

CHAPTER 83D

SENIOR GOLD PRESCRIPTION PROGRAM MANUAL

Authority

P.L. 2001, c.96.

Source and Effective Date

R.2001 d.201, effective May 18, 2001 (to expire July 17, 2001).
See: 33 N.J.R. 1948(a).

Chapter Historical Note

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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.

"Senior Gold" means the Senior Gold Prescription Discount Program.

SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

8:83D-3.1 Department of Health and Senior Services

The Department is the administrative unit of the State government which has control over the administration of Senior Gold. Under the terms of the Senior Gold Prescription Discount Act, this Department is responsible for the general policies governing administration of Senior Gold and for implementing the Senior Gold Prescription Discount Act through the issuance of regulations in accordance with the Administrative Procedure Act.

8:83D-3.2 Division of Senior Benefits and Utilization Management

The Division of Senior Benefits and Utilization Management is the administrative unit within the Department that processes applications, determines eligibility, answers inquiries, mails eligibility cards and performs other administrative functions for, or in conjunction with, the Department.

8:83D-3.3 Senior Gold Prescription Discount Program

The Senior Gold Prescription Discount Program in the Office of Support Services for the Aged within the Department, has the direct responsibility for the processing of eligibility applications from applicants.

SUBCHAPTER 4. SCOPE OF SERVICE

8:83D-4.1 Statutory limitations

By statute, the Senior Gold Prescription Discount Program is limited to payment or reimbursement to pharmacies for the reasonable cost of prescription drugs for eligible persons which exceeds the co-payment.

8:83D-4.2 Principles of reimbursement to participating pharmacies

(a) In order to become an approved provider, a pharmacy must file an application and agreement of participation which must be approved by the Division of Medical Assistance and Health Services of the Department of Human Services.

(b) No reimbursement will be made to an unlicensed pharmacy or to a pharmacy located in another state or country.

(c) Reimbursement on behalf of Senior Gold beneficiaries will be made directly to the participating pharmacies and will be for the reasonable cost (as determined by the Commissioner) of the prescription drugs which exceeds the co-payment.

8:83D-4.3 Amounts of reimbursement

(a) The Program shall provide a payment to a pharmacy that is participating in the Program for the reasonable cost of one or more prescription drugs purchased by an eligible person who presents an identification card issued by the program in an amount that exceeds the co-payment paid by the eligible person.

(b) At the time of each purchase of a prescription drug, the eligible person shall pay a co-payment to the participating pharmacy that shall not be waived, discounted or rebated in whole or in part, and shall be equal to:

1. \$15.00 plus 50 percent of the remaining amount of the reasonable cost for the prescription drug, or the reasonable cost for the drug, whichever is less; or

2. \$15.00, or the reasonable cost for the drug, whichever is less, in the case of an eligible person who has incurred out-of-pocket expenditures, including co-payments and deductibles, for the purchase of prescription drugs, which are not reimbursable by any other plan of assistance or insurance and are credited to that person's account in the following amounts: \$2,000 annually for a single person and \$3,000 annually for a married couple. These amounts shall be incurred on or after the date that the person received proof of eligibility for the program from the Department.

8:83D-4.4 Interchangeable drug products

(a) Whenever any interchangeable drug product contained in the latest list approved and published by the Drug Utilization Review Council is available for the prescription written, the Program shall reimburse only for the reasonable cost of the interchangeable product less the Senior Gold co-payment unless the prescriber specifies that substitution is not permitted.

(b) For certain brand name products as specified at N.J.A.C. 10:51-1.5(b), the prescriber writes the statement "Brand Name Medically Necessary" on the prescription form.

1. If the prescriber fails to specify that substitution is not permissible, the Senior Gold beneficiary has two options:

i. To purchase an interchangeable drug product which is equal to or less than the maximum allowable cost, at the Senior Gold co-payment; or

ii. To purchase the prescribed drug product which is higher in cost than the maximum allowable cost and

2. The beneficiary must submit a prescription claim form and proof of purchase for each eligible prescription to the Program. The claim form must be completed by a participating New Jersey pharmacy, or by a licensed mail order pharmacy service program where the prescription is delivered to a New Jersey address; and

3. No direct reimbursement will be made for any drugs purchased after the date when the beneficiary receives his or her eligibility identification card.

