

Revision: HCFA-AT-80-38 (BPP)
May 22, 1980

State North Carolina

Citation
Intergovernmental
Cooperation Act
of 1968

1.1 (c) Waivers of the single State agency requirement which are currently operative have been granted under authority of the Intergovernmental Cooperation Act of 1968.

- ☒ Yes. ATTACHMENT 1.1-B describes these waivers and the approved alternative organizational arrangements.
- ☐ Not applicable. Waivers are no longer in effect.
- ☐ Not applicable. No waivers have ever been granted.

TN # 12-007
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

Medical Assistance

State: North Carolina

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Waivers of the Single State Agency Requirement Granted Under the Intergovernmental
Cooperation Act of 1968

- a. Waiver was granted on: 12-27-12.
- b. The organizational arrangement authorized, the nature and extent of responsibility for program administration delegated to: Office of Administrative Hearings (OAH) (name of agency)
- c. The resources and/or services of such agency to be utilized in administration of the plan are described below:

The Office of Administrative Hearings will make final agency decisions in contested Medicaid beneficiary and provider appeals cases as defined in paragraphs (d)(1) and (d)(2) below.
- d. The methods for coordinating responsibilities among the several agencies involved in administration of the plan under the alternate organizational arrangement are as follows:

The parties to this waiver acknowledge that the Division of Medical Assistance(DMA) delegates the authority to make final decisions regarding beneficiary and provider appeals cases as defined in paragraphs (d)(1) and (d)(2) below to the North Carolina Office of Administrative Hearings (OAH).

As a condition precedent for the State of North Carolina to receive federal financial participation for the functions authorized by this waiver of the single state agency requirement found at 42 C.F.R. § 431.10(e), the North Carolina Office of Administrative Hearings ("OAH") must acknowledge and agree in writing that it will act as a neutral and impartial decision-maker on behalf of the North Carolina single state Medicaid agency in adjudicating contested Medicaid cases and that it will comply with all applicable federal and state laws, rules and regulations governing the Medicaid program.

In addition, OAH acknowledges and agrees that, except as allowed by law, enrolled Medicaid providers have no property or liberty right in initial or continued participation or enrollment in the North Carolina State Medicaid program.

OAH acknowledges and also agrees that the issue to be determined at final hearings conducted in accordance with this waiver is whether the single state Medicaid agency or one of its contractors or agents exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, and/or failed to act as required by law or rule; that it will conduct *de novo* reviews in beneficiary

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cases as set forth below; that it will cooperate with any and all federal or state audits, monitoring, or oversight necessary to substantiate that OAH expenditures are valid and reasonable; that it will assist DMA in tracking and reporting of Medicaid appeal decisions as required by law; and that it will comply with each of the following conditions of this waiver:

1. “Contested Medicaid beneficiary cases” are those in which a Medicaid beneficiary of the single state Medicaid agency or one of its contractors or agents denies, reduces, terminates or suspends (or alleges such a decision was not acted upon with reasonable promptness), a Medicaid-reimbursable service. In all contested Medicaid beneficiary cases, OAH shall dismiss appeals when the conditions described in 42 CFR §431.223 are present, as set forth in N.C.G.S. §108A-70.9B(b)(4).
2. In all contested cases in which an enrolled Medicaid provider, or provider applicant, is challenging any decision of the single state Medicaid agency which directly or indirectly affected the provider or applicant substantially in their person, property, or employment as described in N.C.G.S. §§ 150B-2(6) and 150B-23 (“contested Medicaid provider cases”), OAH shall agree to dismiss all appeals: (a) that are filed outside of the timeline set forth in N.C.G.S. § 150B-23(f); (b) where the petitioner fails to timely serve the single state Medicaid agency; and (c) where the petitioner fails to pay the filing fee. Further, OAH shall agree to dismiss or impose another sanction as provided by law, all appeals where either party fails to file a Prehearing Statement or respond to discovery prior to the hearing, or where either party fails to appear at a scheduled hearing without good cause.
3. Except where agreed to by the parties or for other good cause, OAH agrees to schedule, hear and issue decisions in contested Medicaid beneficiary cases within the time period set forth in 42 C.F.R. § 431.244(f) and N.C.G.S. § 108A-70.9B(b)(1).
4. OAH shall schedule, hear and issue decisions in contested Medicaid provider cases within 180 days of the date the appeal is filed with OAH, except that hearings in cases where OAH has issued a temporary restraining order (“TRO”), stay or injunction shall be expedited as soon as practicable. The time for the appeal process may be extended in the event of delays caused or requested by the single state Medicaid agency.
5. OAH shall only issue TROs, stays or injunctions to maintain the status quo in contested beneficiary and provider Medicaid cases when the petitioner meets the requirements contained in Rule 65 of the North Carolina Rules of Civil Procedure. Any TRO so issued shall be in effect for no longer than allowed by law and shall not be continued except as provided in Rule 65. In contested Medicaid

