

1. Notify PAAD whenever any one of the following occurs:

- i. His or her marital status changes.
- ii. He or she moves anywhere within the State of New Jersey, in which case, he or she shall submit proof of new address.

2. Return his or her eligibility card to PAAD whenever becoming ineligible due to one of the following:

- i. He/she moves out of the State of New Jersey.
- ii. He/she becomes eligible for Medicaid or any other plan of assistance or insurance that wholly covers pharmaceutical services.
- iii. His/her or their annual income increases to an amount which exceeds the legal limit.
- iv. He/she was determined eligible based on his/her disability and he/she stops receiving Social Security Disability benefits.
- v. When requested by PAAD because required information to confirm eligibility was not submitted, or scheduled recovery payments are in arrears.

3. Repay the State of New Jersey, upon request, for the cost of benefits incorrectly paid on his or her behalf. Failure to fully repay the State for incorrectly paid benefits could cause the suspension of his or her PAAD benefits in the future, as well as possible withholding of all or some of his or her rebates or refunds which may be due him or her from the State of New Jersey.

As amended, R.1981 d.332, effective September 10, 1981.
See: 13 N.J.R. 432(a), 13 N.J.R. 580(c).

(d): delete i-iii; renumber iv and v as i and ii; renumber (d)2 as (d)3 and add new text for (d)2.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(a).

Section substantially amended.

Amended by R.1991 d.563, effective November 18, 1991.

See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

Reference to "beneficiary" added at (c).

Amended by R.1993 d.368, effective July 19, 1993.

See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

Amended by R.1995 d.10, effective January 3, 1995.

See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (b), substituted a reference to eligibility cards for a reference to temporary eligibility cards in 3, deleted a former 4, recodified former 5 and 6 as 4 and 5, and added a new 6; in (c), deleted "within 60 days after the expiration date" at the end of 7; and in (d), added ", in which case, he or she shall submit proof of new address" at the end of 1ii, and substituted a reference to the State of New Jersey for a reference to the Division of Taxation at the end of 3.

Amended by R.2004 d.459, effective December 20, 2004.

See: 36 N.J.R. 3619(a), 36 N.J.R. 5682(b).

In (c), rewrote 1ii, added 8.

Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In (b)5, inserted "or electronically scan the", "the" preceding "microfilm", and "or electronic copy"; deleted former (c)6; recodified former (c)7 and (c)8 as (c)6 and (c)7; in (c)6, substituted "the PAAD Program" for "PAAD" twice and deleted "and" from the end; in (c)7,

substituted "Program" for "program" and substituted a semicolon for the period at the end; and added new (c)8 and (c)9.

Amended by R.2016 d.075, effective July 5, 2016.

See: 48 N.J.R. 105(a), 48 N.J.R. 1366(b).

Section was "Responsibilities in the application renewal process". Rewrote (b)4, (b)5, and (c)5.

10:167-5.7 Combined application for PAAD/Lifeline

(a) There shall be only one application for those beneficiaries who apply for both PAAD and Lifeline.

1. A beneficiary may file one application for both programs on the same form.

2. If an applicant wishes to apply only for Lifeline, he or she shall use the PAAD eligibility application form. (See N.J.A.C. 10:167D-4.8)

3. On reapplication for Lifeline, the applicant shall complete the PAAD renewal form.

(b) Beneficiaries who apply for PAAD shall follow the procedures and meet the qualifications of the program in this chapter.

(c) Beneficiaries who apply for Lifeline will follow the procedures and meet the qualifications of the program in N.J.A.C. 10:167D.

New Rule, R.1996 d.581, effective December 16, 1996.

See: 28 N.J.R. 3499(a), 28 N.J.R. 5174(a).

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), substituted a reference to the AP-2 form for a reference to the LL-1 form in 2, and added 3.

Amended by R.2016 d.075, effective July 5, 2016.

See: 48 N.J.R. 105(a), 48 N.J.R. 1366(b).

In (a)2, deleted "still" following "shall", and substituted "PAAD eligibility application" for "AP-2"; and in (a)3, substituted "the PAAD" for "an AP-12".

SUBCHAPTER 6. ELIGIBILITY REQUIREMENTS

Case Notes

See for historical purposes Atty.Gen.F.O.1978, No. 3 (then existing regulation N.J.A.C. 10:69A-4.3 declared invalid).

10:167-6.1 Age

(a) To be eligible for PAAD, the applicant shall be 65 years of age or older or shall be under 65 and over 18 years of age and receive Social Security Title II disability benefits. Individuals under age 65 who receive disability benefits on behalf of someone other than themselves are ineligible. The applicant shall be able to document his or her age upon request by the Department. The Department will require that the applicant submit a photocopy of his or her certificate or other acceptable proof of age if over 65 years of age.

(b) The following are acceptable proofs of age:

1. Primary proof: The applicant is required to submit a photocopy of one of the following documents:

- i. Birth certificate;
- ii. Baptismal certificate;
- iii. Bris certificate;
- iv. Social Security records verifying age (can be obtained from local security office);
- v. Railroad retirement letter (can be obtained from Railroad Retirement Board).

