

CHAPTER 72**NEW JERSEY CARE . . . SPECIAL MEDICAID PROGRAMS MANUAL****Authority**

N.J.S.A. 30:4D-3 and 7 and Section 1902(a)(10) of Social Security Act (42 U.S.C. § 1396a(a)(1)).

Source and Effective Date

R.1997 d.379, effective August 15, 1997.
See: 29 N.J.R. 2541(a), 29 N.J.R. 4136(a).

Executive Order No. 66(1978) Expiration Date

Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, expires on August 15, 2002.

Chapter Historical Note

Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was adopted as Emergency New Rules by R.1987 d.312, effective June 29, 1987. See: 19 N.J.R. 1324(a). The concurrent proposal of R.1987 d.312 was adopted by R.1987 d.380, effective August 27, 1987. See: 19 N.J.R. 1324(a), 19 N.J.R. 1731(a). Subchapter 6, Presumptive Eligibility, was adopted as R.1988 d.192, effective May 2, 1988. See: 20 N.J.R. 367(a), 20 N.J.R. 983(a).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was readopted by R.1992 d.364, effective September 21, 1992. See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was readopted by R.1997 d.379, effective August 15, 1997. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION**10:72-1.1 Purpose**

(a) This chapter contains the criteria for Medicaid eligibility for certain pregnant women and infants not eligible under the provisions of N.J.A.C. 10:81 and 82, as well as,

certain aged, blind, and disabled persons not eligible under the provisions of N.J.A.C. 10:71.

1. Because the eligibility criteria established by the rules contained within this chapter are more liberal than those applicable under AFDC-related Medicaid and SSI-related Medicaid, pregnant women, infants, and aged, blind or disabled individuals losing Medicaid eligibility because of financial reasons should be evaluated under the provisions of this chapter for the possibility of continuing Medicaid eligibility.

2. Except for children between the ages of one and 19, persons financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:81 and 10:82 and who are income ineligible for Medicaid under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

i. Persons determined eligible for the Medically Needy Program may be also determined eligible as Specified Low-Income Medicare Beneficiaries.

3. Infants not eligible under the provisions of N.J.A.C. 10:71, 10:72, 10:81 or 10:82 should be evaluated for NJ KidCare under the provisions of N.J.A.C. 10:79.

(b) Medicaid eligibility under the provisions of this chapter is limited to:

1. Pregnant women; and
2. Infants under the age of one.

3. Aged, blind, and disabled individuals (as defined by Title XIX of the Social Security Act), who otherwise meet the requirements specified in this chapter. For purposes of this chapter, an aged individual is a person who is 65 years of age or older.

4. Aged, blind, and disabled individuals (as defined in (b)3 above) who qualify as Specified Low-Income Medicare Beneficiaries.

i. Specified low-income Medicare beneficiaries must be residents of the State, must be receiving Medicare benefits, Parts A and B, and must meet the income and resource requirements specified in N.J.A.C. 10:72-4.1(b) and 4.5(b).

ii. The enrollment and outreach process for specified low-income Medicare beneficiaries is administered by the Department of Health and Senior Services, through the Office of Pharmaceutical Assistance to the Aged and Disabled (PAAD), using the standard PAAD application form.

iii. Persons determined eligible as specified low-income Medicare beneficiaries are entitled to payment of Medicare Part B Premiums only, beginning in the month of application and up to three prior months, but no earlier than January 1, 1993.

iv. The Division of Medical Assistance and Health Services shall promptly notify any applicant for, or beneficiary of, the Specified Low-Income Medicare Beneficiary benefit, in writing, of any agency decision affecting the application disposition or the receipt of the benefit. When a decision relates to any adverse action which may entitle an individual to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice. Such notices shall conform with provisions at N.J.A.C. 10:72-5.1(b).

(c) Retroactive Medicaid eligibility is available beginning with the third month prior to the month of application for Medicaid for any month during which the applicant meets all eligibility criteria and during which the applicant has unpaid medical expenses for covered services. In order to qualify for retroactive coverage, an individual need not be determined eligible at the time of application for Medicaid benefits. Application for retroactive Medicaid coverage may be made on behalf of a deceased person so long as the person was alive during a portion of the three-month period immediately prior to the month of application and he or she has unpaid medical expenses for Medicaid covered services.

