

## CHAPTER 69

## AFDC-RELATED MEDICAID

## Authority

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193; the Balanced Budget Act of 1997, Public Law 105-33; Section 1902(a)8, 1902(a)10, 1902(e) and Section 1931(a) of the Social Security Act (42 U.S.C. § 1396a(a)8, 1396a(a)10, 1396a(e) and 1396u-1(a) respectively); 42 C.F.R. 435.2 through 435.170 and 436.100 through 436.128; N.J.S.A. 30:4D-1 et seq.; N.J.S.A. 44:10 -3, P.L. 1997 c.13, 14, 37, 38 and 352.

## Source and Effective Date

R.1999 d.233, effective July 19, 1999.  
See: 31 N.J.R. 1009(a), 31 N.J.R. 1960(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 69, AFDC-Related Medicaid, expires on July 19, 2004.

## Chapter Historical Note

Chapter 69, Reimbursement to Pharmaceutical Consultants in Long-Term Care Facilities, was adopted as R.1976 d.6, effective January 9, 1976. See: 7 N.J.R. 504(a), 8 N.J.R. 70(c).

Chapter 69, Reimbursement to Pharmaceutical Consultants in Long-Term Care Facilities, was repealed by Emergency Repeal R.1976 d.216, effective July 12, 1976. See: 8 N.J.R. 385(c).

Chapter 69, Hearing Aid Assistance to the Aged and Disabled, was adopted as new rules by R.1988 d.250, effective June 6, 1988. See: 20 N.J.R. 519(a), 20 N.J.R. 1220(a).

Pursuant to Executive Order No. 66(1978), Chapter 69, Hearing Aid Assistance to the Aged and Disabled, was readopted as R.1993 d.281, effective May 14, 1993. See: 25 N.J.R. 228(a), 25 N.J.R. 2589(a).

Pursuant to Reorganization Plan No. 001-1996, Chapter 69, Hearing Aid Assistance to the Aged and Disabled, was recodified as N.J.A.C. 8:83B, effective October 15, 1997. See: 29 N.J.R. 4679(a).

Chapter 69, AFDC-related Medicaid, was adopted as new rules by R.1999 d.233, effective July 19, 1999. See: Source and Effective Date.

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## SUBCHAPTER 1. AFDC-RELATED MEDICAID IN NEW JERSEY

### 10:69-1.1 Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, enacted August 22, 1996, implemented Federal welfare reform. The new Federal law eliminated the Aid to Families with Dependent Children (AFDC) program and created a Temporary Assistance for Needy Families (TANF) block grant for states to provide time-limited cash assistance. New Jersey's block grant program is established as Work First New Jersey (WFNJ) in accordance with the Work First New Jersey Act, P.L. 1997, c.13, c.14, c.37 and c.38. P.L. 104-193 also required that the regulations governing a state's eligibility for AFDC-related Medicaid in effect in the State as of July 16, 1996, must continue to determine eligibility for AFDC-related Medicaid. This chapter is the continuation of the appropriate AFDC-related Medicaid rules.

### 10:69-1.2 Purpose and scope

The purpose of this chapter is to set forth the policies and procedures necessary for the orderly and equitable provision of AFDC-related Medicaid on a Statewide basis. It is binding on the county boards of social services (CBOSSs) and enforceable by the Division of Medical Assistance and Health Services (DMAHS). Questions of interpretation shall be resolved by the Division of Medical Assistance and Health Services.

### 10:69-1.3 Administrative organization

(a) The Department of Human Services is the administrative unit of State government which has the responsibility for the Medicaid program and is designated under Federal law as the "single State agency."

(b) The Division of Medical Assistance and Health Services is the administrative unit of the Department responsible for the general policies governing the administration of medical assistance, and for effecting the issuance of rules and administrative bulletins to implement statutory provisions and to coordinate the administration of medical assistance with the Division of Family Development. The Division of Medical Assistance and Health Services provides for the payment of claims, evaluates health services rendered under the program, maintains administrative liaison with the other Departmental divisions, and establishes incapacity under the AFDC-related Medicaid program.

