

1. Interpretation: The term resident shall be interpreted to mean a person having his customary place of abode in New Jersey. The fact that an individual was or may have been motivated to move to New Jersey because of the availability of medical facilities does not, of itself, justify a finding that he has not established a residence in this State; however, such inquiry need not be made if an individual has been physically present in New Jersey for a period exceeding three months.

2. The applicant must be able to substantiate residence upon request by the Department and is required to submit photocopies of two documents showing evidence of current residence at the time of initial application.

3. The following are examples of sources of evidence of residence:

- i. Motor vehicle records (e.g., valid driver's license);
- ii. Landlord's records and rent receipts;
- iii. Public utility records and receipts (e.g., electric bill);
- iv. Personal property assessment records;
- v. Records of business or professional people, such as doctors, department stores, etc.;
- vi. Post office records;
- vii. Records of social agencies, public or private;
- viii. Employment records.

4. Determination as to continued New Jersey residence of a person absent from this State shall be based upon contact with the applicant by a representative of the Department.

5. In reaching a decision as to continuing New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a beneficiary leaves New Jersey with the intent to establish a place of abode elsewhere, he becomes ineligible under the PAAD program and must notify the Pharmaceutical Assistance to the Aged and Disabled program of the address and return the PAAD eligibility card.

Amended by R.1985 d.259, effective May 20, 1985.  
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substituted "within" for "with".

Amended by R.1985 d.690, effective January 21, 1986.  
See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).

3.ii deleted.

Amended by R.1998 d.176, effective April 6, 1998.  
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), deleted "and reapplication" at the end of 2.

#### **8:83-6.5 Recipient of other assistance and pharmaceutical coverage**

(a) The State statute provides that any person shall be ineligible for PAAD if he/she is otherwise qualified for assistance under the Act of which the PAAD Act is a

supplement (Chapter 413, Laws of 1968). This is interpreted to mean that a State resident 65 years of age or older cannot be eligible for PAAD when receiving Medicaid benefits.

(b) The State statute further provides that any otherwise eligible person whose prescription drug costs are wholly covered by any other plan of assistance or insurance shall be ineligible for PAAD.

#### **8:83-6.6 PAAD eligibility application and renewal application forms**

(a) The Pharmaceutical Assistance to the Aged and Disabled Eligibility Application (AP-2) is the only acceptance form to be utilized in determining the applicant's initial eligibility for PAAD. These forms are available to applicants in central and local offices and other convenient locations throughout the State.

(b) The only acceptable form to be utilized in determining the beneficiary's continuation of eligibility will be the PAAD Eligibility Renewal Application Form (AP-12). This form is automatically mailed to the beneficiary approximately four months prior to the eligibility expiration date.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substituted "four months" for "90 days".

#### **8:83-6.7 Social Security account number**

(a) Each applicant for PAAD benefits must include his or her Social Security Account Number (SSAN) on the application/reapplication form. The SSAN is a unique and verifiable number which is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

(b) In the event that the applicant does not have a SSAN, a unique identifying number will be assigned by the PAAD program. This number will be used throughout the beneficiary's PAAD eligibility.

#### **8:83-6.8 Certification**

The applicant for PAAD benefits must certify that all the answers to the questions and items on the application/renewal application form are true and accurate to the best of his/her knowledge. This certification must be dated, signed or marked by the applicant and spouse (if married), and the preparer of the form (if other than the applicant), before the application/renewal application can be processed.

#### **8:83-6.9 Authorization**

(a) By signing/marketing the certification and authorization statement on the application/renewal application form, the applicant/reapplicant authorizes:

1. The Department to verify any information on the form by contacting the Social Security Administration, the

Internal Revenue Service, the New Jersey Division of Taxation, employers and others as the need arises;

2. Visitation and review by representatives of the Department, or the Division of Medical Assistance and Health Services;

3. Assignment of benefits to the State of New Jersey if he/she or his/her spouse has any other plan of assistance or insurance that covers, at least in part, the cost of prescription drugs; and

4. Prescribing practitioners to release information concerning prescriptions which have been paid by the PAAD program, to the Department and the New Jersey Division of Medical Assistance and Health Services or any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

Amended by R.1984 d.617, effective January 21, 1985.

