orally or in writing that the patient has Medicaid coverage; or  
14 (3) requesting acceptance of Medicaid upon approval of a pending application or a review of continuing  
15 eligibility.

16 (c) Providers may bill a patient accepted as a Medicaid patient only in the following situations:

- 17 (1) for allowable deductibles, co-insurance, or co-payments as specified in the Medicaid State Plan;  
18 ~~10A NCAC 22C .0102; or~~  
19 (2) before the service is provided the provider has informed the patient that the patient may be billed  
20 for a service that is not one covered by Medicaid regardless of the type of provider or is beyond the  
21 limits on Medicaid services as specified in the Medicaid State Plan or applicable clinical coverage  
22 policy promulgated pursuant to G.S. 108A-54.2(b); under 10A NCAC 22B, 10A NCAC 22C, and  
23 ~~10A NCAC 22D; or~~  
24 (3) the patient is 65 years of age or older and is enrolled in the Medicare program at the time services  
25 are received but has failed to supply a Medicare number as proof of coverage; or  
26 (4) the patient is no longer eligible for Medicaid as defined in the Medicaid State Plan. ~~10A NCAC~~  
27 ~~21B.~~

28 (d) When a provider files a Medicaid claim for services provided to a Medicaid patient, the provider shall not bill the  
29 Medicaid patient for Medicaid services for which it receives no reimbursement from Medicaid when:

- 30 (1) the provider failed to follow program regulations; ~~or~~  
31 (2) the Division ~~agency~~ denied the claim on the basis of a lack of medical necessity; or  
32 (3) the provider is attempting to bill the Medicaid patient beyond the situations stated in Paragraph (c)  
33 of this Rule.

34 (e) A provider who accepts a patient as a Medicaid patient shall agree to accept Medicaid payment, ~~payment~~ plus any  
35 authorized deductible, co-insurance, co-payment, ~~co-payment~~ and third party payment as payment in full for all  
36 Medicaid covered services provided, except that a provider shall ~~may~~ not deny services to any Medicaid patient on  
37 account of the individual's inability to pay a deductible, co-insurance, ~~co-insurance~~ or co-payment amount as specified

1 in ~~the Medicaid State Plan. 10A NCAC 22C .0102.~~ An individual's inability to pay shall not eliminate his or her  
2 liability for the cost sharing charge. Notwithstanding anything contained in this Paragraph, a provider may ~~actively~~  
3 pursue recovery of third party funds that are primary to Medicaid.

4 (f) When a provider accepts a private patient, bills the private patient personally for Medicaid services covered under  
5 Medicaid for Medicaid recipients, and the patient is later found to be retroactively eligible for Medicaid, the provider  
6 may file for reimbursement with Medicaid. Upon receipt of Medicaid reimbursement, the provider shall refund to the  
7 patient all money paid by the patient for the services covered by Medicaid with the exception of any third party  
8 payments or cost sharing amounts as described in ~~the Medicaid State Plan. 10A NCAC 22C .0102.~~

9  
10 *History Note:* Authority *G.S. 108A-25(b); 108A-54; 108A-54.2; ~~150B-11~~; 42 C.F.R. 447.15; 42 C.F.R. 447.52(e);*  
11 *42 C.F.R. 433.139;*  
12 *Eff. January 1, 1988;*  
13 *Amended Eff. February 1, 1996; October 1, 1994; ~~1994~~.*  
14 *Readopted Eff. May 1, 2018.*  
15  
16