1. Retroactive Medicaid coverage is not available under the provisions of this chapter for an infant for any period prior to the effective date of program coverage for the age of the child. Retroactive eligibility is not available to pregnant women and infants up to the age of one whose family income exceeds 133 percent of the Federal poverty guideline for any period prior to July 1, 1991.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Substantially amended.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Deleted obsolete language and adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Emergency Amendment, R.1991 d.445, effective July 29, 1991 (expires September 27, 1991).

See: 23 N.J.R. 2543(a).

In (c)1: revised text to add 133 percent guideline for retroactive Medicaid coverage.

Adopted Concurrent Proposal, R.1991 d.526, effective October 21, 1991.

See: 23 N.J.R. 2453(a), 23 N.J.R. 3144(a).

Provision of emergency amendment R.1991 d.526 adopted without change.

Amended by R.1992 d.484, effective December 7, 1992.

See: 24 N.J.R. 1860(a), 24 N.J.R. 4378(a).

Eligibility expanded to include children of specified ages born after September 30, 1983.

Administrative Correction to (a).

See: 25 N.J.R. 704(a).

Amended by R.1993 d.369, effective July 19, 1993.

See: 25 N.J.R. 1042(b), 25 N.J.R. 3217(a).

Amended by R.1997 d.379, effective September 15, 1997.

See: 29 N.J.R. 2541(a), 29 N.J.R. 4136(a).

In (b)3, inserted “, who otherwise meet the requirements specified in this chapter”; and in (a)4ii, substituted “enrollment and outreach process” for “eligibility determination process” and “administered by the Department of Health and Senior Services” for “is the responsibility of the Division of Medical Assistance and Health Services”.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

In (a), added an exception at the beginning of 2, and added 3; and in (b), rewrote 2.

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 with changes, effective August 17, 1998.

10:72-1.2 Purpose

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

1. Set forth eligibility criteria for the Medicaid program; and
2. Specify the rights and responsibilities of program applicants and eligible persons.

1. The following legal immigrant pregnant women are eligible for the New Jersey Supplementary Prenatal Care Program, regardless of when they entered the United States:

i. An alien lawfully admitted for permanent residence (see N.J.A.C. 10:72-3.4(c)1);

ii. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act (see N.J.A.C. 10:72-3.4(c)5);

iii. An alien who has been granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect prior to April 1, 1980 (see N.J.A.C. 10:72-3.4(c)6); or

iv. An alien who has been a victim of domestic violence as specified in N.J.A.C. 10:72-3.2(b)12. (see N.J.A.C. 10:72-3.4(c)12.)

2. The following additional categories of legal immigrant pregnant women who are not otherwise covered by the provisions of (b)1 above are also eligible for the New Jersey Supplementary Prenatal Care Program:

i. Spouses or children of United States citizens whose petition has been approved and who have a pending application for adjustment of status; or

ii. Applicants for asylum or withholding of deportation who have been granted employment authorization, or who are under the age of 14 and have had their applications pending for at least 180 days.

Emergency New Rule, R.1999 d.254, effective July 12, 1999 (to expire September 10, 1999).

See: 31 N.J.R. 2252(a).

Adopted concurrent proposal, R.1999 d.345, effective September 10, 1999.

See: 31 N.J.R. 2252(a), 31 N.J.R. 2880(a).

Readopted provisions of R.1999 d.245, with changes to (b) effective October 4, 1999.

SUBCHAPTER 4. FINANCIAL ELIGIBILITY

10:72-4.1 Income eligibility limits

(a) Income limits for Medicaid for aged, blind, and disabled persons (except for specified low-income Medicare beneficiaries), covered under the provisions of this chapter will be based on 100 percent of the poverty income guide-

lines as defined by the U.S. Department of Health and Human Services in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub.L. 97-35). The monthly income standard will be $\frac{1}{2}$ of the annual poverty income guideline rounded down to the next whole dollar amount for household unit sizes of one and two for aged, blind, and disabled individuals. The annual revision to the Federal poverty income guideline will be effective for purposes of this section with the first day of the year for which the poverty income guideline is promulgated.

