

**CHAPTER 70**

**MEDICALLY NEEDY PROGRAM**

**Authority**

N.J.S.A. 30:4D-3i(8), 30:4D-6g, 30:4D-7, 7a, b and c.

**Source and Effective Date**

R.1996 d.263, effective May 9, 1996.  
See: 28 N.J.R. 1463(a), 28 N.J.R. 3001(a).

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

Chapter 70, Medically Needy Program, expires on May 9, 2001.

**Chapter Historical Note**

Chapter 70, Medically Needy Program, was adopted as R.1986 d.237, effective June 16, 1986 (operative July 1, 1986). See: 18 N.J.R. 831(a), 18 N.J.R. 1294(a).

Pursuant to Executive Order No. 66(1978), Chapter 70 was readopted as R.1991 d.331, effective June 7, 1991. See: 23 N.J.R. 964(a), 23 N.J.R. 2042(a).

Pursuant to Executive Order No. 66(1978), Chapter 70 was readopted as R.1996 d.263, effective May 9, 1996. See: Source and Effective Date. See, also, section annotations

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**SUBCHAPTER 1. INTRODUCTION**

**10:70-1.1 Program scope**

(a) The Medically Needy Program, enacted by P.L. 1985, Chapter 371, extends limited Medicaid program benefits to certain groups of medically needy persons whose income and/or resources exceeds the standards for the Medicaid program but are within the standards for the Medically Needy Program, or whose income exceeds the standards for the Medically Needy Program but is insufficient to meet their medical expenses as determined in this chapter.

(b) Eligibility for the Medically Needy Program is limited to the following eligibility groups within the family and adult eligibility categories:

1. AFDC-related:
  - i. Pregnant women; and
  - ii. Children under 21 years of age.
2. SSI-related:
  - i. Persons 65 years of age or older;
  - ii. Persons who are blind; and
  - iii. Persons who are disabled.

(c) The medical services covered under the Medically Needy Program are limited to eligibility group and by the spend-down provisions of subchapter 6. All restrictions and limitations on services applicable to the Medicaid program

apply to services for the Medically Needy. The services covered under the Medically Needy Program (by eligibility group) are described in N.J.A.C. 10:49-2.3.

(d) Retroactive eligibility for the Medically Needy Program is available beginning with the third month prior to the month of application, if members of an eligibility group have incurred expenses for covered services within that period which have not yet been paid and the members would have been eligible for the Medically Needy coverage in the month in which the services were received. Members of the eligibility group need not be eligible for the program at the time of application in order to be eligible for retroactive eligibility. Application for retroactive eligibility may be made on behalf of a deceased person so long as the person was alive during a portion of the retroactive eligibility period and he or she incurred medical expenses for covered services.

1. Retroactive coverage is not available for any period prior to July 1, 1986, the effective date of the Medically Needy Program.

Amended by R.1996 d.263, effective June 3, 1996.  
See: 28 N.J.R. 1463(a), 28 N.J.R. 3001(a).

#### 10:70-1.2 Purpose of the Medically Needy Manual

(a) Purpose of the regulations contained within this chapter is to:

1. Set forth eligibility for the Medically Needy Program;
2. Establish policy for calculating spend-down liability for persons whose income exceeds the Medically Needy Income Level; and
3. Specify the rights and responsibilities of program applicants and eligible persons.

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

(c) The director of the county welfare agency shall assign copies of this manual to administrative staff, all Medically Needy Program staff working with applicants and recipients, and to social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its contents in order to apply the required policy and procedures consistently.

(d) The Division of Medical Assistance and Health Services will issue revisions to the Manual as necessary. It is the responsibility of each holder of the Manual to maintain its accuracy by inserting new material and removing obsolete pages promptly.

1. At least one administrative copy of all obsolete pages of the Manual must be maintained by the county welfare agency.

(e) This manual is a public document. It is important that all copies in use be absolutely accurate and up-to-date. The manual is available as follows:

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

2. Specific policy material necessary for an applicant or recipient or his or her representative to determine whether a fair hearing is to be requested or to prepare for a fair hearing shall be provided to such persons without charge.

