

Transfer of resources provision at (b)3 changed from 24 to 30 months.

Amended by R.1993 d.369, effective July 19, 1993.

See: 25 N.J.R. 1042(b), 25 N.J.R. 3217(a).

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

Special amendment, R.2002 d.31, effective December 26, 2001 (to expire June 26, 2002).

See: 34 N.J.R. 600(a).

Added (c).

Amended by R.2002 d.124, effective April 15, 2002.

See: 33 N.J.R. 4188(a), 34 N.J.R. 1546(a).

Added (d).

Amended by R.2002 d.317, effective September 16, 2002.

See: 34 N.J.R. 600(a), 34 N.J.R. 1402(a), 34 N.J.R. 3270(a).

(d) When the processing of an application will be delayed beyond the standards for disposition of an application as set forth in N.J.A.C. 10:72-2.1(d), notice shall be mailed prior to the expiration of the disposition period notifying the applicant of the delay and the reasons for it.

(e) The 10-day notice requirement for actions adverse to a program beneficiary need not be adhered to when:

1. The county welfare agency has factual information confirming the death of a beneficiary;

2. The county welfare agency receives a clear written statement, signed by the beneficiary, that he or she no longer wishes to receive program benefits, or which gives information indicating a change in circumstances which requires a termination or reduction in benefits, and the beneficiary has indicated in writing that he or she understands that this must be the consequence of supplying such information;

3. The beneficiary's whereabouts are unknown and agency mail directed to him or her has been returned by the postal service indicating no forwarding address;

4. The beneficiary has been accepted for public or medical assistance in another state and that fact has been confirmed by the county welfare agency; or

5. A beneficiary child has been removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

## SUBCHAPTER 5. ADMINISTRATIVE REQUIREMENTS

### 10:72-5.1 Notice of the county welfare agency decision

(a) The county welfare agency shall promptly notify any applicant for, or beneficiary of, the Medicaid program in writing of any agency decision affecting the applicant or beneficiary. When a decision relates to any adverse action which may entitle a beneficiary to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice (see (e) below for exceptions to the 10-day notice requirement).

1. For notices of action adverse to a beneficiary, the date of mailing of the notice must appear on the notice.

2. Notices of any county welfare agency action must contain the name, address, and telephone number of the legal services agency serving that county.

3. In the case of an applicant or beneficiary who cannot be located, the notice shall be mailed to his or her last known address.

(b) All notices of agency decision shall state in clear and simple language, the nature of the agency decision and an accurate and factual legal basis for the decision.

1. All notices of the agency decision shall include an explanation of the right to a fair hearing.

2. Notices of agency decisions adverse to the applicant or recipient shall include the citation and title of the regulations upon which the agency decision is based.

(c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and (except in the case of the death of an applicant or beneficiary) advise of the right to reapply whenever the applicant or beneficiary believes that circumstances have changed such that the reason for program ineligibility no longer exist.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

### 10:72-5.2 Fair hearings

(a) It is the right of every applicant for or beneficiary of the Medicaid program to be afforded the opportunity for a fair hearing in the manner set forth in N.J.A.C. 10:49-51 et seq., including, when applicable, continuation of program benefits pending the results of the fair hearing.

(b) Any request for a fair hearing shall be forwarded to the Division of Medical Assistance and Health Services, Office of the Legal and Regulatory Liaison, PO Box 712, Trenton, New Jersey 08625-0712.

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Address changed.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

**10:72-5.3 Case records**

(a) The purpose of the case record is to provide a complete documentary record of county welfare agency actions and the reasons therefor.

(b) The case record shall include:

1. A record of all county welfare agency actions and decisions relating to the case, as well as documentary evidence relating to such actions and decisions, including application forms.

2. All forms relating to financial eligibility.

3. All case-related correspondence, memorandum, and documents except those required by law or regulation to be maintained elsewhere.

(c) No case record, or part thereof, shall be removed from its file location without a record identifying the person who has custody of it.

(d) No case record, or part thereof, shall be removed from the county welfare agency offices except upon the specific authorization of the agency director, deputy director, or other person specifically designated by the agency director to authorize such removal.

(e) All case records shall be filed in a secure and fire-resistant location.

## SUBCHAPTER 6. PRESUMPTIVE ELIGIBILITY

### Authority

N.J.S.A. 30:4D-3, 30:4D-6, 30:4D-7a, b and c, 30:4D-12 and Section 1920 of the Social Security Act.

