

CHAPTER 79**NJ KIDCARE****Authority**

N.J.S.A. 30:4D-6; 30:4D-7; 30:4D-12; 42 C.F.R. 440.50; P.L. 1997, c.272; Title XIX and Title XXI of the Social Security Act; 42 U.S.C §§ 1612, 1613, 1396a(a)(10)(A)(ii), 1396d, 1397aa, 1397bb, 1397cc, 1397ee and 1397jj.

Source and Effective Date

R.1998 d.426, effective July 24, 1998.
See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a).

Executive Order No. 66(1978) Expiration Date

Chapter 79, NJ KidCare, expires on July 24, 2003.

Chapter Historical Note

Chapter 79, NJ KidCare, was adopted as new rules 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). The concurrent proposal for the adoption of Chapter 79 was adopted as R.1998 d.426, effective July 24, 1998, with changes effective August 17, 1998. See: 30 N.J.R. 713(a), 30 N.J.R. 3034(a)

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SUBCHAPTER 1. INTRODUCTION**10:79-1.1 Purpose and scope**

(a) NJ KidCare is a program administered by the Division of Medical Assistance and Health Services, Department of Human Services, to provide plan-defined health care benefits to certain children.

(b) The purpose of the rules contained within this chapter is to:

1. Set forth eligibility criteria for the NJ KidCare program;
2. Specify the rights and responsibilities of program applicants and eligible persons; and
3. Describe the administration of the program.

(c) Because the eligibility criteria established by the rules contained within this chapter are more liberal than those applicable under AFDC-related Medicaid and SSI-related Medicaid, children losing AFDC-related eligibility because of financial reasons should be evaluated under the provisions of this chapter for the possibility of NJ KidCare eligibility.

(d) Children eligible under this chapter are eligible for NJ KidCare—Plan A, Plan B, Plan C or Plan D services which are set forth in N.J.A.C. 10:49-5.

(e) Plans B, C and D are not Federal entitlement programs. Enrollment and expenditures shall be monitored closely. Enrollment shall be stopped when total expenditures are projected to equal the available funding level. If that point is reached, any additional applicants shall be placed on a waiting list, with preference determined based on date of enrollment and income.

(f) Persons financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:72, 10:81 and 10:82 and who are income ineligible for NJ KidCare under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

(g) Children eligible under this chapter are eligible for NJ KidCare—Plan A services which are described in N.J.A.C. 10:49-5. The NJ KidCare—Plan A benefit program is a means tested Federal entitlement program.

Amended by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).
See: 30 N.J.R. 1060(a).

Inserted new (d) and (e); and recodified former (d) and (e) as (f) and (g).

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998.
See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.
Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

In (d) and (e), inserted references to Plan D.

10:79-1.2 Definitions

Words and terms used in this chapter shall have the meanings specified below, unless specifically defined otherwise in this chapter, or context clearly indicates otherwise.

“Caretaker relative” means the legally responsible adult or adults residing with the children for whom the application for NJ KidCare is being made.

“Child” is an individual from birth through the age of 18 who is otherwise not eligible for Medicaid pursuant to N.J.A.C. 10:71, 10:72, 10:80 or 10:81.

“Copayment” means a specified dollar amount required to be paid by or on behalf of the beneficiary in connection with benefits as specified in N.J.A.C. 10:49-9.

“DMAHS” means Division of Medical Assistance and Health Services.

“Eligibility determination agency” means an entity, including, but not limited to, a public or private agency, either governmental, non-profit, or for profit, with which the Division of Medical Assistance and Health Services has a contract or agreement to perform some or all of the eligibility-related functions for NJ KidCare.

“Eligibility for coverage” means a child would be covered under a health insurance policy if an application had been made on the child’s behalf.

“Governing unit” means any state, municipal, or local authority, including school boards, water and sewage authorities, as well as any state university and college system that is required or authorized by statute to provide a group health plan for active or retired employees.

“Group health plan” means an employee welfare benefit plan, whether the group health plan is self-funded or insured by a carrier that covers services for the diagnosis, cure, mitigation, treatment, or prevention of disease, or other problems in the structure or function of the body, and for transportation primarily for and essential to the provision of such medical care.