(b) Effective with the first month of coverage, January 1, 1993, income limits for specified low-income Medicare beneficiaries shall be based on 110 percent of the poverty income guidelines as defined by the U.S. Department of Health and Human Services in accordance with Sections 1902(a)(10)(E)iii of the Social Security Act, 42 U.S.C. 1396a. Effective January 1, 1995, the income limits will be set at 120 percent of the Federal poverty level.

(c) Income limits for pregnant women and children under the age of one year covered under the provisions of this chapter shall be based on 185 percent of the poverty income guideline as defined by the Department of Health and Human Services in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub.L. 97-35). The monthly income standard will be one-twelfth of 185 percent of the annual poverty income guideline rounded down to the next whole dollar amount for each household size. The annual revision to the Federal poverty income guideline will be effective for the purposes of this section with the first day of the year for which the poverty guideline is promulgated.

(d) In order to be eligible for Medicaid benefits under the provisions of this chapter, monthly household income (as determined by this chapter) must be equal to or less than the income limit established in (a), (b) or (c) above as applicable.

1. If a pregnant woman is determined to be income eligible during any month prior to the end of her pregnancy, she, if otherwise eligible, will continue eligible without regard to changes in the household unit's income for the term of her pregnancy, including the 60-day period beginning with the last day of the pregnancy whether or not the pregnancy results in a live birth. If the income change results from the addition of a new household member, the new income is not considered through the 60-day period beginning with the last day of the pregnancy.

i. The child resulting from the pregnancy will be eligible for Medicaid without regard to changes in the household unit's income for a period of not less than 60 days and up to a period of one year, so long as the mother remains eligible for Medicaid, or would remain eligible if pregnant, and the child remains in the mother's custody.

ii. A pregnant woman who, during the course of the pregnancy, was receiving or would have been eligible to receive AFDC benefits using the eligibility rules in existence as of July 16, 1996. Medicaid Special, or Medicaid for the Unborn is deemed to have met the income requirements of this chapter.

2. With the exception in (d)1 above, income eligibility exists for each month in which the household unit's income is equal to or less than the income limits.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Added (b)iii.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Emergency Amendment, R.1991 d.445, effective July 29, 1991 (expires September 27, 1991).

See: 23 N.J.R. 2543(a).

In (b): added "aged one through five years" regarding children covered; added new (c), recodifying existing (c) as new (d).

Adopted Concurrent Proposal, R.1991 d.526, effective October 21, 1991.

See: 23 N.J.R. 2453(a), 23 N.J.R. 3144(a).

Provisions of emergency amendment R.1991 d.445 adopted without change.

Administrative Correction to (b).

See: 24 N.J.R. 851(a).

Added "133 percent of" to text regarding the poverty income guideline.

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Child's eligibility for Medicaid extended.

Amended by R.1992 d.484, effective December 7, 1992.

See: 24 N.J.R. 1860(a), 24 N.J.R. 4378(a).

Revised (a).

Amended by R.1993 d.369, effective July 19, 1993.

See: 25 N.J.R. 1042(b), 25 N.J.R. 3217(a).

Public Notice: Increase in eligibility limits.

See: 29 N.J.R. 3088(a).

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

In (a), deleted "as well as children six years of age or older" following "beneficiaries," in the first sentence, and deleted "and for the appropriate family size for children aged six years or over" at the end of the second sentence; deleted former (c); recodified former (d) as (c); and recodified former (e) as (d), deleted a reference to (d) in the introductory paragraph, rewrote iii, and substituted a reference to (d)1 for a reference to (e)1 in 2.

