

CHAPTER 85

LONG-TERM CARE SERVICES

Authority

N.J.S.A. 26:2H-98 and 101; and 30:4D-6a(4)(a), 6b(13) and (14), 7, 7a, b, c and t, and 12; 42 U.S.C. §1396a(a)(13)(A) and 42 U.S.C. §1396r; and Executive Reorganization Plan 001-1996.

Source and Effective Date

R.2011 d.121, effective March 24, 2011.
See: 42 N.J.R. 1793(a), 43 N.J.R. 961(c).

Chapter Expiration Date

Chapter 85, Long-Term Care Services, expires on March 24, 2016.

Chapter Historical Note

Chapter 63, Skilled Nursing Home Services Manual, was adopted as R.1971 d.163, effective September 22, 1971. See: 3 N.J.R. 206(b).

Chapter 63, Skilled Nursing Home Services Manual, was repealed and Chapter 63, Long-Term Care Services Manual, was adopted as new rules by R.1979 d.126, effective March 29, 1979. See: 10 N.J.R. 190(b), 11 N.J.R. 248(b).

Pursuant to Executive Order No. 66(1978), Subchapter 1, General Provisions, was readopted as R.1984 d.123, effective March 21, 1984. See: 16 N.J.R. 204(a), 16 N.J.R. 896(a).

Pursuant to Executive Order No. 66(1978), Subchapter 3, Cost Study, Rate Review Guidelines and Reporting System for Long-Term Care Facilities, was readopted as R.1984 d.573, effective November 29, 1984. See: 16 N.J.R. 2484(a), 16 N.J.R. 3437(a).

Pursuant to Executive Order No. 66(1978), Chapter 63, Long-Term Care Services Manual, was readopted as R.1989 d.622, effective November 29, 1989. See: 21 N.J.R. 2752(a), 21 N.J.R. 3918(a).

Pursuant to Executive Order No. 66(1978), Chapter 63, Long-Term Care Services Manual, was readopted as R.1994 d.624, effective November 23, 1994. As a part of R.1994 d.624, Chapter 63 was renamed Long-Term Care Services; former Subchapters 1, 2, 2A and 4, and Appendix I were repealed; Subchapter 1, General Provisions, Subchapter 2, Nursing Facilities Services, and Appendices A through Q were adopted as new rules; and Subchapter 5, Audits, was recodified as Subchapter 4, effective January 3, 1995. See: 26 N.J.R. 3614(a), 27 N.J.R. 156(a).

Pursuant to Executive Order No. 66(1978), Chapter 63, Long-Term Care Services, was readopted as R.1999 d.364, effective September 24, 1999. See: 31 N.J.R. 1759(a), 31 N.J.R. 3116(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 63, Long-Term Care Services, was extended by gubernatorial directive from March 23, 2005 to March 23, 2006. See: 37 N.J.R. 1185(a).

Chapter 63, Long-Term Care Services, was readopted as R.2005 d.389, effective October 18, 2005. As a part of R.2005 d.389, N.J.A.C. 10:63 was recodified as N.J.A.C. 8:85, Long-Term Care Services, effective January 17, 2006. See: 36 N.J.R. 4700(a), 37 N.J.R. 1185(a), 38 N.J.R. 674(a).

Chapter 85, Long-Term Care Services, was readopted as R.2011 d.121, effective March 24, 2011. As a part of R.2011 d.121, Subchapter 3, Cost Report, Rate Review Guidelines and Reporting System for Long-Term Care Facilities, was renamed Cost Report, Rate Calculation and Reporting System for Long-Term Care Facilities; Subchapter 5, Provider Reimbursements, Appendices U, V and W were adopted as new rules; and Appendix D was repealed, effective April 18, 2011. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:85-1.1 Scope

This chapter addresses the provision of quality, cost-prudent health care services available to New Jersey Medicaid eligible children and adults in a nursing facility (NF) and addresses the provision of and reimbursement for services required to meet the individual's medical, nursing, rehabilitative and psychosocial needs to attain and maintain the highest practicable mental and physical functional status. The following subchapters specifically address nursing facility services. However, the Fiscal Agent Billing Supplement continues to apply to all government psychiatric hospitals, inpatient psychiatric services and programs in long term care facilities. These other types of facilities are addressed for regulatory and administrative matters in the appropriate chapters elsewhere in Title 10 of the New Jersey Administrative Code.