8:83D-5.5 Agency controls

(a) The Department has the responsibility for reviewing a statistically valid representative sample of Senior Gold cases to assure beneficiary eligibility. A quality control review of sample cases selected on a random basis includes:

1. Analysis of the beneficiary's case record, including the application which is maintained by the PAAD Bureau;
2. An interview with the beneficiary or the beneficiary's representative(s) to review eligibility for Senior Gold and availability of third party resources; and
3. Verification of eligibility factors and third party liability information through collateral contacts.

(b) The Department, in conjunction with the Division of Medical Assistance and Health Services, has the responsibility for monitoring providers participating in the Program, verifying that claims submitted to the Program by such providers are in compliance with Program regulations, and investigating beneficiaries in matters involving potential fraud and/or abuse.

(c) The Department, in conjunction with the Division of Medical Assistance and Health Services, shall, as appropriate, recover benefits incorrectly paid on behalf of a beneficiary.

8:83D-5.6 Responsibilities in the application renewal process

(a) The Program has responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the Program and indicate the applicant's rights and responsibilities under its provisions;
2. Process applications and reapplications;
3. Issue eligibility cards to eligible persons and to notify ineligible persons promptly;
4. Automatically mail reapplication forms approximately four months prior to the eligibility expiration date; and
5. Copy eligibility application and supporting documents onto microfilm and retain the microfilm for audit purposes.

(b) The applicant or beneficiary has the responsibility to:

1. Complete the Senior Gold eligibility application/renewal application form(s) legibly and accurately by:
 - i. Answering all questions fully;
 - ii. Presenting all necessary evidentiary documents;
 - iii. Reading the certification and authorization statement;
 - iv. Signing or marking the application or renewal application; and
 - v. Obtaining the signature or mark of the spouse (if married) and the signature of the preparer (if applicable) on the application or renewal application;
2. Assist the Division of Medical Assistance and Health Services within the Department of Human Services and the Division of Senior Affairs within the Department by securing evidence that corroborates statements when necessary;
3. Agree to a review by the Department or its agent, if randomly selected for review. Senior Gold eligibility may be terminated if the beneficiary refuses to cooperate with a quality control request;
4. Assign benefits to the State of New Jersey when prescription drug costs are covered in part by any other plan of assistance or insurance;
5. Reapply for eligibility on forms mailed by the Department at least 45 days prior to his or her eligibility expiration date if he or she wishes to renew Senior Gold eligibility;
6. Complete his or her renewal application by interview if selected as part of a sample group by Senior Gold. Senior Gold eligibility will not be renewed if the beneficiary refuses to complete the eligibility review;
7. If the application mailed by the Program is lost in the mail, misplaced or not received due to the applicant's change of address, it is the applicant's responsibility to contact the Program for a new application;
8. Notify the Program whenever any one of the following occurs:
 - i. His or her marital status changes; or
 - ii. He or she moves anywhere within the State of New Jersey, in which case, he or she shall submit proof of new address;
9. Immediately return his or her eligibility card to the Program whenever becoming ineligible due to one of the following:
 - i. He or she moves out of the State of New Jersey;
 - ii. He or she becomes eligible for Medicaid, PAAD, or any other plan of assistance or insurance that fully covers pharmaceutical services;

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. The Program shall consider the applicant and spouse separated only when doing so is more favorable to the applicant for Senior Gold (for example, when the income of an applicant and his institutionalized spouse is combined at \$35,000, the applicant is ineligible for Senior Gold, but if the applicant and spouse are considered separated, the applicant could become eligible for Senior Gold under the single income standard. If the institutionalized spouse was not covered by Medicaid, the spouse could become eligible under the single income standard for PAAD).