(c) The Division of Medical Assistance and Health Services has local Medicaid District Offices (MDOs) throughout the State. The role of these offices is to act as a liaison with providers of health services; provide information about Medicaid to beneficiaries and members of the community; and provide information about Medicaid to, and cooperate with, appropriate agencies in order to ensure maximum utilization of the services available through the Medicaid program.

### 10:69-1.4 AFDC-related Medicaid

(a) The AFDC-related Medicaid program is a State program with Federal participation. It is designed to make payments to providers for medical care and services on behalf of certain individuals whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense.

(b) The Aid to Families with Dependent Children-related Medicaid program is composed of three segments:

1. AFDC-C related Medicaid, through which medical assistance is provided for children and their natural or adoptive parents or certain designated relatives with whom they were living, when they are financially eligible and deprived of parental support and care by reason of death, continued absence, or incapacity of one or both parents;

2. AFDC-F related Medicaid, through which medical assistance is provided to families with children when both parents are in the home, neither is incapacitated and the principal earner meets the Federal definition of unemployment; and

3. AFDC-N related Medicaid, through which medical assistance is provided to families with children when both parents are in the home and are not incapacitated but have inadequate income or resources for support of the family.

(b) Information, applications and staff agency personnel shall be available to assist non-English speaking applicants for AFDC-related Medicaid income maintenance programs listed in N.J.A.C. 10:69-1.8. Spanish language program material is routinely prepared by the Division and distributed to county agencies. Minority program materials in languages other than Spanish may be prepared based on knowledge of the population served by programs under the auspices of the Division.

**10:69-1.5 Definitions**

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Adequate notice" means notice to a client of the county board of social services (CBOSS) decision or action which must state the nature, effective date, factual and legal basis of the decision or action, and the right to a fair hearing.

"Adjusted gross income" means, in self-employment, the net income as determined by subtracting the cost of producing the income from total gross earnings.

"AFDC" means the former Aid to Families with Dependent Children.

"AFDC-related Medicaid" means medical assistance provided to families who would otherwise qualify for AFDC or deemed to qualify for AFDC if the program were still in existence.

"Agency" means the county board of social services.

"Applicant" means parent or parent-person who applies for AFDC-related Medicaid and whose application has not been officially acted upon by the CBOSS.

"Application process" means all activity performed by the eligibility staff until there is an official disposition of the application.

"Approved application" means an applicant has been determined to be eligible for AFDC-related Medicaid.

"Authorized representative" means an individual (or organization) whom a client designates orally or in writing to act on his or her behalf, or, in cases of incompetency, the person designated to act for the client.

"Available resource" means a resource, usually cash, which can be used immediately to meet the needs of an eligible unit.

"Beneficiary" means the family unit of parent(s) or parent-person(s) and child(ren) of eligible age who have been found eligible for AFDC-related Medicaid including any individual who is an eligible member of such family.

"Boarder, roomer, roomer-boarder" means a person, other than a member of an eligible unit, whose acceptance in the household is a business arrangement based upon payment in cash for board, room, or room and board.

"BQC" means the Bureau of Quality Control in the Division of Medical Assistance and Health Services.

"Calculated earned income" means amount of earned income remaining after applicable disregards and deductions have been subtracted from total gross earnings. This is the accountable amount to be used in determining the eligible unit's total income.

"Capacity of a legally responsible relative (LRR) to support" means the amount of contribution to be anticipated from an LRR.

"Carnegie unit" means the credit given for the successful completion of one year's study in one subject in a secondary school. Four Carnegie units per year represents full time attendance.

"Case record" means the official file of forms, chronological narrative, correspondence and other documents pertinent to the application and eligibility of client case record. It constitutes a complete record which supports the decisions and actions of the CBOSS on a case.