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beneficiary cases, OAH shall issue TROs, stays or injunctions which require the single state Medicaid agency or a Local Management Entity operating a Prepaid Inpatient Health Plan in accordance with 42 CFR Part 438 (LME/PIHP) to continue an authorization for Medicaid-reimbursable service(s), or to authorize service(s) at any particular level or frequency, during the pendency of an appeal to the extent required to meet the requirements of 42 CFR 431.230.

DMA and OAH shall allow all parties' witnesses to appear and testify by telephone at hearings, including but not limited to any expert witnesses, unless good cause is shown to require in person appearance by specific witnesses.

6. When a continuance is necessary, OAH shall only grant requests filed by either party for good cause shown, and shall ensure that hearings are not unreasonably delayed.
7. In contested Medicaid cases, OAH shall issue decisions that are based on the evidence introduced before the record is deemed closed by the Administrative Law Judge.
8. To the extent allowed under Rule 32 of the North Carolina Rules of Civil Procedure, OAH may consider deposition testimony in addition to other allowable testimony as evidence at the hearing on the merits. Affidavits and deposition testimony may be permitted for use as evidence in hearings on motions for preliminary injunctive relief as allowed by law.
9. In contested Medicaid beneficiary cases, OAH shall issue decisions that are based on the evidence introduced before the record is deemed closed by the Administrative Law Judge and the applicable provision(s) of federal or state laws, rules and regulations supporting the decision in accordance with 42 CFR § 431.244 and N.C.G.S. § 108A-70.9B(f).
10. In all contested Medicaid provider cases, OAH may allow both sides to prepare and file proposed decisions within thirty (30) days of the date of the hearing, unless either party requests a transcript of the hearing, in which case proposed decisions shall be due within thirty (30) days of the date the transcript is prepared and served on the parties.
11. Subject to the provisions of Article 3 of Chapter 150B of the North Carolina General Statutes and N.C.G.S. § 108C, OAH shall timely issue decisions in contested Medicaid provider cases which include Findings of Fact and Conclusions of Law and are based on the evidence presented before the record is deemed closed by the Administrative Law Judge. If applicable to an issue in the case, such

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decisions shall be based on the North Carolina State Plan for Medical Assistance and any amendments thereto or waivers therefrom which have been approved by CMS, properly promulgated DMA medical coverage policies, and any applicable federal and state laws, court decisions, rules, and regulations.

12. Subject to applicable law, OAH shall require in the absence of good cause that all discovery be completed at least thirty (30) days prior to the scheduled hearing date, shall comply with the North Carolina Rules of Civil Procedure in contested Medicaid provider cases, and may limit discovery in such cases to provide for the prompt disposition of the contested case and to ensure that the burden or expense of the proposed discovery does not outweigh its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.
13. DMA retains oversight of the State Plan and will establish a process to monitor the entire appeals process, including the quality and accuracy of the final decisions made by OAH.

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