“Health Access New Jersey” means the subsidized insurance program authorized pursuant to N.J.S.A. 26:2H-18.65, and rules promulgated pursuant thereto (N.J.A.C. 8:91), which may also be referred to as the Access Program.

“Health insurance” means benefits or services provided for the diagnosis, cure, mitigation, treatment, or prevention of disease or other problems with the structure or function of the body, and transportation primarily for and essential to the provision of such medical care, provided pursuant to the terms of a contract issued to an individual or group health plan by a carrier or other “third party” within the meaning of N.J.S.A. 30:4D-3m.

“Health joint insurance fund” means a fund for the provision of health care services or benefits authorized in accordance with N.J.S.A. 40A:10-36 et seq. (Joint Insurance), and N.J.A.C. 11:15-3 (Joint Insurance Funds for Local Governmental Units Providing Group Health and Term Life Insurance Benefits), regardless of whether the benefits and services are self-funded by the participants or purchased under a contract of health insurance.

“NJ KidCare” means the program administered by the Division of Medical Assistance and Health Services, which provides health care benefits to certain children under the authority of N.J.S.A. 30:4D et seq. and P.L. 1997, c.272.

“Personal contribution to care” means a payment, similar to a copayment, which is a responsibility incurred by the enrollee for the cost of certain services as specified in N.J.A.C. 10:49-9.

(c) The existence of a cause for termination described in (b) above may be established by a judgment of conviction for a crime, disorderly persons offense, or petty disorderly persons offense; a judgment or order of either a court of competent jurisdiction or an administrative agency; or by a preponderance of the evidence.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change. Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

In (a) and (b), inserted references to Plan D throughout.

10:79-7.2 Applications for readmission subsequent to termination of eligibility

After at least one year has elapsed from the date of the final agency decision terminating the eligibility of an applicant or beneficiary of NJ KidCare—Plan B, C or D for good cause, the terminated individual, or anyone with authority to act on his or her behalf, may apply to the Director for readmission to the NJ KidCare—Plan B, C or D program. The Director has full discretion to approve or deny such an application. Any individual whose application for readmission has been denied may request an administrative law hearing on the denial, and/or may submit another application to the Director when at least two years have elapsed from the date of the final agency decision denying readmission.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change. Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

Inserted references to Plan D throughout.

10:79-7.3 Applicability

N.J.A.C. 10:79-7.1 and 7.2 shall apply only to applicants for and beneficiaries of NJ KidCare—Plan B, C and D benefits, and shall not be applicable to termination due to ineligibility initiated under N.J.A.C. 10:79-2 through 4.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998. See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change. Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

Inserted a reference to Plan D.

SUBCHAPTER 8. PRESUMPTIVE ELIGIBILITY FOR NJ KIDCARE—PLAN A, B, AND C CHILDREN

Authority

Sections 1902(a)(47), 1903(u)(1)(D)(v) and 1920A of the Social Security Act (42 U.S.C. §§ 1396a(a)(47), 1396(a)(8), 1396(b)(u)(1)(D)(v) and 1396r-1a) and P.L. 1999 d.170.

Source and Effective Date

R.2000 d.266, effective July 3, 2000.
See: 32 N.J.R. 159(a), 32 N.J.R. 2493(a).

10:79-8.1 Scope

This subchapter describes presumptive eligibility for children up to the age of 19 whose family's income is no greater than 200 percent of the Federal Poverty level and who otherwise meet the eligibility requirements for NJ KidCare Plans A, B or C. The presumptive eligibility determination makes it possible for a child or the children in a family to receive NJ KidCare Plan A, B or C services fee-for-services care from a NJ KidCare fee-for-service participating provider for a temporary period prior to application for NJ KidCare benefits and while an application for these benefits is being processed by the county board of social services or the Statewide eligibility determination agency.

10:79-8.2 Period of presumptive eligibility

(a) The period of presumptive eligibility shall begin on the date an approved presumptive eligibility entity determines that, based on information provided by the family of the presumptive eligibility beneficiary, the child(ren) meets the requirements and standards of this chapter.