"Categorical program" means a program established by the Federal Social Security Act for the purpose of enabling a state to furnish assistance to financially eligible individuals or families who meet specific eligibility requirements.

"CBOSS" means the county board of social services.

"CBOSS Director" means the county board of social services Director or staff member to whom he or she has delegated specified responsibility.

"Child of eligible age" means a child up to the age of 18 or a child up to the age of 19 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training and reasonably expected to complete the program before reaching age 19.

"Child born of unmarried parents" means a child born to a mother who is not married to the father of such child.

"Client" means an all inclusive term including an applicant or beneficiary of Medicaid.

"Collateral investigations" means contacts with individuals other than members of the applicant's immediate household made with the knowledge and consent of the applicant(s).

"County board of social services" means the county agency designated to administer the AFDC-related Medicaid program.

"County residence" relates only to identification of the CBOSS charged by law with responsibility for the official receipt, registration and processing of applications, and is not an eligibility requirement and does not limit the opportunity for any person residing in New Jersey to qualify for Medicaid.

"CSP" means Child Support and Paternity Program.

“Denied application” means a determination that, for a specific reason, the applicant is ineligible for AFDC-related Medicaid.

“Dependent child” means an eligible child, living in New Jersey with a parent or other enumerated relative.

“Deprivation” means where death, incapacity or continued absence of one or both natural or adoptive parents causes the loss of parental support.

“Desertion” denotes a willful abandonment of duty in violation of a legal obligation; failure to provide support and maintenance or to perform other duties owed to the family members, thus depriving them of care.

“Dismissed application” means recognition that eligibility need not be considered further because the applicant moved to another state during the application process or cannot be located, or the application was registered in error.

“Disregards” means the amount of earned income discounted in the AFDC programs according to Federal and/or State regulations.

“Division of Employment Services (DES)” means the office within the State Department of Labor responsible for administration of Unemployment Insurance and Temporary Disability Benefits programs.

“Division of Medical Assistance and Health Services” means office within the State Department of Human Services responsible for supervision of the administration of the AFDC-related Medicaid program.

“DMAHS” means Division of Medical Assistance and Health Services.

“DDD” means the Division of Developmental Disabilities.

“DFD” means the Division of Family Development.

“DVRS” means the Division of Vocational and Rehabilitation Services.

“DYFS” means the Division of Youth and Family Services in the Department of Human Services.

“Eligible medical institution” means a facility or specified section thereof certified as an approved institution for the purpose of treating acute illness (private or general hospitals) or providing care for the chronically ill (nursing homes or intermediate care facilities).

“Eligible unit” means those family members who apply for and are eligible to receive AFDC-related Medicaid.

“Emancipated” means a child released from the duty to serve and obey his or her parent(s) and having the right to

his or her earnings. Emancipation may be expressed or implied from the circumstances.

“Exempt resource” means a resource which is not to be considered in computing eligibility and is not subject to liquidation.

“Family size” means, in an LRR’s household, those persons identified in N.J.A.C. 10:69-11.3 (members of the eligible unit are not included).

“Financially eligible” means meeting the income and/or resource standards in this chapter.

“Gross earned income” means the total earnings of members of the eligible unit before applicable disregards and deductions are subtracted.

“Head of household” means the individual who is recognized by other members of the household as having primary responsibility for financial control and direction of the household.

“Incapacity” means physical or mental defect, illness or impairment, supported by competent medical testimony, of such a debilitating nature as to reduce substantially or eliminate the parent’s ability to support or care for the otherwise eligible child, which is expected to last for a least 30 days.

“Incompetent (certified)” means certified by a court of law as incompetent.

“Inquiry” means any request for information about assistance programs which is not a request for application.