See: 16 N.J.R. 2050(a), 17 N.J.R. 201(b).

(a)4 added.

#### 8:83-6.10 Eligibility period

(a) A PAAD eligibility card is effective for the dates indicated on the card. The PAAD beneficiary shall renew his or her eligibility in accordance with the provisions of N.J.A.C. 8:83-5.3(b). In that case, he or she would receive an updated eligibility card automatically for the second year, and would complete a renewal application every two years. Beneficiaries who are subject to the two year renewal provision will have their eligibility card renewed automatically for one additional year.

(b) Approximately four months prior to his or her expiration date, PAAD will notify the beneficiary if he or she must complete a renewal form. Renewal applications must be returned to the PAAD Program by the beneficiary at least 45 days prior to the expiration date to ensure continuous coverage.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Old text deleted and new text substituted.

Amended by R.1985 d.690, effective January 21, 1986.

See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).

Income changed from "\$9,000" to "\$10,000" for single and married raised from "\$12,000" to "\$13,000".

Amended by R.1988 d.174, effective April 18, 1988.

See: 19 N.J.R. 2375(a), 20 N.J.R. 902(a).

Substituted "expiration" for "renewal".

Amended by R.1990 d.614, effective December 17, 1990.

See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).

In (a): increased income level from \$10,000 to \$11,000 for single persons and from \$13,000 to \$14,000 for married persons.

Amended by R.1991 d.563, effective November 18, 1991.

See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

References to eligibility effective dates revised.

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), substituted "the dates indicated on the card" for "one year" at the end of the first sentence; and in (b), deleted "he/she is eligible for biennial eligibility or if" following "beneficiary if" in the first sentence.

#### 8:83-6.11 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the program pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified.

2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the program's statute, regulations or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted.

3. The release of information to the program's contractors, the Lifeline Credit Program, Tenant Lifeline Assistance Program, Social Security Administration, the Division of Medical Assistance and Health Services and other plans of assistance or insurance that covers the cost of prescription drugs in whole or in part.

4. The release of information or files to the State Treasurer or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law.

5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

6. The release of information to the Department and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program.

7. The release of information or files to County Welfare Agencies for the purpose of determining eligibility for Medicaid benefits or for subsequent verification of Medicaid eligibility.

8. The release of information or files to the Division of Motor Vehicles in the Department of Law and Public Safety for the implementation of the Fair Automobile Insurance Act of 1990 (P.L. 1990, c.8).

9. The release of information or files to the beneficiary's telephone or telecommunications carrier or utility company for the purpose of determining eligibility for the Lifeline Telecommunication program or for the distribution of Lifeline Telecommunication and Universal Service Fund benefits.

New Rule, R.1984 d.269, effective July 2, 1984.

See: 16 N.J.R. 823(a), 16 N.J.R. 1797(a).

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

(c)7 added.

Amended by R.1991 d.454, effective September 3, 1991.

See: 23 N.J.R. 7(a), 23 N.J.R. 2637(b).

Added new (c)8 to rule text.

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (c), inserted a reference to the Division of Medical Assistance and Health Services in 3.

Amended by R.2003 d.102, effective March 3, 2003.

See: 34 N.J.R. 3455(a), 35 N.J.R. 1268(a).

Added (c)9.

### 8:83-6.12 Appeal process

(a) When PAAD determines that an application is ineligible for benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to Pharmaceutical Assistance to the Aged and Disabled, PO Box 715, Trenton, New Jersey 08625-0715, within 30 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.

(b) PAAD will forward the hearing request, if determined to be a contested case, to the Office of Administrative Law which will schedule the hearing and notify all parties of the date, time and location of the hearing.

(c) The petitioner will have the burden of demonstrating that PAAD's determination deviates from the requirements and standards of the regulations and statute.