(b) The period of presumptive eligibility shall terminate:

1. On the date a determination of eligibility or ineligibility for NJ KidCare is made; or
2. If the child, or the child's parent, guardian, caretaker relative or sponsoring adult fails to file an application with the eligibility determination agency, on the last day of the month subsequent to the month in which the child(ren) was (were) determined presumptively eligible.

10:79-8.3 Presumptive eligibility determination entities

(a) A qualified presumptive eligibility entity shall be a New Jersey Medicaid provider and:

1. An acute care hospital;
2. A local health department; or
3. A Federally Qualified Health Center (FQHC).

(b) An eligible entity shall apply to the Division of Medical Assistance and Health Services and shall be approved as a presumptive eligibility determination agency upon training of the entity by the Division of Medical Assistance and Health Services.

(c) The Division of Medical Assistance and Health Services shall monitor the presumptive eligibility determinations made by approved presumptive eligibility determination entities. If the review discloses a pattern of incorrect presumptive eligibility determinations or failure to adhere to requirements, the Division shall initiate corrective action, including, but not limited to, consultation and training. Continued incorrect presumptive eligibility determinations

or failure to adhere to procedural requirements shall result in the Division revoking approval for that entity to make presumptive eligibility determinations.

10:79-8.4 Presumptive eligibility processing performed by the presumptive eligibility determination entity

(a) From preliminary information provided by a child (if appropriate), parent, guardian, caretaker relative, or sponsoring adult, the approved presumptive eligibility entity shall determine if the child meets the eligibility criteria of this chapter. The approved presumptive eligibility entity shall obtain sufficient information from the child (if appropriate), parent, guardian, caretaker relative, or sponsoring adult to complete the certificate of presumptive eligibility. For purposes of the presumptive eligibility determination, the qualified presumptive eligibility determination entity shall request from the child (if appropriate), parent, guardian, caretaker relative, or sponsoring adult only that information necessary to determine the child's presumptive eligibility or ineligibility. The qualified presumptive eligibility determination entity shall make the determination of eligibility based solely on information obtained in the interview and shall not require any verification or documentation of the presumptive eligibility beneficiary's statements.

(b) For any child determined presumptively eligible, the approved presumptive eligibility determination entity shall:

1. Complete and sign the certificate of presumptive eligibility and forward the original of the certificate of presumptive eligibility to the Division of Medical Assistance and Health Services within two working days of the date the presumptive eligibility determination was made;
2. Forward a copy of the completed certificate and the referral, if any, to the county board of social services of the child's county of residence or to the Statewide eligibility determination agency. The choice for the determination agency for NJ KidCare Plan A shall be made by the family. A NJ KidCare Plan B or C application shall be sent to the Statewide eligibility determination agency;
3. Inform the parent, guardian, caretaker relative or sponsoring adult that they must contact the eligibility determination either by mailing an application to the Statewide eligibility determination agency or by arranging for a face-to-face interview with the county board of social services in order to complete the application process for NJ KidCare benefits;
4. Give the child (if appropriate), parent, guardian, caretaker relative or the sponsoring adult of the presumptively eligible child a copy of both the certificate and the referral, if any, for NJ KidCare benefits; and
5. Advise the child (if appropriate), parent, guardian, caretaker relative, or sponsoring adult of the presumptively eligible child, in writing, of the address and telephone number of the eligibility determination agency that the referral and the certificate are being forwarded to.

(c) For any child for whom the approved presumptive eligibility determination entity is unable to determine presumptive eligibility, or who is ineligible under the criteria and standards of this chapter, the qualified presumptive eligibility determination entity shall refer the child to the county board of social services or to the Statewide eligibility determination agency, as appropriate, for evaluation of potential eligibility for any other Medicaid, Medically Needy or NJ KidCare entitlement. The address and telephone number of the appropriate office shall be provided, in writing, to the child (if appropriate), parent, guardian, caretaker relative, or sponsoring adult of the child.

10:79-8.5 Responsibilities of the Division of Medical Assistance and Health Services

(a) Upon receipt of a properly completed certificate from the approved presumptive eligibility determination entity, Division staff shall:

1. Assign a presumptive eligibility number;
2. Create an eligibility record on the Medicaid Eligibility File;
3. Issue a NJ KidCare Eligibility Identification Card; and
4. Notify the approved presumptive eligibility determination agency and the appropriate county board of social services of the presumptive eligibility identification number assigned to the beneficiary.