“Institution in New Jersey” means a total facility, or a designated part thereof, that include the following:

1. Hospital—general or special;
2. Nursing facility (NF);
3. Public psychiatric or tuberculosis hospital;
4. Certified section of State operated institution for the mentally retarded; or
5. Intermediate care facility for the mentally retarded (ICF/MR).

“Institution outside New Jersey” means a public or voluntary medical institution which is licensed, certified or approved by the proper authority of the jurisdiction in which the institution is located, so that the costs of care and services provided therein may be paid. Evidence of such license, certification or approval shall be obtained from the Division of Medical Assistance and Health Services.

“LRR” means legally responsible relative.

"Mandatory payroll deductions" means Federal, State and city withholding taxes; Social Security; unemployment compensation taxes; and garnishments as verified by legal document in possession of the employer.

"MDO" means Medicaid District Office in the Division of Medical Assistance and Health Services.

"Medicaid" means a Federal/State program administered by the Division of Medical Assistance and Health Services providing for payment of claims for and evaluation of health services.

"Medicaid Special" means Medicaid coverage available to any dependent child under 21 or an independent child under age 21, who meets the qualifications at N.J.A.C. 10:69-4.

"Needy person" means a person who lacks sufficient income and resources to maintain the AFDC-related Medicaid level of living.

"New application" means the filing of an application request for AFDC-related Medicaid from an individual/family who has never previously requested AFDC-related Medicaid in any county in the State under that program.

"N.J.A.C." means New Jersey Administrative Code.

"Noneligible person" means a person ineligible for AFDC-related Medicaid either due to excess resources, age, relationship or for incurring a penalty of ineligibility.

"Official discharge from an institution" means legal discharge of a patient from the institution in which he or she has been confined.

"Ownership of real or personal property" means any and all rights, title or interest, legal or equitable, to such property.

"Parent-minor" means a parent of a child or children who is himself or herself under the age of 18.

"Parent-person" means certain relatives of a child who, in the absence of a natural or adoptive parent, assume parental responsibility.

"Penalty of ineligibility" means when a member(s) of an eligible unit has incurred a penalty for not complying with program requirement(s) and such member(s) is excluded from the eligible unit.

"Pending application" is a general term for application, reapplication, reopened application, or transfer application prior to official disposition.

"Per capita" means an amount equal to one individual's share of the total (allowance, cost, income, etc.).

"Personal interview" means face-to-face discussion between individuals.

"Policy" means guidelines, limited by and consistent with law, which control CBOSS and DMAHS staff in carrying out AFDC-related Medicaid programs.

"Potential resource" means a resource which, through liquidation, will provide cash for the use of the eligible unit or for reimbursement to the agency.

"Primary wage earner" means principal earner and shall be referred to as the principal earner in this chapter.

"Principal earner" means the parent who earned the greater amount of income in the 24-month period immediately preceding the month of application for AFDC-F or -N.

"Reapplication" means a written request for AFDC-related Medicaid by an individual who has previously applied for, but never received, AFDC-related Medicaid under that program in any county in the State.

"Recovery" means the process whereby the CBOSS seeks the repayment of AFDC-related Medicaid improperly or properly obtained.

"Redetermination of eligibility" means investigation of all facts and circumstances relating to the beneficiary's application for continuation of AFDC-related Medicaid.

"Referral" means a request from an agency, institution, or individual on behalf of another individual who is interested in applying for AFDC-related Medicaid; or a request from the CBOSS to another agency.

"Registration" means the action of the CBOSS in creating an official record of and assigning a control number to an application.

"Rejected application" means an inclusive term covering applications which have been denied, dismissed, or withdrawn.

"Relatives, legally-responsible" means relatives held to be legally responsible by the laws of this State, as identified in N.J.A.C. 10:69-3.

"Release without discharge" means an arrangement under which a patient in an institution is, for a special purpose, permitted to reside outside the institution, and includes extended visit and convalescent leave.

"Reopened application" means a written request for Medicaid by an individual who has previously received AFDC-related Medicaid under that program in any county in the State.