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

Case Notes

Reasonable basis existed for use of income multiplier to determine eligibility under Medical Assistance and Health Service Act. P.P. v. New Jersey Dept. of Human Services, Div. of Medical Assistance and Health Services, 280 N.J. Super. 1, 654 A.2d 471 (A.D.1994), certification denied 142 N.J. 452, 663 A.2d 1359.

10:72-4.2 Prospective budgeting of income

(a) The county welfare agency shall establish the best estimate of income that will be available to the household unit.

1. The best estimate of income shall be based on an average of the household unit's income for the full two-month period preceding the date of application or redetermination. Adjustments shall be made to the estimated income to reflect changes in income that either have occurred or which are reasonably anticipated to occur which would affect the household unit's income during a period of eligibility.

10:72-4.3 Countable income; pregnant women and infants

(a) Except as specified below, countable income for pregnant women and infants under the provisions of this chapter shall include the income of all members of the household unit as determined at N.J.A.C. 10:72-3.5(a)1 and 2, and shall be determined in accordance with regulations applicable to income in the AFDC-C program in effect as of July 16, 1996 (see N.J.A.C. 10:82).

1. The maximum income limits as provided for at N.J.A.C. 10:82-1.2(d) do not apply.

2. Neither the \$30.00 nor the one-third disregard of earned income at N.J.A.C. 10:82-2.8(a)3 and 10:82-4.4(c) apply.

3. The deeming of stepparent income at N.J.A.C. 10:82-2.9(d) does not apply. (See N.J.A.C. 10:72-3.5(a)2 regarding the inclusion or exclusion of the stepparent in the household unit.)

4. The deeming of an alien sponsor's income at N.J.A.C. 10:82-3.13 does not apply.

(b) Nonrecurring lump sum income received by a household unit of a pregnant woman or infant shall be added to any other income received by the household unit in that month. The total shall be divided by the income eligibility limit applicable to the household. The result will be the number of months the eligible members of the household unit shall be ineligible to receive Medicaid under the provisions of this chapter. Any remaining income from this calculation is treated as if it were unearned income in the first month following the period of ineligibility. No period of ineligibility shall apply to a pregnant women eligible under the provisions of this chapter.

1. The period of ineligibility shall begin the first month subsequent to the month the nonrecurring income is received or, if there is insufficient time to provide timely adverse action notice, the following month.

2. Once established, the period of ineligibility may be reduced only in accordance with the AFDC provisions for shortening a period of ineligibility as found at N.J.A.C. 10:82-4.15(a)5. The basis for a determination to shorten the period of ineligibility shall be fully documented in the case record.

(c) Any person who received AFDC or Medicaid based on AFDC rules and became ineligible for such assistance because of a period of ineligibility imposed as a result of the provisions of N.J.A.C. 10:82-4.15 may establish eligibility under the provisions of this chapter. The amount of the lump sum used to determine the original period of ineligibility shall be divided by the applicable income eligibility limit to determine the period of ineligibility for Medicaid under this chapter. If that period has already expired, eligibility for benefits under this chapter may be established so long as all other eligibility criteria are met.

(d) The parents of an infant and the spouse of a pregnant woman are legally responsible relatives to pregnant women and infants applying for or eligible for benefits under the provisions of this chapter. When a legally responsible relative resides in the same household, his or her income is considered in the determination of eligibility and no further action is required. When a legally responsible relative does not reside in the same household, the county welfare agency shall pursue support from that relative in accordance with the provisions of N.J.A.C. 10:82-3.8 et seq.

1. Except when the legally responsible relative resides in the same household, income of the relative shall be counted only to the extent that the income is actually made available to the household unit.

Amended by R.1987 d.380, effective August 27, 1987.
See: 19 N.J.R. 1324(a), 19 N.J.R. 1731(a).

(c): missing text inserted.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a)

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Stylistic change.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

In (a), inserted "in effect as of July 16, 1996" following "program".
Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

10:72-4.4 Income eligibility; aged, blind, and disabled individuals

(a) Except as specified below, countable income for aged, blind, and disabled individuals shall be determined in accordance with rules applicable to income in Medicaid Only—Aged, Blind, and Disabled (see N.J.A.C. 10:71-5).

