

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.

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 and alien status

(a) In order to be eligible for the Medically Needy program, an individual must be a citizen of the United States, or an alien who can be classified as an eligible alien in accordance with this subchapter.

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. An individual who cannot be classified as an eligible alien in accordance with this subchapter due to changes mandated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) but who was residing in a Medicaid-certified nursing facility prior to January 29, 1997, will continue to be eligible for medical assistance until the individual is no longer eligible for long-term care services.

(b) The following aliens, if present in the United States prior to August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to Medically Needy benefits:

1. An alien lawfully admitted for permanent residence;
2. A refugee admitted pursuant to section 207 of the Immigration and Nationality Act;
3. An asylee admitted pursuant to section 208 of the Immigration and Nationality Act;
4. An alien whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act;
5. 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;
6. 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;

7. An alien who is granted status as a Cuban or Haitian entrant pursuant to section 501(e) of the Refugee Education Assistance Act of 1980;

8. An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply;

9. A member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act;

10. An alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;

11. An alien who is honorably discharged or who is on active duty in the United States Armed Forces and his or her spouse and the unmarried dependent children of the alien or spouse; and

12. Certain legal aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or her need for Medically Needy benefits, subject to certain conditions described below:

i. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent;

ii. The alien has been battered or subjected to extreme cruelty in the United States by a member of the spouse's or parent's family residing in the same household of the alien and the spouse or parent acquiesced to such battery or cruelty;

iii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or the parent of the alien (without the active participation of the alien in the battery or cruelty);

iv. The alien's child has been battered or subjected to extreme cruelty in the United States by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent acquiesced to and the alien did not actively take part in such battery or cruelty;

v. In addition to the conditions described in (b)12i through iv above, if the individual responsible for the battery or cruelty continues to reside in the same household as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for Medically Needy benefits;

vi. The county welfare agency shall apply the definitions "battery" and "extreme cruelty" and the standards for determining whether a substantial connection exists between the battery or cruelty and the need for Medicaid as issued by the Attorney General of the United States under his or her sole and unreviewable discretion, in accordance with 8 U.S.C. § 1641.