"Request for local administrative review" means any clear expression (oral or written, by letter or otherwise) by a client or his or her authorized representative that he or she wishes to present his or her case in a proceeding before the CBOSS director or his or her delegated representative. This is not to be confused with a request for a fair hearing.

"Resident" means a person who is living in the State for other than a temporary purpose and who has no intention of moving from the State.

"Retirement, Survivors and Disability Insurance (RSDI)" means the Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death or disability.

"Return to state of origin" designates the desire of a family who has resided in New Jersey for a relatively short period to return to the state from which it came.

"RSDI" means Retirement, Survivors and Disability Insurance.

"Social Security payment" means RSDI benefit.

"Spouse" means a husband or wife of a specified individual.

"SSA" means the Social Security Administration.

"SSI" means the Federal Supplemental Security Income Program, including State supplemental payments administered through this program for aged, blind or disabled of any age.

"State institution" means any institutional facility for the mentally ill or retarded, penal institution or veteran's hospital under the jurisdiction of the State of New Jersey.

"Total income" means the sum of all recognized income of the eligible unit, including unearned and calculated earned income.

"Transfer application" means a request for AFDC-related Medicaid for an individual who is presently receiving AFDC-related Medicaid under the same program in another county within the State.

"Vendor payment" means a check drawn to the order of a person or facility for providing goods or services to or for the client, representing payment for such goods or services.

"Withdrawn application" means an oral or written request by an applicant that the CBOSS terminate its activity on his or her application.

## SUBCHAPTER 2. THE APPLICATION PROCESS

### 10:69-2.1 General provisions

(a) Any person who believes he or she and his or her children are eligible for AFDC-related Medicaid shall be given the opportunity to apply without delay. Applicants shall be informed by the county board of social services about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) County board of social services staff shall move with all reasonable speed in accepting, processing and recommending action on applications for assistance. If an applicant is eligible, an AFDC-related Medicaid Eligibility Card shall be issued as eligibility is established. The agency's standards of promptness for acting on applications or re-determining eligibility shall not be a basis for delay in granting AFDC-related Medicaid.

(c) This subchapter describes briefly the steps followed by the eligibility determination worker in determining an applicant's eligibility to receive AFDC-related Medicaid.

### 10:69-2.2 Provisions governing the initial contact

(a) The application process begins with an individual's initial contact with the agency and ends with a decision by the county board of social services as to the eligibility for Aid to Families with Dependent Children related Medicaid (AFDC-related Medicaid). Both the applicant and the eligibility worker have an affirmative responsibility in verifying and documenting eligibility.

(b) Initial contact may be an inquiry, a referral or an application:

1. Inquiry means any request for information about medical assistance programs, which is not a request for an application. A record is necessary only when the inquiry requires follow-up action.

2. Referral means a request from a public or private agency or individual for medical assistance on behalf of another individual. All referrals shall be recorded with appropriate facts, and the disposition noted.

3. Application means a written request for AFDC-related Medicaid by natural or adoptive parent(s), parent-person(s), parent-minor, or responsible person acting on his or her behalf.

(c) There are five types of application:

1. A written request for medical assistance by an individual who has never previously applied under that program in any county in the State;

2. A written request for medical assistance by an individual who has previously applied for, but never received, assistance under that program in any county in the State;

3. A written request for medical assistance by an individual who has previously received assistance under that program in any county in the State, that is, a reopened application;

4. A written request for medical assistance from an individual who is presently receiving AFDC-related Medicaid under the same program in another county in the State; and

5. AFDC-related Medicaid applicants may be eligible for retroactive Medicaid benefits. The eligibility worker shall ask if the family has unpaid medical bills from the three months prior to the month of application and will provide the applicant with appropriate forms.