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

1. All income, taxable and non-taxable, 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;
- ii. Veterans benefits;
- iii. Disability benefits, whether public or private;
- iv. Salaries;
- v. Wages;
- vi. Bonuses;
- vii. Commissions;
- viii. Fees;
- ix. Dividends;
- x. Interest, both taxable and nontaxable;
- xi. Capital gains;
- xii. Royalties;
- xiii. Bequests;
- xiv. Support payments;
- xv. Unemployment benefits;
- xvi. Pensions;
- xvii. Annuities (contributory, non-contributory, qualified and non-qualified);
- xviii. Retirement benefits, including distributions from ALL Individual Retirement Arrangements (Traditional, Simple, Roth or Educational IRA's);
- xix. Business income (net);

- xx. Fair market value of prizes and awards; and
- xxi. Gambling and lottery winnings.

2. Sources of income which are excluded in considering eligibility for Senior Gold are as follows:

- i. Lifeline Credit Program/Tenants Lifeline Assistance Program;
- ii. Benefits received under New Jersey State Home-
stead Rebates;
- iii. Proceeds from spouse's life insurance;
- iv. Capital gains of up to \$250,000 for a single person or up to \$500,000 for a married couple on the sale of a main home which is also excluded from income taxation by IRS and the New Jersey Division of Taxation;
- v. Stipends from the Volunteers to Service in America (VISTA), Foster Grandparents programs and the WORKFORCE 55 Program;
- vi. Agent Orange payments;
- vii. Reparation payments to Japanese Americans by the Federal Government pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383 (50 U.S.C. App. 1989b-4 and 1989b-5); and
- viii. Rewards involving health care fraud or abuse which apply to N.J.A.C. 10:49-13.4.

(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

(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.

8:83D-6.9 Authorization

(a) By signing/marketing the certification and authorization statement on the application/renewal application form, the applicant/re-applicant authorizes:

1. 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;

2. Visitation and review by representatives of the Department, or the Division of Medical Assistance and Health Services;

3. Assignment of benefits to the State of New Jersey if he or she or his or 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 Senior Gold Program to the Department and the New Jersey Division of Medical Assistance and Health Services or any law enforcement authority of this State charged with the investigation or prosecution of violations of the civil and criminal provisions of the "Senior Gold Prescription Discount Act" or the criminal laws of this State.

8:83D-6.10 Eligibility period

(a) A Senior Gold eligibility card is effective for the dates indicated on the card. The Senior Gold beneficiary shall renew his or her eligibility in accordance with the provisions of N.J.A.C. 8:83D-6.6.

(b) Renewal applications must be completed and returned to the Senior Gold Program by the beneficiary at least 45 days prior to the expiration date to ensure continuous coverage.

8:83D-6.11 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or beneficiary or his or her authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or his or her authorized agent shall be limited to purposes directly connected with the administration of the Program pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified;

(b) The Division of Medical Assistance and Health Services, on behalf of the Department, shall take all reasonable measures to ascertain the legal liability of third parties to pay for prescription drugs arising out of injury, disease, or disability, where it is known that a third party is or may be liable to pay all or part of the drugs of a beneficiary. Payment on behalf of an eligible individual shall not be withheld because of the liability of third parties, if third party resources are not currently available to pay the individual's expenses. The Division of Medical Assistance and Health Services shall recover from any such third party the full amount of payments made. Upon request of the Director, Division of Medical Assistance and Health Services, the Attorney General may enforce such right, institute legal proceedings against the third party who is or may be liable for the payment for drugs, or intervene in any proceedings in the name of the Commissioner or in the name of the

injured person, his or her guardian, executor, administrator or other appropriate representative.

8:83D-7.3 Liens

Provisions for the application of liens shall be consistent with and conform to any provisions for liens as provided in N.J.S.A. 30:4D-1 et seq.

8:83D-7.4 Penalties

Any person violating any provision of the Senior Gold Prescription Discount Act shall be subject to the applicable civil and criminal penalties contained in the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 et seq. In addition, any eligible person who violates any provision of the Senior Gold Prescription Discount Act shall be subject to a suspension of their eligibility for one year for a first offense and permanent revocation of their eligibility for a second offense.