(d) When the PAAD beneficiary requests a fair hearing, he or she shall clearly indicate the existence of a disputed question of fact or law arising from the requirements and standards of the rules and statutes of the PAAD program. If the beneficiary fails to establish a contested case, the PAAD program shall deny the hearing request.

1. Hearings are not intended to be informational or to provide a forum for the expression of public sentiment on PAAD actions or policies.

New Rule, R.1993 d.368, effective July 19, 1993.

See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

Amended by R.1995 d.10, effective January 3, 1995.

See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), extended the hearing request deadline from 20 calendar days to 30 calendar days from the notice mailing date; and in (b), inserted ", if determined to be a contested case," following "request".

## SUBCHAPTER 7. RECOVERIES AND LIENS

### 8:83-7.1 Recoveries for benefits correctly paid

Pursuant to P.L. 1983, C. 371, no encumbrance or recovery of any kind shall be imposed or sought from the estate of a qualified applicant or an eligible person after his death because of assistance paid, or to be paid, on his behalf under the PAAD program, except for assistance incorrectly or illegally paid, or for third party liability recovery sought under the New Jersey Medical Assistance and Health Services Act (P.L. 1968, C. 413, codified as N.J.S.A. 30:4D-1 et seq.)

As amended, R.1982 d.147, effective May 3, 1982.

See: 14 N.J.R. 80(a), 14 N.J.R. 427(c).

Section substantially amended.

As amended, R.1984 d.571, effective December 16, 1984.

See: 16 N.J.R. 2051(a), 16 N.J.R. 3439(a).

Old section deleted and new section substituted.

### 8:83-7.2 Recoveries for benefits incorrectly paid

(a) As provided in N.J.S.A. 30:4D-1 et seq., the Department or Division of Medical Assistance and Health Services may take all necessary action to recover the cost of benefits incorrectly paid on behalf of a beneficiary. If it is determined that an applicant's income exceeded the eligibility limit in a prior year, a new PAAD card or Lifeline benefits will not be issued until the beneficiary and/or his or her spouse agrees to repay the benefits received incorrectly. If the beneficiary cannot repay the bill in full, a monthly repayment schedule will be established by the Program, but if the beneficiary fails to fulfill the requirements of the repayment agreement, future PAAD and Lifeline benefits may be suspended until the bill is paid in full.

1. The term "incorrect payment" includes, but is not limited to:

- i. Payment made on behalf of a beneficiary whose drug costs are wholly covered by another source;
- ii. Payment made on behalf of a beneficiary who is no longer eligible, or has been incorrectly determined to be eligible to receive benefits;
- iii. Payment made as a result of fraud perpetrated by a beneficiary, his/her authorized agent and/or provider.

(b) The Division of Medical Assistance and Health Services, on behalf of DHSS, shall take all reasonable measures to ascertain the legal liability of third parties to pay for prescription drugs arising out of injury, disease, or disability, where it is known that a third party is or may be liable to pay all or part of the drugs of a beneficiary. Payment on behalf of an eligible individual shall not be withheld because of the liability of third parties, if third party resources are not currently available to pay the individual's expenses. The Division of Medical Assistance and Health Services shall recover from any such third party the full amount of payments made. Upon request of the Director, the Attor-

ney General may enforce such right, institute legal proceedings against the third party who is or may be liable for the payment for drugs, or intervene in any proceedings, in the name of the Commissioner, or in the name of the injured person, his guardian, executor, administrator or other appropriate representative.

Amended by R.1993 d.368, effective July 19, 1993.

See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), inserted references to Lifeline benefits throughout the introductory paragraph.

### 8:83-7.3 Liens

Provisions for the application of liens shall be consistent with and conform to any provisions for liens as provided in N.J.S.A. 30:4D-1 et seq.

### 8:83-7.4 Penalties

Any person violating any provision of the PAAD Act shall be subject to the applicable civil and criminal penalties contained in the "New Jersey Medical Assistance and Health Services Act" (N.J.S.A. 30:4D-1 et seq.). In addition, any eligible person who violates any provision of the PAAD Act shall be subject to a suspension of their eligibility for one year for a first offense and permanent revocation of their eligibility for a second offense.