2. Secondary proofs: If the applicant cannot supply one of the documents listed above, copies of any two of the following documents are acceptable:

- i. Insurance policy;
- ii. Driver's license;
- iii. School record;
- iv. State or Federal census record;
- v. Church record of Baptism (age five or after);
- vi. Confirmation certificate;
- vii. Marriage record;
- viii. Employment record;
- ix. Union record;
- x. Military record;
- xi. Medicare card;
- xii. Delayed birth certificate;
- xiii. Applicant's child's birth certificate;
- xiv. Physician's or midwife's record of applicant's birth;
- xv. Immigration record;
- xvi. Naturalization record;
- xvii. Passport.

(c) If under age 65, the following are acceptable proofs of disability:

1. A copy of a Social Security award certificate issued in the last six months.
2. A Social Security Form or record.
3. A document issued by Social Security that establishes Medicare eligibility. The document must be dated within six months prior to the date of application.

Amended by R.1985 d.259, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substantially amended.

Amended by R.1988 d.211, effective May 16, 1988.
See: 20 N.J.R. 369(a), 20 N.J.R. 1106(a).

Added text to (b)5 "letter (can be obtained from Railroad Retirement Board)".

Amended by R.1990 d.614, effective December 17, 1990.

See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).

In (a): added sentence regarding ineligibility of those under 65 who receive disability benefits on behalf of someone other than themselves. Stylistic revisions to text.

Amended by R.1998 d.176, effective April 6, 1998.

See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (b)1, substituted a reference to Social Security records verifying age for a reference to Social Security form No. 2458 in iv, and deleted a former vi; in (b)2, deleted a former v, recodified former vi through xi as v through x, inserted a new xi, deleted a former xii, and recodified former xiii through xviii as xii through xvii; and in (c), rewrote 2, and added 3.

10:167-6.2 Income standards

(a) Any single permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have an annual income of less than \$26,575 to be eligible for PAAD.

(b) Any married permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have a combined (applicant and spouse) annual income of less than \$32,582 to be eligible for PAAD.

1. An applicant and spouse shall be considered separate and eligibility determined under the single income standard when each maintains a separate residence and the applicant does not have access to the spouse's income.

i. Any support payment received by the applicant for the sole benefit of the applicant shall be considered as income for PAAD eligibility purposes.

2. An applicant and spouse may be considered separated when the spouse has been institutionalized in a long-term facility, either skilled or intermediate, or in a State or county psychiatric hospital at least 30 consecutive days prior to application.

i. PAAD shall consider the applicant and spouse separated only when doing so is more favorable to the applicant for PAAD (for example, when the income of an applicant and his or her institutionalized spouse is combined at \$32,582, the applicant is ineligible for PAAD, but if the applicant and spouse are considered separated, the applicant could be eligible for PAAD under the single income standard. If the institutionalized spouse was not covered by Medicaid, the spouse could become eligible under the single income standard).

(c) All income, from whatever source derived, is considered in determining eligibility for the purpose of PAAD. Jointly owned income sources, will be allocated according to degree of ownership.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income (gross amounts unless otherwise noted) are as follows:

i. Social Security benefits paid to or on behalf of the applicant;

Amended by R.2004 d.349, effective September 20, 2004.
See: 36 N.J.R. 1859(a), 36 N.J.R. 4311(a).

In (b), inserted "for the sole benefit of the applicant" preceding "shall be considered" in 1i and substituted "\$ 25,060" for "\$ 24,000" in 2i; rewrote (c); in (m), substituted "adjustment" for "increase" following "cost-of-living".

Administrative change.
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).

Amended by R.2009 d.16, effective January 5, 2009.
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

Added (n).

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).

Administrative change.
See: 47 N.J.R. 485(a).

Amended by R.2016 d.075, effective July 5, 2016.
See: 48 N.J.R. 105(a), 48 N.J.R. 1366(b).

In (b)2i, inserted "or her", and substituted "\$32,582" for "\$25,060"; in the introductory paragraph of (c)2, inserted a comma following "income"; and in (c)2v, substituted "in Service to" for "to Service in", and inserted a comma following "program".

Case Notes

Pharmaceutical Assistance to the Aged and Disabled regulations limiting eligibility to persons actually receiving Social Security disability benefits upheld against constitutional challenge as having a rational state purpose in being necessary for the financial viability of the program. *Barone v. Dept. of Human Services*, 210 N.J.Super. 276, 509 A.2d 786 (App.Div.1986) affirmed 107 N.J. 355, 526 A.2d 1055.

Pharmaceutical assistance beneficiary must repay state if combined income over minimum eligibility because of "in kind" services rendered. *R.S. v. Division of Medical Assistance and Health Services*, 97 N.J.A.R.2d (HLT) 39.

Inclusion of applicants' Individual Retirement Account as income was appropriate. *S. K. v. New Jersey Division of Medical Assistance and Health Services, Pharmaceutical Assistance to the Aged and Disabled*, 94 N.J.A.R.2d (PAA) 1.

