

CHAPTER 83D**SENIOR GOLD PRESCRIPTION
PROGRAM MANUAL****Authority**

N.J.S.A. 30:4D-43 et seq., particularly 30:4D-50;
and Reorganization Plan No. 001-1996.

Source and Effective Date

R.2007 d.134, effective April 5, 2007.
See: 38 N.J.R. 5295(a), 39 N.J.R. 1711(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 83D, Senior Gold Prescription Program Manual, expires on April 5, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 83D, Senior Gold Prescription Program Manual, was adopted as emergency new rules by R.2001 d.201, effective May 18, 2001. See: 33 N.J.R. 1948(a). Chapter 83D, Senior Gold Prescription Program Manual, expired on July 17, 2001.

Chapter 83D, Senior Gold Prescription Program Manual, was adopted as new rules by R.2001 d.428, effective November 19, 2001. See: 33 N.J.R. 1948(a), 33 N.J.R. 3934(a).

Chapter 83D, Senior Gold Prescription Program Manual, was readopted as R.2007 d.134, effective April 5, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION**8:83D-1.1 Purpose and intent**

(a) It is intended that the Senior Gold Prescription Discount Program shall extend assistance to certain persons whose level of income disqualifies them for benefits and medical assistance under the New Jersey Medical Assistance and Health Services Act and for prescription benefits under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Act, but who have significant needs for more affordable prescribed drugs.

(b) This manual has been developed as a statement of policy and procedures and addresses eligibility for the Senior Gold Prescription Discount Program.

8:83D-1.2 Legal authority

These rules are promulgated under the authority of the Senior Gold Prescription Discount Act, P.L. 2001, c.96.

SUBCHAPTER 2. DEFINITIONS**8:83D-2.1 Definitions**

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

“Annual income” means all income from whatever source derived, actually received or anticipated.

“Anticipated income” means the amounts of income the applicant can reasonably be expected to receive during the calendar year.

“Applicant” means an individual who applies for Senior Gold Prescription Benefits either personally or through an authorized agent.

“Authorized agent” means a person who initiates the Senior Gold Benefits application for a person who is incompetent or incapable of filing the Senior Gold Benefits application on his or her behalf.

“Authorized representative” means a person with legal authority to act on behalf of an individual in making decisions related to the individual’s enrollment in, disenrollment from, and access to negotiated prices under the Medicare Prescription Drug Program.

“Beneficiary” means an individual who has been found eligible for Senior Gold Prescription benefits.

“Business income” means net income derived from a business, trade or profession or from the rental of property after deductions of the ordinary and necessary expenses attributable to the business, trade, profession, or to the rental of property which are allowed under the Federal Internal Revenue Code and regulations issued thereunder.

“Calendar year” means a year beginning January 1 and ending on December 31. It is the base period utilized to determine annual income and Senior Gold benefits eligibility.

“Centers for Medicare and Medicaid Services” or “CMS” means the agency of the Federal Department of Health and 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 Senior Gold benefits.

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

“Expiration date” means the date when a beneficiary’s Senior Gold benefits eligibility ends.

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

“Medicare-approved prescription drug discount card program” means a prescription drug discount card program as to which the sponsor thereof has received Medicare approval and has entered into a contract with CMS.

“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.

“Pharmaceutical assistance” means the payments authorized by the Department to a participating pharmacy on behalf of a Senior Gold 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.

“Prescription drug(s)” 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, insulin needles and certain diabetic testing materials when prescribed.

1. The term “legend prescription drugs” includes:

i. Any drug product which by Federal law cannot be dispensed unless ordered by a licensed prescriber;

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,” or the symbol “RX”;

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

iv. Diabetic testing materials, including blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets (electronic monitoring devices are not included); and

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

2. The term “prescription drugs” excludes cosmetic drugs as indicated at N.J.A.C. 8:83C-1.13 unless deemed to be medically necessary by a licensed prescriber.

