

**CHAPTER 78
NJ FAMILYCARE**

Authority

N.J.S.A. 30:4D-1 et seq., as amended by P.L. 2000, c.71.

Source and Effective Date

R.2001 d.113, effective March 5, 2001.
See: 32 N.J.R. 3603(a), 33 N.J.R. 1126(a).

Executive Order No. 66(1978) Expiration Date

Chapter 78, NJ FamilyCare, expires on March 5, 2006, except for Subchapter 9, Premium Support Program (PSP), which expires on January 20, 2002.

Chapter Historical Note

Chapter 78, NJ FamilyCare, was adopted as special new rules by R.2000 d.393, effective September 6, 2000, to expire March 5, 2001. See: 32 N.J.R. 3603(a). The provisions of R.2000 d.393 were readopted as R.2001 d.113, effective March 5, 2001. See: Source and Effective Date.

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SUBCHAPTER 1. INTRODUCTION

10:78-1.1 Program outline

(a) NJ FamilyCare is a broad term used to describe a State subsidized health insurance program. This chapter contains the criteria for NJ FamilyCare eligibility for certain uninsured parents, caretakers and children not eligible under the provisions of N.J.A.C. 10:69 and 10:79, as well as certain uninsured single individuals and couples without dependent children not eligible under the provisions of N.J.A.C. 10:90. FamilyCare also provides subsidized health insurance to those legal immigrants who are lawfully admitted for permanent residence who meet all other qualifications under the provisions of N.J.A.C. 10:69, 10:72 and 10:79, but for the Federal immigrant residency restrictions.

(b) Because the eligibility criteria established by the rules in this chapter are more liberal than those applicable under AFDC-related Medicaid and SSI-related Medicaid, parents, caretakers, children, single adults and couples without dependent children who are losing Medicaid eligibility because of financial reasons should be evaluated for FamilyCare eligibility under the provisions of this chapter.

1. Individuals financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:72 or 10:69 and who are income ineligible for FamilyCare under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

2. Immigrant infants and children not eligible under the provisions of N.J.A.C. 10:49, 10:71, 10:72, 10:69 or 10:79 should be evaluated for NJ FamilyCare eligibility under the provisions of this chapter.

(c) Eligibility under the provisions of this chapter shall be limited to those individuals not otherwise eligible for Medicaid or NJ KidCare, including:

1. Parents and caretakers of children under the age of 19;
2. Pregnant women whose income is over 185 percent of the Federal poverty line;

3. Immigrant pregnant women lawfully admitted for permanent residence who would be eligible for Medicaid but for Federal immigrant residency restrictions;

4. Single individuals and couples without dependent children; and

5. Children under the age of 21.

(d) Persons found eligible for NJ FamilyCare will receive services as set forth in N.J.A.C. 10:78-7.1, Scope of services.

10:78-1.2 Purpose

(a) The purpose of the rules contained within this chapter is to:

1. Set forth eligibility criteria for the NJ FamilyCare program; and

2. Specify the rights and responsibilities of program applicants and beneficiaries.

(b) Circumstances which are neither specifically nor generally addressed in these rules shall be referred to designated staff of the Division of Medical Assistance and Health Services for resolution.

(c) The director of the eligibility determination agency shall assign copies of this chapter to administrative staff, all staff responsible for the determination of NJ FamilyCare eligibility, social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its requirements in order to apply the policies and procedures consistently.

(d) The Division of Medical Assistance and Health Services shall issue amendments to this chapter as they are promulgated in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(e) At least one administrative copy of all obsolete pages of this chapter shall be maintained by the eligibility determination agency.

(f) This chapter is a public document. All copies in use shall be updated accurately as amendments are issued. The chapter is available as follows:

1. Copies are available in the State offices of the Division of Medical Assistance and Health Services and in each eligibility determination agency for examination and review during regular office hours.

2. Specific requirements necessary for an applicant or beneficiary or his or her representative to determine whether a grievance review is to be requested or to prepare for a grievance review shall be provided to such persons without charge.

3. All public and university libraries which have agreed to maintain the chapter up-to-date will have a copy available under their regulations.

4. Welfare, social service, and other nonprofit organizations shall be furnished with a copy of this chapter at no cost upon an official written request on agency letterhead

to the Division of Medical Assistance and Health Services.

5. A current up-to-date copy of this chapter is available from the Division of Medical Assistance and Health Services at the cost of printing and mailing to anyone who requests it in writing.

10:78-1.3 Administrative organization

The NJ FamilyCare program is under the supervision of the Division of Medical Assistance and Health Services.

10:78-1.4 Principles of administration

(a) The following principles of administration apply in the NJ FamilyCare program.

1. Opportunity to make application shall be as follows:

i. Any individual who believes he or she is eligible shall be afforded an opportunity to make application (or reapplication) for the NJ FamilyCare program without delay.

2. The primary source of information requirements shall be as follows:

i. Program applicants or beneficiaries shall be the primary source of information concerning program eligibility; and

ii. The eligibility determination agency shall, when necessary, in the process of determining eligibility, use secondary sources of information with the knowledge and consent of the applicant or eligible person.

3. Adherence to law and administrative policy shall be as follows:

i. There shall be strict adherence to law and complete conformity with rules; and

ii. Requirements other than those established by law or rule shall not be imposed as a condition of receiving assistance under the NJ FamilyCare program.

10:78-1.5 Confidentiality of information

(a) No member, officer, or employee of the eligibility determination agency shall produce or disclose any confidential information to any person except as authorized below.

1. Information considered confidential shall include, but shall not be limited to, the following:

i. Names and addresses;

ii. Medical services provided;

iii. Social and economic conditions and circumstances;

iv. Eligibility determination agency evaluation of personal information; and

v. Medical data, including diagnosis and past history of disease or disability.