### 10:69-2.3 Purpose and scope of first contact

(a) The responsibility of the agency during the initial contact shall include, but not be limited, to:

1. Determining and explaining the medical assistance program for which the client may be eligible and informing the client how and where to apply;

2. Advising individual of general requirements of the application process, for example, the necessity of contacting certain relatives and of certain other collateral contacts with an explanation of the right of the applicant to confidentiality and to be primary source of information. The application form includes a blanket consent statement. The client should be informed that he or she is consenting to have the county board of social services (CBOSS) contact others by signing this form. The applicant is also required to sign a waiver allowing the CBOSS to obtain State income tax information. The eligibility worker shall specifically advise each applicant that by signing the waiver he or she is granting such an authorization. In addition to such oral explanations, the individual shall be provided with the pamphlet, Medicaid Rights and Responsibilities;

3. Advising individual that Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination in determining eligibility for AFDC-related Medicaid;

4. Determining whether the individual does indeed wish to apply with full understanding of the need to verify essential eligibility factors and the requirement for a personal interview;

5. Taking the application without delay; and

6. Advising a pregnant woman that she may make application for New Jersey Care ... Special Medicaid Programs.

### 10:69-2.4 Completion of forms

(a) The applicant will be fully assisted by the eligibility worker or by any person of his or her choice in completing the Application and Affidavit for AFDC-related Medicaid (PA-1J). Form PA-1J is used to apply for AFDC-related Medicaid.

(b) The applicant's signature(s) and the date of application are required. The PA-1J requires three signatures of the applicant(s). In addition to the first page and the affidavit, the applicant(s), with the exception of non-needy parent-persons who do not request medical assistance for them, shall sign a release which authorizes the CBOSS to obtain State income tax information.

1. In AFDC-C-related Medicaid, a written application and the authorization to obtain State income tax information is to be signed under oath by the applicant himself or herself or, when the applicant is incapacitated or alleged incompetent (N.J.A.C. 10:69-3.12(b)), by someone acting responsibly for him or her.

i. When both parents are in the home, both shall be required to sign the application and the authorization to obtain State income tax information except that if a parent is unavailable to sign the application and the authorization to obtain State income tax information for reasons beyond the family's control, one signature will suffice. In that event, the non-signatory parent shall be required to annex his or her signature as promptly as he or she is available for such purposes

ii. A non-needy parent-person who does not make application for AFDC-related Medicaid for himself or herself is required to sign the application but is not required to sign the authorization to obtain State income tax information. This exception does not apply to natural or adoptive parents.

2. In AFDC-F and -N, a written application and the authorization to obtain State income tax information shall be completed and signed by both parents. If one parent is unavailable to sign the application, see (b)1i above.

(c) The eligibility worker shall review the application to make sure it is complete and to check any apparent discrepancy or confusion in the information provided by the applicant with him or her, arriving at a resolution if possible in order to process the application.

(d) The application shall be registered immediately and a number assigned in the series designed for the applicable program. A reapplication or reopened application shall be assigned its previous number if within the same county.

### 10:69-2.5 Registration of applications

(a) Official registration of an application shall include:

1. Entry in an application register under appropriate classification; and



ii. Any Highway Relocation Assistance paid under the Federal-Aid Highway Act of 1968;

iii. For any household participating in the Food Stamp Program of the U.S. Department of Agriculture, the value of the coupon allotment; and

iv. Funds held in trust for member of any Indian tribe under Public Law 92-254 or 93-134, or funds which are tax-exempt positions as payments made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act;

7. Loans:

i. Loans for specific purposes:

(1) Loans and grants which are not to be used to meet current living costs and which are held and used in accordance with the conditions of the loan are exempt.

