

Human Services that is responsible for the administration of the Medicare program in the United States.

“Commissioner” means the Commissioner of the Department of Health and Senior Services.

“Current year” means the calendar year in which a person applies or reapplies for PAAD.

“Department” means the Department of Health and Senior Services.

“Electronic Data Interchange (EDI) Enrollment Form” means an agreement signed by a Medicare Part B Supplier authorizing PAAD to bill Medicare electronically on its behalf for claims that are eligible under both PAAD and Medicare.

“Expiration date” means the date when a beneficiary’s PAAD eligibility ends.

“Health Insurance Claim number” means the primary reference number, assigned by Medicare, which usually includes the beneficiary’s Social Security Number and which is used when filing Medicare claims, including prescription claims under Medicare Part D.

“Legend Drug” means any approved drug product which by Federal law cannot be dispensed without a prescription and bears the statement on the label: “Caution: Federal law prohibits dispensing without a prescription”.

“Lifeline Credit Program” means the utility assistance program that offers a benefit in the form of a credit to the utility account during the heating season to eligible New Jersey residents.

“Low income subsidy” means the additional financial assistance provided by the Medicare Part D Program to individuals approved by the Federal Social Security Administration, which pays, in part or in whole, Medicare Part D premiums, deductibles and coinsurance for the eligible person, pursuant to 20 CFR Part 418, Subpart D, and 42 CFR Part 423, which are incorporated herein by reference, as amended and supplemented.

“Low income subsidy application” means the Federal Social Security application for the Medicare Part D low income subsidy entitled the “Application for Help with Medicare Prescription Drug Plan Costs”, form SSA-1020, available on-line at [www.socialsecurity.gov](http://www.socialsecurity.gov).

“Medicare” means medical assistance provided to certain aged and disabled persons as authorized under Title XVIII (Medicare) of the Social Security Act.

“Medicare authorized prescription drug plan” or “PDP” means a private prescription drug plan that has been submitted to and approved by the Centers for Medicare and Medicaid Services to provide prescription insurance coverage for individual citizens under the Medicare Part D program.

“Medicare Part B Supplier” means a supplier of Medicare Part B (Medical Insurance) services to Medicare beneficiaries including Durable Medicare Equipment, Prosthesis, Orthotics, and Supplies (DMEPOS).

“Medicare Prescription Drug Program” means the program established under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173, 117 Stat. 2066, approved December 8, 2003.

“National Suppliers Clearinghouse (NSC)” means the entity that issues Durable Medicare Equipment, Prosthesis, Orthotics, and Supplies (DMEPOS) supplier authorization numbers nationwide to Medicare Part B Suppliers for the Centers for Medicare and Medicaid Services (CMS). The National Supplier Clearinghouse is located at P.O. Box 100142, Columbia, SC 29202-3142.

“NSC Supplier Number” means the authorization number issued by the National Supplier Clearinghouse (NSC) to a Medicare Part B Supplier of Durable Medicare Equipment, Prosthesis, Orthotics, and Supplies (DMEPOS) for the Centers for Medicare and Medicaid Services (CMS).

“PAAD Co-pay” means a maximum amount of \$6.00 for generic drugs and \$7.00 for brand name drugs, which must be paid by each PAAD beneficiary to the pharmacy toward the cost for each prescription for a legend drug and/or insulin, insulin syringes, and insulin needles. If the prescription is paid first by payers other than PAAD and the remaining cost of the prescription is less than \$6.00 for generic drugs and \$7.00 for brand name drugs, then that remaining cost becomes the PAAD co-pay. The co-pay is not reimbursable by the PAAD. The co-payment shall be paid in full by each eligible person to the pharmacist at the time of each purchase of prescription drugs, and shall not be waived, discounted or rebated in whole or in part.

“Pharmaceutical assistance” means the payments authorized by the Department in the form of a check to a participating pharmacy on behalf of a PAAD beneficiary.

“Pharmacy” means any pharmacy located in New Jersey, operating under a valid permit from the Board of Pharmacy of the State of New Jersey, which has filed an application and agreement of participation, which has been approved by the New Jersey Medicaid Program. The term “pharmacy” also includes any volunteer prescription drug mail-order program in a Medicare Part D plan provider network.

“Prescription drugs” means all approved legend drugs, including any interchangeable drug products contained in the latest list approved and published pursuant to N.J.A.C. 8:71 and in conformance with the provisions of the “Prescription Drug Price and Quality Stabilization Act,” and insulin, insulin syringes, and insulin needles when prescribed.

