

CHAPTER 83B**HEARING AID ASSISTANCE TO THE
AGED AND DISABLED****Authority**

N.J.S.A. 30:4D-36 through 42.

Source and Effective Date

R.2004 d.369, effective October 4, 2004.
See: 36 N.J.R. 1861(a), 36 N.J.R. 4463(a).

Chapter Expiration Date

Chapter 83B, Hearing Aid Assistance to the Aged and Disabled, expires on October 4, 2009.

Chapter Historical Note

Chapter 83B, Hearing Aid Assistance to the Aged and Disabled, was originally codified in Title 10 as Chapter 69, Hearing Aid Assistance to the Aged and Disabled. 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 Chapter 69 was repealed by Emergency Repeal R.1976 d.216, effective July 12, 1976.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 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 to N.J.A.C. 8:83B, effective October 15, 1997. See: 29 N.J.R. 4679(a).

Pursuant to Executive Order No. (66)1978, Chapter 83B, Hearing Aid Assistance to the Aged and Disabled, was readopted as R.1998 d.227, effective April 13, 1998. See: 30 N.J.R. 46(a), 30 N.J.R. 1612(a). Chapter 83B, Hearing Aid Assistance to the Aged and Disabled, expired on October 10, 2003.

Chapter 83B, Hearing Aid Assistance to the Aged and Disabled, was adopted as new rules by R.2004 d.369, effective October 4, 2004. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**8:83B-1.1 Purpose**

(a) The purpose of this chapter, Hearing Aid Assistance to the Aged and Disabled (HAAAD), is to provide a payment of up to \$100.00 in a calendar year in which a hearing aid is purchased to offset the cost of the hearing aid for individuals who meet the age or disability, income and residency requirements of Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program.

(b) This chapter has been developed as a statement of policy and procedures and is applicable only to eligibility for the HAAAD Program.

8:83B-1.2 Legal authority

The New Jersey Program of Hearing Aid Assistance to the Aged and Disabled (HAAAD) is established by Chapter 198, Laws of 1987 (N.J.S.A. 30:4D-36 et seq.), effective February 4, 1988.

SUBCHAPTER 2. DEFINITIONS**8:83B-2.1 Definitions**

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

“Annual income” means all income from whatever source derived, actually received or anticipated.

“Applicant” means an individual who applies for HAAAD, either personally or through an authorized agent.

“Beneficiary” means an individual who has been found eligible for HAAAD benefits.

“Calendar year” means a year beginning January 1 and ending December 31. “Calendar year” is the base period

utilized to determine annual income and HAAAD eligibility.

"Commissioner" means the Commissioner of the Department of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"Resident" means a person legally domiciled within the State of New Jersey for a period of 30 days immediately preceding the date of application for inclusion in the HAAAD program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile.

"Special needs trust" means a trust containing the assets of a disabled individual that is established for the sole benefit of the individual by a parent, grandparent, legal guardian or court prior to the time the individual reaches the age of 65. (See N.J.A.C. 8:83B-2.2 for provisions.)

"Viatical settlement" means the sale or cashing in of a life insurance policy prior to the death of the insured, due to the fact that the insured has experienced a catastrophic, life-threatening or chronic illness or condition.

8:83B-2.2 Special needs trusts

(a) To be considered a special needs trust, the trust shall include the following provisions:

1. The trust shall specifically state that the trust is for the sole benefit of the trust beneficiary;
2. The trust shall specifically state that its purpose is to permit the use of trust assets to supplement, and not to supplant, impair or diminish, any benefits or assistance of any Federal, State or other governmental entity for which the beneficiary may otherwise be eligible or which the beneficiary may be receiving;
3. The trust shall specifically state the age of the trust beneficiary, that the trust beneficiary is disabled within the definition of 42 U.S.C. § 1382c(a)(3), and whether the trust beneficiary is competent at the time the trust is established;
4. The trust shall specifically identify, in an attached schedule, the source of the initial trust property and all assets of the trust;
5. If the trust makes provisions which are intended to limit invasion by creditors or to insulate the trust from liens or encumbrances, the trust shall state that such provisions are not intended to limit the State's right to reimbursement or to recoup incorrectly paid benefits;
6. The special needs trust shall state that it is established by a parent, grandparent, or legal guardian of the trust beneficiary or by a court;

7. The trust shall specifically state that it is irrevocable. Neither the grantor, the trustee(s), nor the beneficiary shall have any right or power, whether alone or in conjunction with others, in whatever capacity, to alter, amend, revoke, or terminate the trust or any of its terms or to designate the persons who shall possess or enjoy the trust estate during his or her lifetime;

8. The trustee shall be specifically identified by name and address. The trust shall state that the original trust beneficiary cannot be the trustee. The trust shall make provisions for naming a successor trustee in the event that any trustee is unable or unwilling to serve;

9. The trust shall specifically state that the trustee shall fully comply with all State laws, including the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq. The trust shall provide that the trustee cannot take any actions not authorized by, or without regard to, State laws. If the trust gives the trustee authorization or power not provided for in the Prudent Investor Act, an accompanying letter shall provide an explanation for each such authorization or power;

10. The trust shall specifically state that the trustee shall be compensated only as provided by law (N.J.S.A. 3B:18-1 et seq.). If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;

11. The trust shall specify that a formal or informal accounting of all expenditures made by the trust shall be submitted to the appropriate eligibility determination agency on an annual basis;

12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of Support Services for the Aged, Division of Senior Benefits and Utilization Management, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures;

13. New Jersey rules and laws do not permit a trust to create a will for an incompetent or a minor. The money creating the trust, any additions and/or interest accumulated, cannot be left to other parties, but shall pass by intestacy. The trust shall not create other trusts within it.

SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

8:83B-3.1 Department of Health and Senior Services

The Department of Health and Senior Services is the administrative unit of the State government which has control over the administration of HAAAD. Under the terms of the HAAAD law, the Department is responsible for the general policies, governing administration of HAAAD, and for effecting the issuance of rules and procedures in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for implementing the statutory provisions.