CHAPTER 61

ATTENDANCE AND PARTICIPATION AT SCHOOL BY PERSONS WITH HIV INFECTION; AIDS DRUG DISTRIBUTION PROGRAM; HIV/AIDS COUNSELING AND TESTING OF PREGNANT WOMEN FOR HIV; AND DISCLOSURE OF CHILDREN'S HIV/AIDS STATUS

Authority

N.J.S.A. 26:1A–15, 26:5C–8 and 26:5C–20.

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R.2005 d.3, effective January 3, 2005.
See: 35 N.J.R. 5338(a), 37 N.J.R. 60(a).

Chapter Expiration Date

Chapter 61, Attendance and Participation at School by Persons With HIV Infection; Aids Drug Distribution Program; HIV/AIDS Counseling and Testing of Pregnant Women for HIV; and Disclosure of Children's HIV/AIDS Status, expires on January 3, 2010.

Chapter Historical Note

Chapter 61, Acquired Immunodeficiency Syndrome, was adopted as R.1986 d.407, effective October 6, 1986. See: 18 N.J.R. 1512(a), 18 N.J.R. 2014(a).

Subchapter 2, Eligibility Criteria to Participate in the Retrovir Drug Program (now AIDS Drug Distribution Program), was adopted as emergency new rules by R.1987 d.437, effective October 7, 1987. See: 19 N.J.R. 2067(a). The provisions of R.1987 d.437 were readopted as R.1988 d.6, effective December 4, 1987. See: 19 N.J.R. 2067(a), 20 N.J.R. 89(b).

Pursuant to Executive Order No. 66(1978), Chapter 61 was readopted as R.1991 d.538, effective October 4, 1991. See: 23 N.J.R. 2245(b), 23 N.J.R. 3332(a).

Pursuant to Executive Order No. 66(1978), Chapter 61 was readopted as R.1996 d.509, effective October 4, 1991. As part of R.1996 d.509, Subchapter 3, HIV Counseling and Testing of Pregnant Women, and Subchapter 4, Disclosure of Information to Prospective Foster or Adoptive Parents by DYFS or Licensed Agency, were adopted as new rules, effective November 4, 1996. See: 28 N.J.R. 4019(a), 28 N.J.R. 4202(a), and 28 N.J.R. 4787(a).

Chapter 61, Acquired Immunodeficiency Syndrome, expired on October 4, 2001.

Chapter 61, Attendance and Participation at School by Persons With HIV Infection; Aids Drug Distribution Program; HIV/AIDS Counseling and Testing of Pregnant Women for HIV; and Disclosure of Children's HIV/AIDS Status, was adopted as R.2005 d.3, effective January 3, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. HIV SERVICES—DEFINITIONS

8:61–1.1 Definitions

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

"Adult" means a teacher, administrator, food service employee or other school staff member.

"AIDS" means acquired immunodeficiency syndrome, a disease that meets the criteria for the diagnosis specified by the Centers for Disease Control and Prevention of the United States Public Health Service, in the "1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults," as published by the Centers for Disease Control and Prevention in the Morbidity and Mortality Weekly Report 1992, volume 41, No. RR–17, and in the Guidelines for National Human Immunodeficiency Virus Case Surveillance, Including Monitoring for Human Immunodeficiency Virus Infection and Acquired Immunodeficiency Syndrome, as published by the Centers for Disease Control and Prevention in the Morbidity and Mortality Weekly Report 1999, volume 48, No. RR–13; 1–28 as appropriate, incorporated herein by reference, as amended and supplemented. That publication may be found at www.cdc.gov/mmvr.

"AIDS Drug Distribution Program" means the program by which eligible individuals will receive designated medications approved by the Federal Food and Drug Administration which have been recognized as either prolonging or enhancing the life of individuals with HIV infection from funds appropriated to the State from the Federal government.