10:167-6.3 Citizenship

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

10:167-6.4 Residence

(a) The statute provides that "any . . . resident of this State . . . shall be eligible 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, of 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. Interpretation: The term resident shall be interpreted to mean a person having his 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 has not established a residence 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. 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;
- viii. Employment records; and
- ix. Social Security records.

4. 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.

5. 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 becomes ineligible under the PAAD program and must notify the Pharmaceutical Assistance to the Aged and Disabled program of the address and return the PAAD eligibility card.

Amended by R.1985 d.259, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substituted "within" for "with".

Amended by R.1985 d.690, effective January 21, 1986.
See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).

3.ii deleted.

Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In (a), deleted "and reapplication" at the end of 2.
Amended by R.2009 d.16, effective January 5, 2009.

See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In (a)3i and (a)3iii, substituted "for example" for "e.g."; in (a)3viii, substituted "; and" for the period at the end; and added (a)3ix.

10:167-6.5 Recipient of other assistance and pharmaceutical coverage

(a) The State statute provides that any person shall be ineligible for PAAD if he/she is otherwise qualified for assis-

tance under the Act of which the PAAD Act is a supplement (Chapter 413, Laws of 1968). This is interpreted to mean that a State resident 65 years of age or older cannot be eligible for PAAD when receiving Medicaid benefits.

(b) The State statute further provides that any otherwise eligible person whose prescription drug costs are wholly covered by any other plan of assistance or insurance shall be ineligible for PAAD.

(c) A PAAD applicant shall supply the PAAD Program with sufficient information for PAAD to apply for Medicare Part D coverage on behalf of the applicant.

(d) The applicant, having provided all the necessary information to the PAAD Program, shall be enrolled in a Medicare Part D plan, except in the following cases:

1. The applicant is in an employer prescription drug plan, where the employer accepts a subsidy from Medicare for continued coverage of the employee/retiree; or
2. The applicant is not eligible under Medicare Part D.

Amended by R.2009 d.16, effective January 5, 2009.
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).
Added (c) and (d).

10:167-6.6 PAAD eligibility application and renewal application forms

(a) The eligibility application forms are available to applicants in central and local offices and other convenient locations throughout the State, on the Department's website at www.state.nj.us/humanservices/doas/home/ap2.html, and by writing to the New Jersey Department of Human Services, Pharmaceutical Assistance to the Aged and Disabled (PAAD), PO Box 715, Trenton, NJ 08625-0715.

(b) Applicants shall apply, or renew their application, for PAAD and/or for Lifeline on forms approved by PAAD.

(c) The application forms specified by this section shall contain fields for the submission of the information required by N.J.A.C. 10:167-6.1 through 6.9 to determine eligibility, and fields for applicants to approve the release of information in accordance with N.J.A.C. 10:167-6.11.

Amended by R.1985 d.259, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).
Substituted "four months" for "90 days".

Amended by R.2009 d.16, effective January 5, 2009.
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).

In (a), inserted " , on the Department's website at www.state.nj.us/health/seniorbenefits/forms.shtml, and by writing to the New Jersey Department of Health and Senior Services, Pharmaceutical Assistance to the Aged and Disabled (PAAD), PO Box 715, Trenton, NJ 08625-0715"; and added (c).

Amended by R.2011 d.248, effective October 3, 2011.
See: 43 N.J.R. 360(a), 43 N.J.R. 2596(a).

In (c), inserted " , and fields for applicants to approve the release of information in accordance with N.J.A.C. 8:83-6.11".

Amended by R.2016 d.075, effective July 5, 2016.
See: 48 N.J.R. 105(a), 48 N.J.R. 1366(b).

Rewrote (a) and (b).

10:167-6.7 Social Security account number

(a) Each applicant for PAAD benefits must include his or her Social Security Account Number (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 must 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 PAAD program. This number will be used throughout the beneficiary's PAAD eligibility.

(c) Each applicant shall include a Medicare Health Insurance Claim number on the application/reapplication, if the applicant has been assigned one.

Amended by R.2009 d.16, effective January 5, 2009.
See: 40 N.J.R. 4479(a), 41 N.J.R. 221(a).
Added (c).

10:167-6.8 Certification

The applicant for PAAD 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/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.

10:167-6.9 Authorization

(a) By signing or marking the certification and authorization statement on an application or a renewal application form, an applicant or a reapplicant authorizes:

1. The Department to serve as the authorized representative of the applicant or reapplicant;
2. The Department to verify any information on the form by contacting the Social Security Administration, the Internal Revenue Service, the New Jersey Division of Taxation, employers and others as the need arises;
3. Assignment of benefits to the State of New Jersey if he/she or his/her spouse has any other plan of assistance or insurance that covers, at least in part, the cost of prescription drugs; and
4. Prescribing practitioners to release information concerning prescriptions which have been paid by the PAAD program, to the Department or any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

Amended by R.1984 d.617, effective January 21, 1985.
See: 16 N.J.R. 2050(a), 17 N.J.R. 201(b).
(a)4 added.