2. The eligibility determination agency may disclose information concerning an applicant or eligible person to persons and agencies directly related to the administration of the NJ FamilyCare program. Persons and agencies directly related to program administration shall include, but shall not be limited to, those who are properly authorized to be involved in the following:

i. The establishment of eligibility;

ii. The determination of the amount and scope of medical assistance;

iii. The provision of services for beneficiaries; and

iv. The conduct or assisting in the conduct of an investigation, prosecution, or civil or criminal proceeding related to the NJ FamilyCare program.

3. The eligibility determination agency may release information whenever the applicant or eligible person waives confidentiality, but only to the extent authorized by the waiver.

4. If a court issues a subpoena for a case record or any other confidential information or for any agency representative to testify concerning an applicant or eligible person, the eligibility determination agency shall make a statement substantially as follows:

i. Information concerning applicants and beneficiaries of NJ FamilyCare shall be restricted to persons directly connected to the administration of such assistance. This includes a requirement of nondisclosure of such information in response to a subpoena, except in those instances where refusal to follow orders of the court will result in an individual or agency being held in contempt of court.

ii. In any instance of a subpoena for case record information or for agency testimony, a complete report of the disposition of the court's request shall be entered into the case record.

5. Pertinent information and records may be released in conjunction with an administrative hearing conducted by the Office of Administrative Law regarding action or inaction of the eligibility determination agency affecting an applicant's or beneficiary's eligibility under the NJ FamilyCare program.

10:78-1.6 Materials distributed to NJ FamilyCare applicants or beneficiaries

(a) All materials distributed to program applicants or beneficiaries shall:

1. Directly relate to the administration of the NJ FamilyCare program;

2. Have no political implications;

3. Contain names only of individuals directly connected with the administration of the NJ FamilyCare program; and

4. Identify those individuals only in their capacity with the State or the eligibility determination agency.

(b) The eligibility determination agency shall not distribute materials such as "holiday" greetings, general public announcements, or alien registration notices.

(c) The eligibility determination agency may distribute materials directly related to the health and welfare of program applicants and beneficiaries, such as announcements of free medical examinations, availability of surplus food, voter registration and consumer protection information.

10:78-1.7 Nondiscrimination

(a) Discrimination on the basis of race, color, national origin, age, or disability shall be prohibited.

(b) All persons seeking or receiving FamilyCare benefits shall be afforded an opportunity to file a complaint alleging discrimination. Such complaints may be filed directly with the Director, Division of Medical Assistance and Health Services, PO Box 712, Trenton, New Jersey 08625-0712.

(c) In any instance in which a complaint of alleged discrimination is filed with a State or county agency, the complaint shall be forwarded immediately to the Director, Division of Medical Assistance and Health Services. The Director, upon receipt of any such complaint, shall take any such action he or she deems appropriate to the situation. This action may include, but shall not be limited to, the securing of reports from whatever sources have knowledge pertinent to the situation and referral to the Division on Civil Rights of the New Jersey Department of Law and Public Safety for investigation, evaluation, and recommendation by that agency.

(d) The eligibility determination agency shall afford full cooperation in the investigation of complaints of discrimination as may be requested by the State Division of Medical Assistance and Health Services, or the State Division on Civil Rights.

10:78-1.8 Assignment of medical support rights

(a) Any person who applies for NJ FamilyCare, by virtue of the application for benefits, shall be deemed to have assigned to the Commissioner of the Department of Human Services any rights to support for the purpose of medical care as determined by a court or administrative order and any rights to payment for care from any third party. Program applicants and beneficiaries shall cooperate in the identification of and the obtainment of any such rights. Failure to cooperate shall result in denial of eligibility for any adult. Children shall not be subject to this sanction.

1. The eligibility determination agency shall advise program applicants and beneficiaries of the terms of the assignment and the consequences thereto.

SUBCHAPTER 2. CASE PROCESSING

10:78-2.1 Application

(a) Application for NJ FamilyCare benefits shall be accomplished by completing and signing the application form as well as any addenda to that form as prescribed by the Division of Medical Assistance and Health Services. Applicants may obtain NJ FamilyCare applications from various social service locations or by calling the Division. The eligibility determination agency shall process all applications mailed or forwarded or presented to them.

(b) The eligibility determination agency shall:

1. Inform applicants of the purpose of and the eligibility requirements for the NJ FamilyCare program, including their rights to a grievance review;
2. Receive applications and review them for completeness, consistency, and reasonableness;
3. Assist program applicants in exploring their eligibility for program benefits;
4. Make known to program applicants the appropriate resources and services both within the agency and in the community; and
5. Assure the prompt and accurate submission of eligibility data to the Eligibility File for beneficiaries and prompt notification to beneficiaries of the reason for their eligibility or ineligibility.

(c) As part of the application process, an applicant for NJ FamilyCare has the responsibility to:

1. Complete, with the assistance of the eligibility determination agency, as needed, any forms required as part of the application process;
2. Assist the eligibility determination agency in securing evidence that verifies his or her statements regarding eligibility; and
3. Provide medical confirmation of pregnancy when NJ FamilyCare benefits are sought on that basis.

(d) For any application for NJ FamilyCare benefits under the provisions of this chapter, the eligibility determination agency shall accomplish disposition of the application as soon as all factors of eligibility are met and verified but not later than 30 days from the date of application. Exceptions to the timeliness standard appear in (d)2 below.

1. "Disposition of the application" means the official determination by the eligibility determination agency of eligibility or ineligibility of the applicant(s) for NJ FamilyCare.