### Source and Effective Date

R.1988 d.192, effective May 2, 1988.  
See: 20 N.J.R. 367(a), 20 N.J.R. 983(a).

### 10:72-6.1 Scope

(a) The presumptive eligibility determination makes it possible for a pregnant woman to receive ambulatory prenatal care from a Medicaid participating provider for a temporary period prior to application for Medicaid benefits and while a Medicaid application is being processed by the county welfare agency. Presumptive eligibility continues until the county welfare agency reaches its formal eligibility determination as follows:

1. The period of presumptive eligibility begins on the date a qualified provider determines that, based on information provided by the pregnant woman, the woman meets the requirements and standards of this chapter applicable to pregnant women.
2. The period of presumptive eligibility will terminate:
  - i. If the woman has filed an application with the county welfare agency, on or before the last day of the month subsequent to the month in which she was determined presumptively eligible, or on the date a determination of eligibility or ineligibility for Medicaid is made by the county welfare agency; or
  - ii. If the pregnant woman fails to file an application with the county welfare agency, on the last day of the month subsequent to the month in which she was determined presumptively eligible.

(b) A qualified provider shall be:

1. A participating Medicaid provider;
2. Currently certified by the New Jersey Department of Health as a provider of HealthStart Comprehensive Maternity Care Services (see N.J.A.C. 10:49-3). A provider certified only for Medical Maternity Care Services, Health Support Services, or Pediatric Preventive Services

shall not be a qualified provider for purposes of this subchapter;

3. A provider of the following services:

- i. Outpatient hospital services; or
- ii. Clinic services furnished by or under the direction of a physician, without regard to whether or not the clinic itself is administered by a physician; and

4. Trained and approved by the Division of Medical Assistance and Health Services for the purposes of making presumptive eligibility determinations.

- i. The Division of Medical Assistance and Health Services will monitor the presumptive eligibility determinations made by qualified providers. In the event the review discloses a pattern of incorrect presumptive eligibility determinations or failure to adhere to procedural requirements, appropriate staff of the Division will initiate corrective action. Continued incorrect presumptive eligibility determinations or failure to adhere to procedural requirements will result in the Division revoking approval for that provider to make presumptive eligibility determinations.

Amended by R.1989 d.498, effective September 18, 1989.

See: 21 N.J.R. 1791(a), 21 N.J.R. 2998(a).

Clarification of process for presumptive eligibility.

Amended by R.1992 d.10, effective January 6, 1992.

See: 23 N.J.R. 2827(a), 24 N.J.R. 100(a).

Added new text to (a) and (a)2i. and ii. regarding presumptive eligibility.

In (b)4.i.: technical revisions.

### 10:72-6.2 Responsibilities of a qualified provider

(a) From preliminary information provided by a woman whose pregnancy has been medically verified, the qualified provider shall determine if the pregnant woman meets the eligibility criteria of this chapter as it applies to pregnant women. The qualified provider must obtain sufficient information from the pregnant woman to complete the Certification of Presumptive Eligibility (FD-334) by having the pregnant woman complete, sign and date a referral for Medicaid benefits as designated and provided by the Division of Medical Assistance and Health Services. For purposes of the presumptive eligibility determination, the qualified provider shall request from the pregnant woman only that information necessary to determine her presumptive eligibility or ineligibility. The qualified provider shall make the determination of eligibility based solely on information obtained in the interview and shall not require any verification or documentation of the pregnant woman's statements.

1. For any pregnant woman determined presumptively eligible, the qualified provider shall complete and sign the FD-334. The completed FD-334 together with the pregnant woman's New Jersey Care Pregnant Women and Infants Application Referral (FD-335) for Medicaid shall be mailed or otherwise forwarded to the county welfare agency of the pregnant woman's county of residence within two working days of the presumptive eligibility

determination. The qualified provider shall also forward a copy of the pregnant woman's Certification of Presumptive Eligibility (FD-334) to the Division of Medical Assistance and Health Services. The qualified provider shall inform the pregnant woman that her presumptive eligibility provides only limited services for a period of time not to exceed the length of the presumptive eligibility period, and that she must contact the county welfare agency in order to set up an appointment to complete the application process for Medicaid benefits. The qualified provider shall give the presumptively eligible pregnant woman a copy of both the Certification of Presumptive Eligibility (FD-334) and her New Jersey Care Pregnant Women and Infants Application Referral (FD-335) for Medicaid benefits. The qualified provider shall advise the presumptively eligible pregnant woman, in writing, of the address and telephone number of the appropriate county welfare agency office.