“Previous year” means the calendar year preceding the year in which the person is applying or reapplies for Senior Gold benefits. For example, 2000 is the “previous year” when referring to an application which is dated between January 1, 2001 through December 31, 2001, inclusive. If a person who is required to submit a Federal, State and/or city income tax return applies for Senior Gold benefits 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 Senior Gold application.

“Program” means the Senior Gold Prescription Discount Program which was created as a result of the passage of the Senior Gold Prescription Discount Act, P.L. 2001, c.96.

xi. Proceeds received by the beneficiary of a special needs trust (see N.J.A.C. 8:83-2.2 for provisions);

xii. Rollovers from one tax deferred financial instrument (pension, annuity, IRA, insurance contract or other retirement benefits) to another tax deferred financial instrument;

xiii. 1035 Tax Free Exchanges of a policy or contract handled between two insurance companies; and

xiv. An insurance policyholder's original contributions if demutualization of the policy occurs (in that case, only the earnings of the policy would be counted).

(d) The applicant must be able to document the amounts reported upon request by the Department and will be required to submit photocopies of his or her Federal, State and/or city income tax return and other acceptance evidence.

(e) Senior Gold eligibility is conferred based upon annual income for the current calendar year which is estimated at the time of application. Previous year income information is used as a gauge and supplements estimates of current income to determine current eligibility. However, if previous year income exceeds the standard, but current year income is expected to fall within legal limits, an initial applicant may estimate current year income for the purpose of establishing Senior Gold eligibility.

(f) Since Senior Gold eligibility is based upon actual annual income, if the actual income for the current calendar year exceeds the Senior Gold income standard, the person will become ineligible for the entire calendar year and shall be required to repay benefits paid for all prescription benefits from January 1 through December 31 of the calendar year.

(g) Upon renewal of eligibility, all re-applicants must submit previous year income information to substantiate previous estimates. Requests by re-applicants to use anticipated income as the basis for eligibility when previous year income exceeds the Senior Gold standard will be reviewed individually.

(h) The Program can, when appropriate, take necessary action to recover the full amount of payments made on behalf of beneficiaries during an ineligible period.

(i) Senior Gold beneficiaries are required to notify the Program immediately if their current year income exceeds the Senior Gold income standard.

(j) Applicants who combine their income by filing joint Federal and/or State income tax returns must combine their income for Senior Gold eligibility purposes for the same time period, and their eligibility determination shall be based on the joint income standard except when (b)2 above applies.

(k) Medical or other expenses are not considered or deducted from gross income for Senior Gold eligibility purposes.

(l) Net losses in one income category shall not be used to offset income in another category.

(m) Beginning January 1, 2005, the Commissioner will provide notice of the new income limits annually by publication in the New Jersey Register.

Notice of new income eligibility limits.

See: 34 N.J.R. 935(a).

Administrative change.

See: 35 N.J.R. 1115(a).

Amended by R.2003 d.400, effective October 6, 2003.

See: 35 N.J.R. 1336(a), 35 N.J.R. 4722(a).

Increased the income amounts in (a) and (b).

Petition for Rulemaking.

See: 35 N.J.R. 5622(a).

Amended by R.2004 d.300, effective August 2, 2004.

See: 36 N.J.R. 275(a), 36 N.J.R. 3535(a).

Rewrote the section.

Amended by R.2004 d.351, effective September 20, 2004.

See: 36 N.J.R. 1865(a), 36 N.J.R. 4313(b).

In (b), substituted "adjustment" for "increase" following "cost-of-living" in the introductory paragraph, inserted "for the sole benefit of the applicant" preceding "shall be considered" in 1i and substituted "\$36,000" for "\$35,000" in 2i; rewrote (c).

Administrative correction.

See: 36 N.J.R. 5683(a).

Administrative change.

See: 37 N.J.R. 5001(a).

Administrative change.

See: 38 N.J.R. 5362(a).

Administrative change.

See: 40 N.J.R. 182(a), 6966(a).

Administrative change.

See: 43 N.J.R. 3365(a).

Administrative change.

See: 45 N.J.R. 33(a).

Administrative change.

See: 46 N.J.R. 78(a).

