

**CHAPTER 78**

**NJ FAMILYCARE**

**Authority**

N.J.S.A. 30:4D-1 et seq., as amended by P.L. 2000, c.71.

**Source and Effective Date**

R.2001 d.113, effective March 5, 2001.  
See: 32 N.J.R. 3603(a), 33 N.J.R. 1126(a).

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

Chapter 78, NJ FamilyCare, expires on March 5, 2006, except for Subchapter 9, Premium Support Program (PSP), which expires on January 20, 2002.

**Chapter Historical Note**

Chapter 78, NJ FamilyCare, was adopted as special new rules by R.2000 d.393, effective September 6, 2000, to expire March 5, 2001. See: 32 N.J.R. 3603(a). The provisions of R.2000 d.393 were readopted as R.2001 d.113, effective March 5, 2001. See: Source and Effective Date.

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(d) Persons found eligible for NJ FamilyCare will receive services as set forth in N.J.A.C. 10:78-7.1, Scope of services.

#### 10:78-1.2 Purpose

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

1. Set forth eligibility criteria for the NJ FamilyCare program; and
2. Specify the rights and responsibilities of program applicants and beneficiaries.

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

(c) The director of the eligibility determination agency shall assign copies of this chapter to administrative staff, all staff responsible for the determination of NJ FamilyCare eligibility, social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its requirements in order to apply the policies and procedures consistently.

(d) The Division of Medical Assistance and Health Services shall issue amendments to this chapter as they are promulgated in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(e) At least one administrative copy of all obsolete pages of this chapter shall be maintained by the eligibility determination agency.

(f) This chapter is a public document. All copies in use shall be updated accurately as amendments are issued. The chapter is available as follows:

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

2. Specific requirements necessary for an applicant or beneficiary or his or her representative to determine whether a grievance review is to be requested or to prepare for a grievance review shall be provided to such persons without charge.

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

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

## SUBCHAPTER 1. INTRODUCTION

### 10:78-1.1 Program outline

(a) NJ FamilyCare is a broad term used to describe a State subsidized health insurance program. This chapter contains the criteria for NJ FamilyCare eligibility for certain uninsured parents, caretakers and children not eligible under the provisions of N.J.A.C. 10:69 and 10:79, as well as certain uninsured single individuals and couples without dependent children not eligible under the provisions of N.J.A.C. 10:90. FamilyCare also provides subsidized health insurance to those legal immigrants who are lawfully admitted for permanent residence who meet all other qualifications under the provisions of N.J.A.C. 10:69, 10:72 and 10:79, but for the Federal immigrant residency restrictions.

(b) Because the eligibility criteria established by the rules in this chapter are more liberal than those applicable under AFDC-related Medicaid and SSI-related Medicaid, parents, caretakers, children, single adults and couples without dependent children who are losing Medicaid eligibility because of financial reasons should be evaluated for FamilyCare eligibility under the provisions of this chapter.

1. Individuals financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:72 or 10:69 and who are income ineligible for FamilyCare under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

2. Immigrant infants and children not eligible under the provisions of N.J.A.C. 10:49, 10:71, 10:72, 10:69 or 10:79 should be evaluated for NJ FamilyCare eligibility under the provisions of this chapter.

(c) Eligibility under the provisions of this chapter shall be limited to those individuals not otherwise eligible for Medicaid or NJ KidCare, including:

1. Parents and caretakers of children under the age of 19;

2. Pregnant women whose income is over 185 percent of the Federal poverty line;

3. Immigrant pregnant women lawfully admitted for permanent residence who would be eligible for Medicaid but for Federal immigrant residency restrictions;

4. Single individuals and couples without dependent children; and

5. Children under the age of 21.

(c) To access any “wraparound” service, a Premium Support Program beneficiary/employee or eligible family member will be issued a NJ FamilyCare monthly identification card and shall present such proof of eligibility to the provider prior to receipt of services. Failure to present proof will not obligate the PSP to pay for such services or require the provider to bill NJ FamilyCare for such services. In case of failure to present proof of eligibility, the beneficiary/employee or eligible family member shall be liable for all incurred expenses.

