

6. Complete his or her renewal application in person if selected as part of a sample group by PAAD. PAAD eligibility will not be renewed if the beneficiary refuses an in-person eligibility review; and

7. If the application mailed by PAAD 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 PAAD Bureau for a new application within 60 days after the expiration date.

(d) The beneficiary has the responsibility to:

1. Notify the Bureau of Pharmaceutical Assistance to the Aged and Disabled whenever any one of the following occurs:

- i. His/her marital status changes.
- ii. He/she moves anywhere within the State of New Jersey.

2. Return his or her eligibility card to the Bureau of Pharmaceutical Assistance to the Aged and Disabled 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 the PAAD Bureau 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 Division of Taxation.

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).

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).

10:69A-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 Division of Medical Assistance and Health Services. The Division 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 form No. 2458 (can be obtained from local security office);
- v. Railroad retirement letter (can be obtained from Railroad Retirement Board);
- vi. Third Party Query Form (can be obtained from local Social Security Office.)

2. Secondary proofs: If the applicant can not 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. Bible or other family record;
- vi. Church record of Baptism (age five or after);
- vii. Confirmation certificate;
- viii. Marriage record;
- ix. Employment record;
- x. Union record;
- xi. Military record;
- xii. Voting record;
- xiii. Delayed birth certificate;
- xiv. Applicant's child's birth certificate;

- xv. Physician's or midwife's record of applicant's birth;
- xvi. Immigration record;
- xvii. Naturalization record;
- xviii. 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. An SSA-2458 Form or Third Party Query Form indicating disability.

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.

10:69A-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 \$16,624 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 \$20,383 to be eligible for PAAD.

1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.

2. An applicant and spouse shall 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.

(c) All income, from whatever source derived, is considered in determining eligibility for the purposes 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. Salaries;

- ii. Wages;
- iii. Bonuses;
- iv. Commissions;
- v. Fees;
- vi. Dividends;
- vii. Interest taxable and nontaxable;
- viii. Capital gains;
- ix. Royalties;
- x. Bequests;
- xi. Support payments;
- xii. Unemployment benefits;
- xiii. Pensions (including Social Security);
- xiv. Annuities (contributory and non-contributory);
- xv. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs);
- xvi. Business income (net);
- xvii. Fair market value of prizes and awards.

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

- i. Benefit amounts received under the New Jersey State Lifeline Credit Program/Tenants Lifeline Assistance Program;
- ii. Benefits received under New Jersey State Homestead Rebates;
- iii. Proceeds from spouse's life insurance;
- iv. The one-time capital gain up to \$125,000 from the sale of a principal residence for individuals age fifty-five or older which is excluded from the State gross income tax pursuant to N.J.S.A. 54A:6-9;
- v. Stipends from the Volunteers to Service in America (VISTA) and Foster Grandparents programs;
- 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).

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

(e) PAAD 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 PAAD eligibility.

(f) Since PAAD eligibility is based upon actual annual income, if the actual income for the current calendar year exceeds the PAAD income standard, the person will become ineligible for the entire calendar year and shall be required to repay for all prescriptions 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 PAAD standard, will be reviewed individually.

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

(i) PAAD beneficiaries are required to notify the PAAD Bureau immediately if their current year income exceeds the PAAD income standard.

(j) Applicants who combine their income by filing joint Federal and/or State income tax returns, must combine their income for PAAD 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 PAAD eligibility purposes.

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

(m) Beginning January 1, 1996 and annually thereafter, the income eligibility limits shall increase by the amount of the maximum Social Security benefit cost-of-living increase for that year for single and married persons respectively, in accordance with 42 U.S.C. 415(i)(2)(D), incorporated herein by reference. The Commissioner will provide notice of the new income limits annually by publication in the New Jersey Register.

Amended by R.1982 d.198, effective June 21, 1982.
See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).

Section substantially amended.

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

Single permanent resident income changed from "\$12,000" to "\$13,500"; married from "\$15,000" to "\$16,250".
Amended by R.1988 d.174, effective April 18, 1988.

See: 19 N.J.R. 2375(a), 20 N.J.R. 902(a).

Changed "\$13,250 to \$13,650" and "\$16,250 to \$16,750".
Amended by R.1990 d.182, effective March 19, 1990.

See: 21 N.J.R. 3047(a), 22 N.J.R. 953(a).

Added (c)2iv. regarding the one-time capital gain.
Amended by R.1990 d.614, effective December 17, 1990.
See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).

In (c)2: added v.-vi.

Amended by R.1991 d.563, effective November 18, 1991.
See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

Income eligibility revised upwards.

Amended by R.1993 d.608, effective December 6, 1993.
See: 25 N.J.R. 3407(a), 25 N.J.R. 5528(b).

Amended by R.1994 d.191, effective April 18, 1994.

See: 25 N.J.R. 5750(a), 26 N.J.R. 1657(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.1996 d.7, effective January 2, 1996.

See: 27 N.J.R. 3541(a), 28 N.J.R. 184(c).

In (a) and (b) increased income limits, and added (m).

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.

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.

10:69A-6.3 Citizenship

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

10:69A-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 Division of Medical Assistance and Health Services, and is required to submit photocopies of two documents showing evidence of current residence at the time of application and reapplication.

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

- i. Motor vehicle records (e.g., valid driver's license);
- ii. Landlord's records and rent receipts;
- iii. Public utility records and receipts (e.g., 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.

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 Division of Medical Assistance and Health Services.

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 Bureau of Pharmaceutical Assistance to the Aged and Disabled 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.

10:69A-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 assistance 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.

10:69A-6.6 PAAD eligibility application and renewal application forms

(a) The Pharmaceutical Assistance to the Aged and Disabled Eligibility Application (AP-2) is the only acceptance form to be utilized in determining the applicant's initial eligibility for PAAD. These forms are available to applicants in the Division of Medical Assistance and Health Services central and local offices and other convenient locations throughout the State.

(b) The only acceptable form to be utilized in determining the beneficiary's continuation of eligibility will be the PAAD Eligibility Renewal Application Form (AP-12). This form is automatically mailed to the beneficiary approximately four months prior to the eligibility expiration date.

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".

10:69A-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 Bureau. This number will be used throughout the beneficiary's PAAD eligibility.

10:69A-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.

10:69A-6.9 Authorization

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

1. The New Jersey Division of Medical Assistance and Health Services 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 Division's Bureau of Quality Control;

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 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 criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.