8:83D-6.3 Citizenship

A person shall not be required to be a citizen of the United States in order to be eligible for Senior Gold.

8:83D-6.4 Residence

(a) "Resident" means a resident as defined in section 3 of P.L. 1975, c.194 (N.J.S.A. 30:4D-22) for purposes of eligibility for PAAD. Resident means one legally domiciled within the State for a period of 30 days immediately preceding the date of application for inclusion in the Program. Mere seasonal or temporary residence within the State, for whatever duration, does not constitute domicile. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile. The burden of establishing legal domicile within the State is upon the applicant.

1. The term resident shall be interpreted to mean a person having his or her customary place of abode in New Jersey. The fact that an individual was or may have been motivated to move to New Jersey because of the availability of medical facilities does not, of itself, justify a finding that he or she has established a residency in this State; however, such inquiry need not be made if an individual

has been physically present in New Jersey for a period exceeding three months.

2. The applicant must be able to substantiate residence upon request by the Department and is required to submit photocopies of two documents showing evidence of current residence at the time of initial application.

3. Senior Gold beneficiaries are entitled to prescription benefits only when the beneficiary is physically present in the State of New Jersey at the time the prescription is dispensed.

4. The following are examples of sources of evidence of residence:

- i. Motor vehicle records (for example, valid driver's license);
- ii. Landlord's records and rent receipts;
- iii. Public utility records and receipts (for example, electric bill);
- iv. Personal property assessment records;
- v. Records of business or professional people, such as doctors, department stores, etc.;
- vi. Post Office records;
- vii. Records of social agencies, public or private; and
- viii. Employment records.

5. Determination as to continued New Jersey residence of a person absent from this State shall be based upon contact with the applicant by a representative of the Department.

6. In reaching a decision as to continuing New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a beneficiary leaves New Jersey with the intent to establish a place of abode elsewhere, he or she becomes ineligible under the Program and must notify the Program of the address and return the Senior Discount eligibility card.

8:83D-6.5 Recipient of other assistance and pharmaceutical coverage

(a) The Senior Gold Prescription Discount Act provides that an eligible person whose prescription drug costs are covered in part by any other program or plan of assistance or insurance may be required to receive reduced assistance under the Program. If an eligible person's prescription drug costs are covered in whole or in part by any other program or plan of assistance or insurance, the other program or plan shall be the primary payer, and the Program shall be the payer of last resort.

(b) Individuals with coverage described in (a) above must submit their prescriptions for payment to the other program or

plan of assistance or insurance for payment before submitting the prescription for payment by the Senior Gold Prescription Discount Program.

(c) The Senior Gold Prescription Discount Act establishes the co-payment for each prescription to be paid by an eligible individual.

(d) At the time of each purchase of a prescription drug, the eligible person shall pay a co-payment that shall not be waived, discounted or rebated in whole or in part.

(e) When an eligible individual has prescription costs paid in part by any other program or plan of assistance or insurance, the amount paid by the Program, when combined with the payment made by the other program or plan of assistance or insurance, shall not exceed the amount that the Program would pay if no other coverage was available.

8:83D-6.6 Senior Gold eligibility application and renewal application forms

(a) The Senior Gold Eligibility application (Form SG-1) is the only acceptable form to be utilized in determining the applicant's initial eligibility for Senior Gold. These applications and brochures are available at the local Social Security Office, the County Office on Aging, the Office of Disability Services, pharmacies and the Internet.

(b) Senior Gold Eligibility renewal application forms (Form SG-2) will be automatically mailed to the beneficiary approximately four months prior to the eligibility expiration date. This is the only acceptable form to be utilized in renewing Senior Gold Program eligibility.

8:83D-6.7 Social Security account number

(a) Senior Gold applicants are not required to submit their Social Security Account Number (SSAN); however, failure to provide it will delay the processing of their application. Each applicant for Senior Gold benefits must include his or her 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 are asked to 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 Program. This number will be used throughout the beneficiary's Senior Gold eligibility.

8:83D-6.8 Certification

The applicant for Senior Gold 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 or 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.