1. The disregard of cost-of-living increases in Social Security benefits provided for in N.J.A.C. 10:71-5.3(a)7x and xi do not apply.

2. The deeming of the income of an alien's sponsor as provided for at N.J.A.C. 10:71-5.7 does not apply.

(b) Nonrecurring lump sum income received by the household unit of an aged, blind, or disabled individual shall be counted as income in the month received and any portion retained shall be counted as a resource in subsequent months.

(c) An aged, blind, or disabled individual will have the value of in-kind support and maintenance counted as unearned income in the following circumstances.

1. An aged, blind, or disabled adult, who would in accordance with rules at N.J.A.C. 10:71-5.6(c) be determined to be "living in the household of another," shall be considered to have unearned income in the amount specified at N.J.A.C. 10:71-5.4(a)12 less \$20.00. The amount of income so assigned is not rebuttable by the applicant or beneficiary.

2. Any aged, blind, or disabled person other than those addressed in (c)1 above, to whom food, clothing, or shelter is given or paid for by someone other than a spouse, parent, or minor child residing in the same household, shall be presumed to receive in-kind support and maintenance. The presumed value of the support and maintenance will be the values specified at N.J.A.C. 10:71-5.4(a)12. The presumed value so assigned may be rebutted in accordance with the provisions of that subsection.

(d) In accordance with the rules at N.J.A.C. 10:71-5.5, the income of the spouse of an aged, blind, or disabled individual shall be deemed to the aged, blind, or disabled individual if they are residing in the same household. Income of the parent(s) of a blind or disabled child under the age of 18 residing in the same household shall be deemed available to the child in determining income eligibility for benefits under this chapter. No income shall be deemed to an aged, blind, or disabled individual from a person who is a member of a household unit of an eligible pregnant woman or child under the provisions of this chapter or who is in the budget unit of eligible AFDC-related Medically Needy cases (including a case that is eligible pending spend-down.)

1. If the countable income (before income deeming) of the aged, blind, or disabled individual exceeds the poverty income guideline for one person he or she is ineligible for benefits and income deeming does not apply.

2. When income of a spouse is deemed to an aged, blind, or disabled individual, the total countable income after deeming is compared to the poverty income guideline for two persons.

3. In determining income eligibility of a child, the child's income after deeming is compared to the poverty income guideline for one person.

4. When the income of a spouse must be deemed to both an aged, blind, or disabled individual and a blind or disabled child, the income is first deemed to the aged, blind, or disabled spouse. If the income (after deeming) of the aged, blind, or disabled spouse does not exceed the poverty income guideline, he or she is income eligible and there is no income to be deemed to the blind or disabled child. If the poverty income guideline is exceeded, the aged, blind, or disabled adult is income ineligible and the excess income is deemed to the blind or disabled child.

5. When parental income must be deemed to more than one blind or disabled child, the deemable income shall be divided equally among such children.

Emergency New Rule, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

This section was originally "resource eligibility" which was recodified to 4.5.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

Case Notes

Reinstatement of severely disabled man's New Jersey Care benefits in spite of income in excess of maximum allowable amount was appropriate. *L.E. v. Camden County Board of Social Services*, 94 N.J.A.R.2d (DMA) 11.

Prospective-only application of regulation did not violate equal protection. *J.B. v. Division of Medical Assistance and Health Services*, 93 N.J.A.R.2d (DMA) 89.

10:72-4.5 Resource eligibility

(a) Pregnant women and infants seeking Medicaid benefits under the provisions of this chapter are eligible without regard to the value of the household unit's resources. The county welfare agency shall inquire about the household unit's resources only in order to establish income that may result from the household unit's resources.

(b) Aged, blind or disabled persons (including specified low-income Medicare beneficiaries) must meet resource eligibility criteria as specified below in order to be eligible for

benefits under this chapter. Eligibility for benefits does not exist in any month in which the countable resources of an aged, blind, or disabled person exceeds the limits of \$4,000 for an individual and \$6,000 for a couple.