1. The term “prescription drugs” includes:

i. Any drug product which by Federal law cannot be dispensed unless ordered by a physician, dentist or podiatrist;

ii. Every product considered to be a legend prescription drug which is required by the Federal Food, Drug and Cosmetic Act to have the following statement on the manufacturer's original packaging label: "Caution: Federal law prohibits dispensing without a prescription";

iii. Insulin, insulin syringes and insulin needles. While not legend drugs, these items are covered by this program when prescribed; and

iv. Syringes and needles for injectable medicines for the treatment of multiple sclerosis.

2. The term "prescription drugs" excludes cosmetics drugs as indicated at N.J.A.C. 8:83C-1.15 unless medically necessary.

"Previous year" means the calendar year preceding the year in which the person is applying or reapplying for PAAD. For example, 1995 is the "previous year" when referring to an application which is dated between January 1, 1996 through December 31, 1996, inclusive.

1. If a person, who is required to submit a Federal, State and/or City Income Tax return, applies for PAAD at the beginning of a calendar year but has not yet filed an income tax return for the previous year, the last year for which the person filed a tax return is considered to be the "previous year" when completing the PAAD application.

"Provider" means any individual, partnership, association, corporation, institution, or any other public or private entity, agency, or business concern, meeting applicable requirements and standards for participation in the New Jersey Medicaid Program, and the Pharmaceutical Assistance to the Aged and Disabled Program, and where applicable, holding a current valid license, and lawfully providing medical care, services, goods and supplies authorized under N.J.S.A. 30:4D-1 et seq. and amendments thereto.

"Reasonable cost" means the maximum allowable cost of prescription drugs plus a dispensing fee, which meets the conditions set forth in the Fiscal Year 2009 Appropriations Act, P.L. 2008, c. 35, approved June 30, 2008, as amended and supplemented by subsequent State appropriations acts containing methodologies or requirements for the calculation of reasonable costs under the Program.

"Resident" means "one legally domiciled within the State (of N.J.) for a period of 30 days immediately preceding the date of application for inclusion in the PAAD Program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile." (See N.J.A.C. 10:69A-6.4 for residence requirements.)

"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. 8:83-2.2 for provisions.)

"Tenants Lifeline Assistance Program" means a utility assistance program that offers a benefit in the form of a check issued to tenants whose utilities are included in their rent and do not have a separate utility bill.

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

As amended, R.1989 d.375, eff. September 25, 1979.

See: 11 N.J.R. 558(c). As amended, R.1982 d.198, eff. June 21, 1982.

See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).

Section substantially amended.

As amended, R.1985 d.259, effective May 20, 1985.

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

Added definition "reasonable cost".

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

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

Amended "PAAD Co-pay" and "prescription drugs".

Amended by R.1993 d.155, effective April 5, 1993.

See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.

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

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

In "Prescription drugs" added 1v; in "Previous year", inserted "for which the person filed a tax return" following "last year" in 1; and inserted "Provider".

Amended by R.2000 d.286, effective July 3, 2000.

See: 32 N.J.R. 428(a), 32 N.J.R. 2441(b).

In "Prescription drugs", added 2.

Amended by R.2003 d.248, effective June 16, 2003.

See: 34 N.J.R. 3456(a), 35 N.J.R. 2642(a).

Added "Center for Medicare and Medicaid Services (CMS)", "Electronic Data Interchange (EDI) Enrollment Form", "Medicare", "Medicare Part B Supplier", "National Suppliers Clearinghouse (NSC)" and "NSC Supplier Number"; in "Prescription drugs" amended the N.J.A.C. reference in 2.

Amended by R.2004 d.349, effective September 20, 2004.

See: 36 N.J.R. 1859(a), 36 N.J.R. 4311(a).

Added "Special needs trust" and "Viatical settlement".

Amended by R.2004 d.459, effective December 20, 2004.

See: 36 N.J.R. 3619(a), 36 N.J.R. 5682(b).

Added "Authorized representative", "Medicare-endorsed prescription drug discount card program", "endorsed program," or "endorsed discount card program", "Medicare Prescription Drug Discount Card and Transitional Assistance Program" or "Medicare Drug Discount Card Program" and "Transitional Assistance".

Amended by R.2006 d.431, effective December 18, 2006.

See: 38 N.J.R. 1124(a), 38 N.J.R. 5360(a).

In definition "Authorized representative", substituted "and the Medicare Prescription Drug Program" for "as defined by 42 CFR §403.802"; substituted definition "Centers for Medicare and Medicaid Services" or "CMS" for definition "Centers for Medicare and Medicaid Services (CMS)"; in definition "Centers for Medicare and Medicaid Services" or "CMS", substituted "that" for "which" and deleted the last sentence; and added definition "Medicare Prescription Drug Program".

Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In definition "Authorized representative", substituted "in" for "and Transitional Assistance under the Medicare Prescription Drug Discount Card and Transitional Assistance Program and"; added definitions "Health Insurance Claim number", "Low income subsidy", "Low income subsidy application" and "Medicare authorized prescription drug

plan"; deleted definitions "Medicare-endorsed prescription drug discount card program," "Medicare Prescription Drug Discount Card and Transitional Assistance Program", and "Transitional Assistance"; re-wrote definitions "PAAD Co-pay", "Prescription drugs" and "Reasonable cost"; and in definition "Pharmacy", inserted the last sentence.

#### Case Notes

"Income" defined. Atty.Gen.F.O.1978, No. 3.

### 8:83-2.2 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. The Office of Support Services for the Aged, Division of Senior Benefits and Utilization Management, as well as the trust beneficiary and/or guardian, shall be given prior notice if there is a change in the trustee;

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:18-2 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.

New Rule, R.2004 d.349, effective September 20, 2004.  
See: 36 N.J.R. 1859(a), 36 N.J.R. 4311(a).

## SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

### 8:83-3.1 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 PAAD. Under the terms of the PAAD law, this Department is responsible for the general policies governing administration of PAAD, and for effecting the issuance of rules, regulations and procedures in accordance with the Administrative Procedure Act for implementing the statutory provisions.

### 8:83-3.2 Division of Medical Assistance and Health Services

The Division of Medical Assistance and Health Services is the administrative unit of the Department of Human Services that performs certain administrative functions for, or in conjunction with, the Department.

### 8:83-3.3 Pharmaceutical Assistance to the Aged and Disabled Program

The Pharmaceutical Assistance to the Aged and Disabled is the program in the Department which has the direct responsibility for the processing of eligibility applications from applicants.

## SUBCHAPTER 4. SCOPE OF SERVICE

**8:83-4.1 Statutory limitations**

By statute, the Pharmaceutical Assistance to the Aged and Disabled Program is limited to payment or reimbursement to pharmacies for the reasonable cost of prescription drugs for eligible persons, which exceeds the PAAD co-pay and to Medicare Part D authorized prescription drug plans for the premiums associated with PAAD beneficiaries.

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

Added text "insulin, insulin syringes . . . diabetic testing materials".

Amended by R.1993 d.155, effective April 5, 1993.

See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.

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

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

Rewrote the section.

Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

Inserted a comma following "persons" and inserted "and to Medicare Part D authorized prescription drug plans for the premiums associated with PAAD beneficiaries".

**8:83-4.2 Principles of reimbursement to participating pharmacies**

(a) Reimbursement for PAAD prescriptions shall be made only to pharmacies located in New Jersey except as indicated in (b)1 below and operating under a valid permit from the Board of Pharmacy of the State of New Jersey. In order to become an approved provider, such a pharmacy must file an application and agreement of participation, which must be approved by the Division of Medical Assistance and Health Services of the Department of Human Services. The application shall contain the pharmacy's NSC Supplier Number issued by the National Supplier Clearinghouse (NSC) or other appropriate agent of the Centers for Medicare and Medicaid Services (CMS) or a statement that the pharmacy has applied for an NSC Supplier Number to enroll as a Medicare Part B supplier. A copy of one of the proofs of enrollment listed in N.J.A.C. 8:83C-1.3(c)2 shall be attached to the application. The pharmacy shall also complete and return the Electronic Data Interchange (EDI) Enrollment Form attached to the application.

(b) No reimbursement shall be made to an unlicensed pharmacy or to a pharmacy located in another state or country, except as follows:

1. The Department shall have the authority to coordinate benefits with any voluntary mail-order prescription drug program or specialty pharmacy in a Medicare Part D plan provider network, or a mail order prescription drug program required by a PAAD beneficiary's primary payer.

(c) Reimbursement on behalf of PAAD beneficiaries shall be made directly to the participating pharmacies and shall be

for the reasonable cost of prescription drugs of beneficiaries as determined by the Commissioner, Department of Human Services, which exceeds the PAAD co-payment per prescription.

Amended by R.1993 d.155, effective April 5, 1993.

See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.

Amended by R.2003 d.248, effective June 16, 2003.

See: 34 N.J.R. 3456(a), 35 N.J.R. 2642(a).

Rewrote (a).

Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In (a), substituted "shall" for "will" following "prescriptions", inserted "except as indicated in (b)1 below", inserted a comma following "participation", and substituted "an" for "a" following "has applied for"; in the introductory paragraph of (b), substituted "shall" for "will" and substituted "except as follows:" for a period at the end; added (b)1; and in (c), substituted "shall" for "will" twice and "PAAD" for "\$5.00".

Amended by R.2009 d.293, effective October 5, 2009.

See: 41 N.J.R. 1637(a), 41 N.J.R. 3804(a).

In the introductory paragraph of (b), inserted a comma following "country"; and in (b)1, inserted "or specialty pharmacy" and "or a mail order prescription drug program required by a PAAD beneficiary's primary payer".