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

4. Each legal services office will be furnished with a copy of this manual.

5. Welfare, social service, and other nonprofit organizations will be furnished with a copy of this manual at no cost upon an official written request on agency letterhead to the Division of Medical Assistance and Health Services.

6. A current up-to-date copy of the manual or any part of it 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.

#### 10:70-1.3 Administrative organization

The Medically Needy Program is administered by the county welfare agencies under the supervision of the Division of Medical Assistance and Health Services of the Department of Human Services.

#### 10:70-1.4 Principles of administration

(a) The following principles of administration apply in the Medically Needy Program.

1. Any individual who believes he or she is eligible shall be afforded an opportunity to make application (or reapplication) for the Medically Needy Program without delay.

2. Program applicants or eligible persons are the primary source of information concerning program eligibility and spend-down liability. The county welfare agency shall, when necessary, in the process of determining eligibility and spend-down liability, use secondary sources of information with the knowledge and consent of the applicant or eligible person.

ii. Immediately notify the county of origin, in writing, of the date the initial case material was received;

iii. Review eligibility for the case. If questions regarding case eligibility exist because of information provided by the county of origin, that county shall be consulted for resolution of the issues;

iv. Accept responsibility for the case (provided application to transfer has been made) effective for the next month if the initial case material has been received before the 10th of the month;

v. Accept responsibility for the case (provided application to transfer has been made) for the second month after the month of receipt of initial case material when such material is received on or after the 10th of the month;

vi. Update the Medicaid Status File (MSF), as necessary. If the case is determined eligible for Medically Needy in the receiving county, there shall be no interruption of entitlement. If the case is determined ineligible for Medically Needy in the receiving county, eligibility shall be terminated, subject to timely and adequate notice, and the previously eligible persons deleted from the MSF; and

vii. Notify the county of origin of the date eligibility for Medically Needy will begin or will be terminated in the receiving county;

(e) Any case for which the transfer procedures in (b) through (d) above are not begun within 30 days of the date of original referral, shall be promptly reported by the county of origin to the Division of Medical Assistance and Health Services by letter, setting forth the pertinent available facts.

**10:70-2.5 Redetermination of eligibility**

(a) Eligibility for the Medically Needy Program shall be redetermined as follows:

1. When required, on the basis of information the county welfare agency has obtained previously about anticipated changes in the case situation, or when additional information is necessary to adjust the best estimate of income when such income is subject to significant fluctuation;

2. Promptly, after information is obtained by the county welfare agency which indicates changes in the case circumstances that may affect program eligibility or the amount of benefits received under the Program;

3. For cases not subject to medical spend-down, a full redetermination of program eligibility, no later than six months from the date eligibility was first established or from the date of the last full redetermination;

4. For cases subject to spend-down, a full redetermination of program eligibility, by the completion of the current prospective six-month budget period.

(b) For redeterminations of eligibility required by (a)1 and 2 above, the completion of a new application form and a face-to-face interview are required only if, on the basis of the information obtained, in conjunction with existing case information, the county welfare agency is unable to arrive at a decision regarding eligibility or ineligibility.

(c) Full redeterminations of eligibility ((a)3 and 4 above) require the completion of a new application form and a face-to-face interview. All factors of eligibility subject to change (with the exception of disability and blindness factors; see N.J.A.C. 10:70-2.6) must be verified or reverified.

(d) The responsibilities of the client(s) in the process of eligibility redetermination are the same as those delineated for program applicants at N.J.A.C. 10:70-2.1(c).

**10:70-2.6 Redetermination of medical factors**

(a) Except for persons receiving Social Security benefits as a result of disability or blindness, the factors of disability and blindness will be redetermined at intervals established by the Division of Medical Assistance and Health Services, Disability Review Section.

(b) Any person whose eligibility for the Program is based on a determination of disability or blindness is required to submit to examinations or tests and provide medical and other evidence necessary for the purpose of determining continued disability or blindness.

Amended by R.1991 d.331, effective July 1, 1991.  
See: 23 N.J.R. 964(a), 23 N.J.R. 2042(a).

Disability determinations shifted from Division of Public Welfare, Bureau of Medical Affairs to Division of Medical Assistance and Health Services, Disability Review Section.