1. The resource provisions of the Medicaid Only Manual apply in the determination of countable resources for aged, blind, or disabled individuals except that, the provisions requiring the deeming of the resources of an alien's sponsor (N.J.A.C. 10:71-4.6(f)) do not apply in this chapter.

2. The spouse-to-spouse and parent-to-child deeming of resources found at N.J.A.C. 10:71-4.6 apply to eligibility under this chapter. In the deeming of resources from one parent to a child, the countable parental resources in excess of the Medicaid Only resource limit for an individual shall be deemed to the blind or disabled child. When the resources of two parents must be deemed to a child, the countable parental resources in excess of the Medicaid Only resource limit for a couple shall be deemed to the child.

3. For aged, blind, or disabled persons, the policy concerning transfer of resources within 30 months of the date of application (see N.J.A.C. 10:71-4.7), applies equally to eligibility under this chapter.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Recodified from 10:72-4.4 and substantially amended.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Transfer of resources provision at (b)3 changed from 24 to 30 months.

Amended by R.1993 d.369, effective July 19, 1993.

See: 25 N.J.R. 1042(b), 25 N.J.R. 3217(a).

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

SUBCHAPTER 5. ADMINISTRATIVE REQUIREMENTS

10:72-5.1 Notice of the county welfare agency decision

(a) The county welfare agency shall promptly notify any applicant for, or beneficiary of, the Medicaid program in

writing of any agency decision affecting the applicant or beneficiary. When a decision relates to any adverse action which may entitle a beneficiary to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice (see (e) below for exceptions to the 10-day notice requirement).

1. For notices of action adverse to a beneficiary, the date of mailing of the notice must appear on the notice.

2. Notices of any county welfare agency action must contain the name, address, and telephone number of the legal services agency serving that county.

3. In the case of an applicant or beneficiary who cannot be located, the notice shall be mailed to his or her last known address.

(b) All notices of agency decision shall state in clear and simple language, the nature of the agency decision and an accurate and factual legal basis for the decision.

1. All notices of the agency decision shall include an explanation of the right to a fair hearing.

2. Notices of agency decisions adverse to the applicant or recipient shall include the citation and title of the regulations upon which the agency decision is based.

(c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and (except in the case of the death of an applicant or beneficiary) advise of the right to reapply whenever the applicant or beneficiary believes that circumstances have changed such that the reason for program ineligibility no longer exist.

(d) When the processing of an application will be delayed beyond the standards for disposition of an application as set forth in N.J.A.C. 10:72-2.1(d), notice shall be mailed prior to the expiration of the disposition period notifying the applicant of the delay and the reasons for it.

(e) The 10-day notice requirement for actions adverse to a program beneficiary need not be adhered to when:

1. The county welfare agency has factual information confirming the death of a beneficiary;

2. The county welfare agency receives a clear written statement, signed by the beneficiary, that he or she no longer wishes to receive program benefits, or which gives information indicating a change in circumstances which requires a termination or reduction in benefits, and the beneficiary has indicated in writing that he or she understands that this must be the consequence of supplying such information;

3. The beneficiary's whereabouts are unknown and agency mail directed to him or her has been returned by the postal service indicating no forwarding address;

4. The beneficiary has been accepted for public or medical assistance in another state and that fact has been confirmed by the county welfare agency; or

5. A beneficiary child has been removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

10:72-5.2 Fair hearings

(a) It is the right of every applicant for or beneficiary of the Medicaid program to be afforded the opportunity for a fair hearing in the manner set forth in N.J.A.C. 10:49-51 et seq., including, when applicable, continuation of program benefits pending the results of the fair hearing.

(b) Any request for a fair hearing shall be forwarded to the Division of Medical Assistance and Health Services, Office of the Legal and Regulatory Liaison, PO Box 712, Trenton, New Jersey 08625-0712.

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Address changed.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

10:72-5.3 Case records

(a) The purpose of the case record is to provide a complete documentary record of county welfare agency actions and the reasons therefor.

(b) The case record shall include:

1. A record of all county welfare agency actions and decisions relating to the case, as well as documentary evidence relating to such actions and decisions, including application forms.