**8:83-4.3 Interchangeable drug products**

(a) Whenever PAAD is the primary payer and any interchangeable drug product contained in the latest list approved and published pursuant to N.J.A.C. 8:71 is available for the prescription written, the PAAD Program shall reimburse for multisource generic drugs without prior authorization, but not for multisource brand name drugs without prior authorization.

(b) If the prescriber does not specify to the contrary, the PAAD beneficiary has two options:

1. To purchase an interchangeable drug product which is equal to or less than the maximum allowable cost, at the PAAD co-pay; or
2. To purchase the prescribed drug product, which is higher in cost than the maximum allowable cost and pay in full.

(c) If the prescriber specifies on the prescription that substitution is not permitted, and that the brand name drug is medically necessary, when required, the PAAD Program shall reimburse for the reasonable cost of the prescribed product, less the PAAD co-pay pursuant to the requirements respecting prior authorization set forth in the Fiscal Year 2008 Appropriations Act, P.L. 2007, c. 111, approved June 28, 2007, as amended and supplemented by subsequent State appropriations acts.

Amended by R.1993 d.155, effective April 5, 1993.

See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.

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

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

(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.

(c) A PAAD applicant shall supply the PAAD Program with sufficient information for PAAD to apply for Medicare Part D coverage on behalf of the applicant.

(d) The applicant, having provided all the necessary information to the PAAD Program, shall be enrolled in a Medicare Part D plan, except in the following cases:

1. The applicant is in an employer prescription drug plan, where the employer accepts a subsidy from Medicare for continued coverage of the employee/retiree; or
2. The applicant is not eligible under Medicare Part D.

Amended by R.2009 d.16, effective January 5, 2009.  
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).  
Added (c) and (d).

### 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, on the Department's website at [www.state.nj.us/health/seniorbenefits/forms.shtml](http://www.state.nj.us/health/seniorbenefits/forms.shtml), and by writing to the New Jersey Department of Health and Senior Services, Pharmaceutical Assistance to the Aged and Disabled (PAAD), PO Box 715, Trenton, NJ 08625-0715.

(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.

(c) The application forms specified by this section shall contain fields for the submission of the information required by N.J.A.C. 8:83-6.1 through 6.9 to determine eligibility.

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".  
Amended by R.2009 d.16, effective January 5, 2009.  
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In (a), inserted ", on the Department's website at [www.state.nj.us/health/seniorbenefits/forms.shtml](http://www.state.nj.us/health/seniorbenefits/forms.shtml), and by writing to the New Jersey Department of Health and Senior Services, Pharmaceutical Assistance to the Aged and Disabled (PAAD), PO Box 715, Trenton, NJ 08625-0715"; and added (c).

### 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.

(c) Each applicant shall include a Medicare Health Insurance Claim number on the application/reapplication, if the applicant has been assigned one.

Amended by R.2009 d.16, effective January 5, 2009.  
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).  
Added (c).

### 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 or marking the certification and authorization statement on an application or a renewal application form, an applicant or a reapplicant authorizes:

1. The Department to serve as the authorized representative of the applicant or reapplicant;
2. 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;
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.

Amended by R.2006 d.431, effective December 18, 2006.  
See: 38 N.J.R. 1124(a), 38 N.J.R. 5360(a).

Rewrote introductory paragraph of (a); added (a)1; and recodified former (a)1 through (a)4 as (a)2 through (a)5.

Amended by R.2009 d.16, effective January 5, 2009.  
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

Deleted former (a)3, and recodified former (a)4 and (a)5 as (a)3 and (a)4.

**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 author-

ized 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.

10. The release of beneficiary information or files to Medicare endorsed discount plans, Medicare Advantage Plans, Medicare Prescription Drug Plans or the Center for Medicare and Medicaid Services for the purpose of coordination of benefits between the Medicare Drug Plan and PAAD.

11. The release of information to the Federal Social Security Administration for the purposes of applying, on behalf of the PAAD applicant/reapplicant, for the Medicare Part D low income subsidy.

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.  
 Amended by R.2005 d.26, effective January 18, 2005.  
 See: 36 N.J.R. 2602(a), 37 N.J.R. 281(a).  
 In (c), added 10.  
 Amended by R.2009 d.16, effective January 5, 2009.  
 See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).  
 Added (c)11.

**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.

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 or her authorized agent and/or provider; and
- iv. An unanticipated payment that makes a recipient ineligible for benefits, in which case the provisions of N.J.S.A. 30:4D-21.4 shall apply.

(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 Attorney 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.

Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In the introductory paragraph of (a), deleted the second and third sentences, in (a)liii, substituted "his or her" for "his/her", and "; and" for the period at the end; and added (a)liv.

### 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.