(A) Examples are: Loans made by the Farmers Home Administration, U.S. Department of Agriculture, under Title III of the Economic Opportunity Act, and loans made by the Farmers Home Administration under provisions in Title V of the Housing Act of 1949, as amended; and

ii. Personal loans are exempt when such loans are evidenced by a document, signed by the client and the lender, which states the amount of the loan and terms of repayment;

8. Funds received in repayment of verified costs of collection of a pending claim when the costs were incurred during a period of receipt of AFDC-related Medicaid (see N.J.A.C. 10:69-3.36(a));

9. Burial plots (limited to one for each member of the eligible unit) and bona fide funeral agreements to the extent that the equity value of any agreement does not exceed \$1,500 for each member of the eligible unit;

i. Burial plots are conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements are contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements;

10. Prepaid irrevocable burial trust are funds in an irrevocable trust or other irrevocable arrangement which are available for burial are funds held in an irrevocable burial contract and irrevocable burial trust, or an amount in an irrevocable trust which is specifically identified for burial expenses;

11. Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134; and

12. Funds which are tax-exempt portions of payments made pursuant to Public Law 92-203, the Alaska Native Claims Settlement.

**10:69-11.3 Eligibility of sponsored aliens and deeming of sponsor's resources to a sponsored alien**

(a) The resources of an alien's sponsor shall be deemed to an alien applying for AFDC-related Medicaid. Deeming continues until the earlier of naturalization of the immigrant or the immigrant's being credited with 40 quarters of Social Security coverage. Such quarters do not include any quarters after December 31, 1996 in which the immigrant or the immigrant's spouse/parent on whose record the immigrant is credited with quarters receives Federal means tested benefits. For purposes of this section, a sponsor is an individual, who executed a legally binding affidavit of support on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States. No resources shall be deemed from a sponsor who is (or whose spouse is) receiving AFDC-related Medicaid or SSI.

1. These deeming provisions do not apply to any alien who is:

i. Admitted as a conditional entrant refugee to the United States as a result of the application of the provision of section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Nationality Act;

ii. Admitted as a refugee to the United States as a result of the application of the provisions of section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act;

iii. Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act;

iv. Granted political asylum by the Attorney General under section 208 of the Immigration and Nationality Act;

v. A Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422);

vi. An Amerasian admitted under Section 584 of the Foreign Operation Appropriations Act beginning March 20, 1988; or

vii. Battered immigrants or those who would be indigent, defined as unable to obtain food or shelter without assistance, because their sponsors are not providing adequate support.

(b) The amount of countable resources of the sponsor and of the sponsor's spouse if living with the sponsor shall be determined in accordance with the provisions of this subchapter. The value of the sponsor's resources shall be reduced by \$2,000 and remaining amount shall be deemed available to the alien and counted in the determination of eligibility and payment level.

(c) In any case where a person is the sponsor of two or more aliens, the resources of the sponsor (and the sponsor's spouse if living with the sponsor), to the extent the resources would be deemed to any one of the aliens under the provisions of this section shall be equally divided among the sponsored aliens.

(d) For the period of alien sponsor deeming, the sponsored alien who is not exempt from deeming under (a)1 above shall provide the CBOSS with any information and documentation necessary to determine the resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. A sponsored alien is ineligible in any month in which adequate information concerning resources of the sponsor or sponsor's spouse (if living with the sponsor) is not provided.

(e) Resources which are deemed to an alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the resources are actually available. The sponsor's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the alien(s) for whom the sponsor is liable.

(f) Any individual sponsor of an alien, and the alien, shall be jointly liable for any incorrectly paid AFDC-Medicaid benefits made to the alien during the alien sponsored deeming period that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (f)1 below.

1. When a sponsor is found to have good cause or to be without fault for not providing information to the CBOSS, the sponsor will not be held liable for a recovery of incorrectly paid benefits.

i. Good cause is defined as including, but not limited to, a language barrier, mental impairment of the sponsor, the information was thought to be correct by the sponsor, or the sponsor did not realize foreign assets must be reported.

2. An incorrectly paid benefit for which the alien or the sponsor and the alien are liable as described in (f) above shall be recovered in accordance with the provisions of N.J.A.C. 10:49-14.