2. All forms relating to financial eligibility.

3. All case-related correspondence, memorandum, and documents except those required by law or regulation to be maintained elsewhere.

(c) No case record, or part thereof, shall be removed from its file location without a record identifying the person who has custody of it.

10:72-7.6 Presumptive eligibility processing performed by the eligibility determination agency

(a) Upon receipt of the certificate of presumptive eligibility and a referral, if completed, from the approved presumptive eligibility determination entity, the eligibility determination agency shall check the Medicaid, Medically Needy, and NJ KidCare Eligibility database for existing Medicaid or NJ KidCare eligibility. If the child is receiving Medicaid benefits, Medically Needy benefits, or NJ KidCare benefits, no further action shall be required by eligibility determination agency.

(b) If the child is not currently receiving Medicaid or NJ KidCare benefits, the eligibility determination entities shall, notwithstanding the application disposition standards in N.J.A.C. 10:72-2.1(d), arrive at a case disposition within the presumptive eligibility period.

1. If the time period specified in N.J.A.C. 10:72-7.2(b)2 is exceeded, the eligibility determination agency shall notify the Division of Medical Assistance and Health Services of any such delay. The Division shall continue the child's presumptive eligibility until a final determination is made.

2. The eligibility determination agency shall also provide the applicant written notification of the specific reason(s) for the delay, prior to the expiration of the presumptive eligibility period in accordance with N.J.A.C. 10:72-7.8(b).

(c) In the case of a presumptively eligible beneficiary who is determined ineligible for New Jersey Care ... Special Medicaid Programs within the presumptive eligibility period, the child's eligibility shall terminate on the date of the eligibility determination. If the child is determined ineligible for any other Medicaid program, Medically Needy, or NJ KidCare, the eligibility determination agency shall provide a written notice of such denial and the reasons why, as set forth in N.J.A.C. 10:72-7.8.

10:72-7.7 Responsibility of the applicant

The parent, guardian, or caretaker relative of a presumptively eligible child shall contact the eligibility determination agency during the presumptive eligibility period by mailing an application to either the Statewide eligibility determination agency or arranging for a face-to-face interview with the county board of social services to complete the application process. As part of the eligibility determination process for Medicaid, the parent, guardian, or caretaker relative of a presumptively eligible child shall assist the eligibility determination agency in securing evidence that verifies eligibility.

10:72-7.8 Notification and fair hearing rights

(a) For a presumptively eligible child who is subsequently determined ineligible for Medicaid or NJ KidCare benefits:

1. The eligibility determination agency shall not be required to provide either timely or adequate notice for the end of the presumptive eligibility period. The pre-

sumptively eligible beneficiary shall not have any right to a fair hearing based on the termination of presumptive eligibility; and

2. The eligibility determination agency shall provide the child's parent, guardian or caretaker relative a notice of denial of the child's Medicaid application in accordance with N.J.A.C. 10:72-5.1. The presumptively eligible beneficiary shall have the right to apply for a fair hearing in accordance with N.J.A.C. 10:72-5.1 based on the denial of the application.

(b) For a presumptively eligible child whose eligibility for Medicaid or NJ KidCare has not yet been determined within the presumptive eligibility period, in accordance with N.J.A.C. 10:72-2.1(d)3, the eligibility determination agency shall provide the parent, guardian, or caretaker relative of the presumptively eligible child with written notification prior to the expiration of the presumptive eligibility period, setting forth the specific reasons for the delay in the application processing. The presumptively eligible beneficiary shall be entitled to a fair hearing based on the eligibility determination agency's failure to determine the child's Medicaid eligibility or ineligibility within the application processing period.

(c) A child denied presumptive eligibility by an approved presumptive eligibility determination entity shall not be entitled to adequate notice of that determination and shall not be entitled to a fair hearing on that action. The denial of presumptive eligibility shall not affect the parent's, guardian's or caretaker relative's right to apply for Medicaid or NJ KidCare on behalf of the child and to receive a formal determination of eligibility or ineligibility.