**10:70-2.7 Post-application client responsibilities**

(a) Upon a determination of eligibility for the Medically Needy Program, members of the eligibility group (or their authorized agent) have on-going responsibility for the reporting of changes in circumstances and the provision of information as delineated at N.J.A.C. 10:70-2.1(c). Further, as requested by the county welfare agency during the eligibility period, additional or updated information must be provided. At any time the county agency lacks sufficient information to confirm continuing program eligibility because of the unwillingness of the eligibility group to provide necessary information, the agency shall commence action to terminate the case.

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**SUBCHAPTER 3. NONFINANCIAL ELIGIBILITY FACTORS**

**10:70-3.1 General provisions**

(a) Eligibility must be established in relation to each legal requirement of the Medically Needy Program to provide a valid basis for granting or denying medical assistance.

(b) The applicant's statements regarding his or her eligibility, as set forth in application form, are evidence. The statements must be consistent and meet prudent tests of credibility. Incomplete or questionable statements shall be supplemented and substantiated by corroborative evidence from other pertinent sources, either documentary or non-documentary.

1. Documentary sources of evidence present factual information recorded at some previous date by a disinterested party and filed as part of a record. Examples: certificates, legal papers, insurance policies, licenses, bills, receipts, notices of RSDI benefits, and so forth.

2. Nondocumentary sources of evidence are factual oral statements, which appear to be reliable, made by individuals based on their observation and personal knowledge of applicant's circumstances.

### 10:70-3.2 Citizenship

(a) In order to be eligible for the Medically Needy Program, an individual must be a citizen of the United States or an alien lawfully admitted for permanent residence or permanently residing in the United States under color of law.

1. The term "citizen of the United States" includes person born in Puerto Rico, Guam, the Virgin Islands, Swains Island, American Samoa, and the Northern Mariana Islands.

2. The following aliens shall be considered lawfully admitted for permanent residence for purposes of establishing eligibility for the Medically Needy Program:

i. An alien lawfully admitted for permanent residence as an immigrant pursuant to sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act;

ii. An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not eligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the United States Attorney General pursuant to section 249 of the Immigration and Nationality Act;

iii. An alien qualified for conditional entry after March 31, 1980 because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to section 207 (formerly section 203(a)(7)) of the Immigration and Nationality Act;

iv. An alien who qualifies for conditional entry prior to April 1, 1980 pursuant to former section 203(1)(7) of the Immigration and Nationality Act;

v. An alien granted asylum through an exercise of discretion by the United States Attorney General pursuant section 208 of the Immigration and Nationality Act;

vi. An alien lawfully present in the United States as a result of an exercise of discretion by the United States Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act, or as a grant of parole by the United States Attorney General; and

vii. An alien living within the United States to whom the United States Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act because of the judgment of the United States Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion.

### 10:70-3.3 Residency

(a) In order to be eligible for the Medically Needy Program, an individual must be a resident of the State of New Jersey. State residence shall be determined in accordance with the regulations at N.J.A.C. 10:71-3.5, 3.7, and 3.8.

Amended by R.1991 d.331, effective July 1, 1991.  
See: 23 N.J.R. 964(a), 23 N.J.R. 2042(a).  
Changed internal N.J.A.C. cites.

### 10:70-3.4 Eligibility group criteria

(a) Eligibility for the Medically Needy Program is limited to groups of persons within two specified eligibility categories. An individual must meet the definition of one of the categories below to be eligible for the Medically Needy Program.

(b) AFDC-related: The following eligibility groups are within the AFDC-related eligibility category:

1. Pregnant women: Needy women of any age during the term of a medically verified pregnancy, through the end of the month during which the 60th day from delivery occurs.

i. A child born to a woman eligible as a pregnant woman under the provisions of this chapter shall remain eligible for a period not less than 60 days from his or her birth, and up to one year so long as the mother remains eligible for Medicaid, or would remain eligible if pregnant, whether or not application has been made, if the child lives with his or her mother.

2. Children under the age of 21: Needy children under the age of 21.

i. Children under the age of 21 may be eligible regardless of: Parental deprivation; school attendance; emancipation; residence with parent(s) or other caretaker relative(s); or Work Incentive program (WIN) or other AFDC employment or training requirements.