2. For any woman for whom the qualified provider is unable to determine presumptive eligibility or who is ineligible under the criteria and standards of this chapter as it applies to pregnant women, the qualified provider shall refer the woman to the county welfare agency for evaluation of potential eligibility for Medically Needy or other Medicaid entitlement. The address and telephone number of the appropriate county welfare agency office shall be provided, in writing, to the pregnant woman.

Amended by R.1992 d.10, effective January 6, 1992.  
See: 23 N.J.R. 2827(a), 24 N.J.R. 100(a).

In (a) and (a)1: added references to new documentation forms regarding presumptive eligibility.

### 10:72-6.3 Responsibility of the Division of Medical Assistance and Health Services

(a) Upon receipt of a properly completed Certification of Presumptive Eligibility (FD-334) from the qualified provider, Division staff shall:

1. Assign a presumptive eligibility number from a log of unissued numbers;
2. Create an eligibility record on the Medicaid Eligibility File;
3. Issue a Medicaid Eligibility Identification (MEI) Card; and
4. Notify the qualified provider and the appropriate county welfare agency of the presumptive eligibility identification number assigned to the beneficiary.

Amended by R.1989 d.498, effective September 18, 1989.  
See: 21 N.J.R. 1791(a), 21 N.J.R. 2998(a).

Presumptive eligibility card issued within five days.  
Repeal and New Rule, R.1992 d.10, effective January 6, 1992.  
See: 23 N.J.R. 2827(a), 24 N.J.R. 100(a).

Section was "Responsibility of the county welfare agency."

Amended by R.1992 d.364, effective September 21, 1992.

See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Stylistic changes.

Amended by R.1998 d.116, effective January 30, 1998 (operative February 1, 1998; to expire July 31, 1998).

See: 30 N.J.R. 713(a).

Adopted concurrent proposal, R.1998 d.426, effective July 24, 1998.

See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Readopted provisions of R.1998 d.116 without change.

### 10:72-6.4 Responsibility of the county welfare agency

(a) Upon receipt of the Certification of Presumptive Eligibility (FD-334) and a properly completed New Jersey Care Pregnant Women and Infants Application Referral (FD-335) from the qualified provider, the county welfare agency shall:

1. Check the Medicaid and Medically Needy Eligibility File for existing Medicaid eligibility.

i. If the beneficiary is receiving Medicaid benefits as an AFDC child or adult, a Medicaid Special individual, or a New Jersey Care or Medically Needy pregnant woman, no further action shall be required by the county welfare agency.

ii. If the beneficiary is receiving Medicaid benefits as a Medically Needy child or Medically Needy disabled adult, a separate case shall be established which would entitle the beneficiary to receive additional prenatal services available to Medically Needy pregnant women. In such instances, the county welfare agency shall schedule a face-to-face interview with the beneficiary to verify all factors of eligibility before a final determination of eligibility or ineligibility is made.

iii. If the beneficiary is an AFDC adult or child, and there are indications of a change in circumstances, such as a marriage of the pregnant woman, the county welfare agency may schedule a face-to-face interview with the beneficiary to verify all factors of continued eligibility as an AFDC case before a final determination of eligibility or ineligibility is made. However, she cannot be found ineligible for Medicaid solely because she does not meet AFDC standards for cash assistance, but must be evaluated for eligibility for other Medicaid programs without regard to any changes which occurred after the determination of presumptive eligibility.

2. Notwithstanding the application disposition standards in N.J.A.C. 10:72-2.1(d), the county welfare agency shall arrive at a case disposition within the presumptive eligibility period.

i. The policy at N.J.A.C. 10:72-2.1(d)2 concerning delayed application processing applies equally to the processing of the application of a presumptively eligible pregnant woman. In the event the processing standard is exceeded, the qualified provider shall be notified that the processing of the woman's Medicaid application has been delayed. The Division of Medical Assistance and Health Services shall also be notified of any such delay, and shall take steps to continue her presumptive eligibility until a final determination is made.