10:72-7.9 Scope of services during the presumptive eligibility period

All presumptively eligible New Jersey Care ... Special Medicaid Programs children under the age of one year shall be eligible during the presumptive eligibility period to receive on a fee-for-service basis all the Medicaid services defined at N.J.A.C. 10:49-5.2.

10:72-7.10 Limitation on number of presumptive eligibility periods

All beneficiaries of presumptive eligibility for children who make an application for presumptive eligibility benefits for any Medicaid or NJ KidCare program shall be limited to one continuous presumptive eligibility period during the year, which shall be counted from the first day the applicant initially received presumptive eligibility.

**SUBCHAPTER 8. BREAST AND CERVICAL
CANCER PREVENTION AND TREATMENT
ACT SERVICES**
Authority

N.J.S.A. 30:4D-6, 7 and 12; P.L. 1997, c.272,
as amended by P.L. 2001, c.186.

Source and Effective Date

R.2001 d.465, effective November 14, 2001 (to expire May 13, 2002).
See: 33 N.J.R. 4390(a).

Subchapter Historical Note

Subchapter 8, Breast and Cervical Cancer Prevention and Treatment Act Services, was adopted as Special New Rules by R.2001 d.465, effective November 14, 2001 (to expire May 13, 2002). See: Source and Effective Date.

10:72-8.1 Purpose and scope

The purpose of this subchapter is to provide the coverage stipulated in P.L. 2001, c.186, effective July 27, 2001, for women who are New Jersey residents who are over the age of 65 and who have been screened for breast and cervical cancer in accordance with the Breast and Cervical Cancer Prevention and Treatment Act, 42 U.S.C. § 1396a(aa), and who would not otherwise be eligible for the Medicaid program.

10:72-8.2 Definitions

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

“Creditable coverage” means, with respect to an individual, in accordance with Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996, coverage of that individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than benefits solely under section 1928 of the Act;
5. Title 10, Chapter 55 of the United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A State health benefits risk pool;
8. A health plan offered under Title 5, chapter 89 of the United States Code;
9. A public health plan;
10. A health benefit plan under 22 U.S.C. § 2504(e);
or
11. Coverage of excepted benefits as defined in 29 U.S.C. § 1186(c).

10:72-8.3 Breast and cervical cancer-related prevention and treatment program eligibility

(a) An eligible individual shall:

1. Be a native-born citizen or eligible qualified alien as defined in N.J.A.C. 10:72-3.2;
2. Be under 65 years of age;
3. Have been screened for breast or cervical cancer under the Federal Centers for Disease Control (CDC) Breast and Cervical Cancer Early Detection program established under Title XV of the Public Health Service (PHS) Act, and found to need treatment for either breast or cervical cancer (including a precancerous condition);
4. Not have creditable coverage; and
5. Meet all other Medicaid non-financial eligibility requirements as defined in N.J.A.C. 10:49-2, unless otherwise specified in this subchapter.

10:72-8.4 Presumptive eligibility process

In accordance with Pub.L. 106-354 and 42 U.S.C. § 1396a(aa), an individual referred to the Division by a CDC funded screening center shall be determined to be presumptively eligible for medical assistance in accordance with N.J.A.C. 10:72-7.5.

10:72-8.5 Service restrictions

In the case of an individual qualified for services in accordance with this subchapter, the only medical assistance provided shall be payment for authorized services provided during the period in which the individual requires treatment for breast or cervical cancer.

10:72-8.6 Redetermination of eligibility

(a) A redetermination of medical eligibility shall be made every six months, and shall be based upon the need for continuing treatment for breast or cervical cancer, as determined by the individual's treating physician. Continuing treatment shall not include routine monitoring services. The treating physician shall complete a form provided for the purpose of certifying the continuing need for treatment and shall send the form to the county board of social services in the beneficiary's county of residence.

(b) The individual beneficiary shall provide, or shall assist in providing, information as requested by the county board of social services in order to determine continuing medical eligibility. Medical eligibility will be evaluated every six months.

(c) The county board of social services will assess non-financial eligibility factors every 12 months.