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

"Full-time caregiver" means a foster parent(s), prospective adoptive parent(s), group home and treatment home parent(s), the medical director or other individual in other congregate care facilities responsible for the medical care and management of the child. This list is not exhaustive and may include relatives and family friends who are actively engaged in caring for the needs of the HIV/AIDS child.

"Need-to-know basis" means that a disclosure will occur only when necessary for the treatment, care, and overall health needs of the HIV/AIDS-infected child.

"HIV" means human immunodeficiency virus, the causative agent of AIDS.

"Physician" means an individual currently licensed to practice medicine and surgery pursuant to N.J.S.A. 45:9–1 et seq.

"Student" means an individual entitled to enrollment in a public preschool, elementary, secondary or adult high school program, charter school, or a licensed school acting under contract to provide educational services on behalf of a public school district within the State of New Jersey and school programs operated by or under contract with the New Jersey Departments of Corrections and Human Services and the Juvenile Justice Commission.

SUBCHAPTER 2. PARTICIPATION AND ATTENDANCE AT SCHOOL BY INDIVIDUALS WITH HIV INFECTION

8:61–2.1 Attendance at school by students or adults with HIV infection

(a) No student with HIV infection shall be excluded from attending school for reason of the HIV infection. Exclusion of an HIV-infected student can only be for reasons that would lead to the exclusion of any other student.

(b) No student with HIV infection shall be restricted from his or her normal employment at school for reason of the HIV infection, unless the student has another illness that would restrict that employment.

(c) No student shall be excluded from school services, including transportation, extra-curricular activities, and athletic activities, or assigned to separate services, such as home instruction, for reason of HIV infection or living with or being related to someone with HIV infection, as required by N.J.A.C. 6A:16–1.4.

(d) Any person shall be removed from the school setting if the person has uncovered weeping skin lesions.

(e) Any public or nonpublic school or day care facility, regardless of whether students or adults with HIV are present, shall adopt written policies and routine procedures for handling blood and body fluids and make available training and appropriate supplies to all school personnel, in conformance with N.J.A.C. 6A:16–1.3 and 2.3(e).

(f) Any public or nonpublic school and day care facility shall adopt written policies and procedures for post-exposure evaluation and follow up for any employee exposed to blood or body fluids. District boards of education shall develop written policies and procedures for post-exposure management, in conformance with the Occupational Safety and Health Administration (OSHA) Safety and Health Standards for Occupational Exposure to Bloodborne Pathogens, 29 C.F.R. § 1910.1030, as amended and supplemented, and the Safety and Health Standards for Public Employees provided at N.J.A.C. 12:100–4.2.

(g) Any employee of a district board of education or school shall share information that identifies a student as having HIV infection or AIDS only with prior written informed consent of the student age 12 or greater, or of the student's parent or guardian, as required by N.J.S.A. 26:5C–5 et seq., except as may be authorized or required under other laws.

SUBCHAPTER 3. ELIGIBILITY CRITERIA TO PARTICIPATE IN THE AIDS DRUG DISTRIBUTION PROGRAM

8:61–3.1 Purpose; scope

The purpose of this subchapter is to describe the clinical and financial criteria which individuals must meet, in order to become enrolled in the AIDS Drug Distribution Program.

8:61–3.2 Coverage

The medications designated for coverage shall be based on considerations of cost, efficacy and frequency of use as determined by the Division of HIV/AIDS Services.

8:61–3.3 Clinical eligibility

To be considered clinically eligible to participate in the AIDS Drug Distribution Program, an individual must meet the clinical criteria established by the manufacturer of the drug, as determined by a licensed physician or other licensed health care practitioner acting within his or her scope of practice.

8:61–3.4 Income eligibility

(a) In order to be eligible for this program, the individual(s) shall be a permanent resident of New Jersey and must have an annual income that does not exceed 500 percent of the Federal Poverty Level in accordance with the provisions of 42 U.S.C. § 9902(2) as amended and supplemented.