**10:78-9.17 Fraud and abuse provisions applicable to the Premium Support Program**

All of the relevant provisions pertaining to fraud and abuse investigations and administrative actions, third party liability, and recoveries which are contained in N.J.S.A. 30:4D-1 et seq. and in N.J.A.C. 10:49 shall be fully applicable to the NJ FamilyCare/ Premium Support Program, including, but not limited to, N.J.S.A. 30:4D-6c, 6f, 7h, 7i, 7k, 7l, 7.1, 12, 17(e), 17(f), 17(g), 17(i), 17.1 and 17.2, as well as N.J.A.C. 10:49-3.2, 4.1 through 4.5, 5.5, 6.1(a)3, 7.3, 7.4, 7.5, 9.6 through 9.12, 11.1, 12.1 through 12.7, 13.1, 13.4, and 14.2 through 14.6 and 16.5.

**10:78-9.18 Applicability of rules of the Department of Banking and Insurance; small employer health plans**

Notwithstanding the provisions of this subchapter, in the case of a conflict between the rules in this subchapter and the rules of the Department of Banking and Insurance, the rules of the Department of Banking and Insurance regarding small employer health plans shall apply.

**10:78-9.19 Interpretations of rules**

Circumstances which are neither specifically nor generally addressed in these rules shall be referred to the DMAHS/PSP unit for resolution.

**SUBCHAPTER 10. FRAUD AND ABUSE UNDER NJ FAMILYCARE**

**10:78-10.1 Termination of eligibility for good cause for fraud and abuse**

(a) Subject to the limitations contained in 42 U.S.C. § 1320a-7b(a), “Criminal Penalties for Acts Involving Federal Health Care Programs,” any violation of (b) below shall result in the issuance of a Notice of Proposed Termination of the processing of the applicant’s application, or of the beneficiary’s eligibility for NJ FamilyCare. An individual receiving a Notice of Proposed Termination may request a grievance review.

(b) Subject to the limitations contained in 42 U.S.C. § 1320a-7b(a), cause for termination exists when a NJ FamilyCare applicant or beneficiary:

1. Knowingly or intentionally makes or causes to be made false statements or misrepresentations of material fact in any application or reapplication for benefits under NJ FamilyCare;
2. Knowingly or intentionally makes or causes to be made false statements, misrepresentations of material fact, or alterations on any NJ FamilyCare claim, eligibility card, or other document issued by or on behalf of the Division;
3. Intentionally misuses or abuses NJ FamilyCare benefits;
4. Knowingly or intentionally converts all or part of NJ FamilyCare benefits to a use other than the individual’s own legitimate use and benefit;
5. Gives, loans, or sells an eligibility card to anyone for use by an individual or individuals other than the eligible person or persons for whom the card was issued;
6. Engages in forgery or attempted forgery involving eligible services and/or claims for such services;
7. Engages in a course of conduct or performs an act deemed improper or abusive of the NJ FamilyCare program following notification that this conduct should cease; or
8. Fails to cooperate in a NJ FamilyCare investigation.

(c) Subject to the limitations contained in 42 U.S.C. § 1320a-7b(a), the existence of a cause for termination described in (b) above may be established by:

1. A judgment of conviction for a crime, disorderly persons offense, or petty disorderly persons offense;
2. A judgment or order of either a court of competent jurisdiction or an administrative agency; or
3. A preponderance of the evidence.

**10:78-10.2 Applications for readmission subsequent to termination of eligibility, or of applications for determination of eligibility**

(a) The terminated individual, or anyone with authority to act on his or her behalf, may apply to the Director for readmission to the NJ FamilyCare program no earlier than one year from the date of the final agency decision terminating the applicant’s application process or the beneficiary’s eligibility.

(b) The Director shall approve or deny such an application in accordance with the provisions of this chapter.

(c) An individual whose application for readmission has been denied may request a grievance review on the denial, and/or may submit another application to the Director no earlier than two years from the date of the final agency decision denying readmission.

**10:78-10.3 Applicability**

N.J.A.C. 10:78-10.1(a) and 10.2 shall apply only to NJ FamilyCare applicants and beneficiaries whose eligibility has been terminated for the reasons set forth in N.J.A.C. 10:78-10.1(b) and shall not apply to termination due to ineligibility initiated under N.J.A.C. 10:78-2 through 4.