Recodified from N.J.A.C. 10:63-1.1 and amended by R.2005 d.389, effective January 17, 2006.
 See: 36 N.J.R. 4700(a), 37 N.J.R. 1185(a), 38 N.J.R. 674(a).
 Rewrote the section.

Case Notes

Radioactive application of regulation valid. In re: Medicaid Long Term Care Services Bulletin 84-2, 212 N.J.Super. 48, 513 A.2d 967 (App.Div.1986), certification denied 526 A.2d 125, 107 N.J. 31.

Contrary to the Division's contention, the applicant's mental retardation did not disqualify him from participation in the Assisted Living Waiver Program, N.J.A.C. 10:49-22.1 et seq.; the applicant was in need of nursing facility services because the assistance required by him as described by his physician met the requirements of the term "dependent" as expressed in N.J.A.C. 8:85-2.1, and even if not, the applicant's mental retardation, when combined with any appreciable medical, emotional or psychosocial condition, or Assisted Daily Living dependency, would have made him eligible under the regulation. S.B. v. DMAHS, OAL Dkt. No. HMA 6558-06, 2007 N.J. AGEN LEXIS 264, Initial Decision (April 23, 2007).

Denial of request for reclassification from low to medium salary region assignment not inequitable. Rosewood Manor, Inc. v. Division of Medical Assistance and Health Services, 93 N.J.A.R.2d (DMA) 20.

8:85-1.2 Definitions

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

"Advance directive" means a written instruction relating to the provision of health care when the individual is incapacitated, such as a living will or durable power of attorney for health care.

"AIDS" means acquired immune deficiency syndrome, a condition affecting an individual who has a reliably diagnosed disease that meets the criteria for AIDS specified by the Centers for Disease Control and Prevention of the United States Public Health Service in the following volumes of the Morbidity and Mortality Weekly Review (MMWR): Volume 41 RR-17 of the MMWR published on December 18, 1992; Volume 43 No. RR-17 of the MMWR published on September 30, 1994; Volume 48 No. RR-13 of the MMWR published on December 10, 1999; Volume 57 No. RR-10 of the MMWR published on December 5, 2008; and updates found at www.cdc.gov/mmwr.

"AIDS-defining illness" means the 26 clinical conditions that affect people with advanced HIV disease listed in Categories B and C of the 1993 Revised Classification System, including, but not limited to, pneumocystis carinii pneumonia or PCP, toxoplasmosis, cytomegalovirus or CMV, oral-esophageal candidiasis, wasting, bacterial pneumonia, lymphoma, cryptococcal meningitis, mycobacterium avium complex or MAC, and Kaposi's sarcoma.

"Air fluidized therapy bed" means a device employing the circulation of filtered air through ceramic spherules (small, round ceramic objects).

"Allowable costs" means those costs of a nursing facility that are allowable for reimbursement pursuant to the Medicare Provider Reimbursement Manual unless modified by specific provisions of N.J.A.C. 8:85-3.

"Bed" or "licensed bed" means "bed" or "licensed bed" as those terms are defined at N.J.A.C. 8:39-1.2.

"Beneficiary" means a qualified applicant receiving benefits under the Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 et seq.

"Care management" means a process by which professional staff designated by the Department monitor the provision of NF care to:

1. Assure that services are rendered as recommended by the HSDP and in accordance with the NF's evaluation of the individual's health service needs;
2. Assure the delivery of timely and appropriate provider responses to changes in care needs;