10:79-8.6 Responsibilities of the county board of social services or the Statewide eligibility determination agency

(a) Upon receipt of the certificate of presumptive eligibility and a NJ KidCare referral (if any) from the approved presumptive eligibility determination entity, the eligibility determination agency shall check for existing Medicaid, Medically Needy, or NJ KidCare eligibility. If the child is receiving Medicaid benefits, Medically Needy benefits, or NJ KidCare benefits, no further action shall be required by the county board of social services or the Statewide eligibility determination agency.

(b) If the child is not currently receiving Medicaid, Medically Needy or NJ KidCare benefits, the eligibility determination agency shall, notwithstanding the application disposition standards in N.J.A.C. 10:79-2.3(e), arrive at a case disposition within the presumptive eligibility period.

1. If the time period specified in N.J.A.C. 10:79-8.2(b)2 is exceeded, the presumptive eligibility determination agency shall notify the Division of Medical Assistance and Health Services of any such delay. The Division shall continue the child's presumptive eligibility until a final determination is made.

2. The eligibility determination agency shall also provide the individual applying on the child's behalf with written notification, prior to the expiration of the presumptive eligibility period, of the specific reasons for the delay. (See N.J.A.C. 10:79-7.8 for information regarding the notice and the rights of the applicant to a fair hearing.)

(c) In the case of a presumptively eligible beneficiary who is determined ineligible for NJ KidCare within the presumptive eligibility period, the child's eligibility shall terminate on the date of the eligibility determination. If the child is ineligible for NJ KidCare, the eligibility determination agency shall provide a written notice of such denial and the reasons why, as set forth in N.J.A.C. 10:79-6.

10:79-8.7 Responsibility of the applicant

The parent, guardian, caretaker relative or sponsoring adult of a presumptively eligible child shall contact the eligibility determination agency either by mailing an application to the county board of social services or Statewide vendor or arranging for an interview with county board of social services, as appropriate, during the presumptive eligibility period. As part of the eligibility determination process for NJ KidCare, the parent, guardian, caretaker relative, or sponsoring adult of a presumptively eligible child shall complete any forms required as a part of the application process, and shall assist the eligibility determination agency in securing evidence that verifies eligibility.

10:79-8.8 Notification and fair hearing rights

(a) For a presumptively eligible child who is subsequently determined ineligible for NJ KidCare benefits:

1. The eligibility determination agency shall not be required to provide either timely or adequate notice for the end of the presumptive eligibility. The presumptively eligible beneficiary shall not have any right to a fair hearing based on the termination of presumptive eligibility; and

2. The eligibility determination agency shall provide the child (if appropriate), child's parent, guardian, caretaker relative or sponsoring adult a notice of denial of the child's NJ KidCare application in accordance with N.J.A.C. 10:79-6. The applicant's rights to a fair hearing

or a grievance hearing are also outlined in N.J.A.C. 10:79-6.

(b) For a presumptively eligible child whose eligibility for NJ KidCare has not yet been determined within the presumptive eligibility period, in accordance with N.J.A.C. 10:79-2.3(f)3, the eligibility determination agency shall provide the parent, guardian, caretaker relative or sponsoring adult of the presumptively eligible child with written notification prior to the expiration of the presumptive eligibility period, setting forth the specific reasons for the delay in the NJ KidCare application processing.

(c) A child denied presumptive eligibility by a qualified presumptive eligibility determination entity shall not be entitled to adequate notice of that determination and shall not be entitled to a fair hearing on that action. The denial of presumptive eligibility shall not affect the child's (if appropriate), parent's, guardian's, caretaker relative's or sponsoring adult's right to apply for NJ KidCare and to receive a formal determination of eligibility or ineligibility.

10:79-8.9 Scope of services during the presumptive eligibility period

All presumptively eligible NJ KidCare Plan A, B and C beneficiaries shall be eligible to receive all applicable NJ KidCare Plan A, B and C services listed in N.J.A.C. 10:49-5.2 (for Plan A) and N.J.A.C. 10:49-5.6(a) and (b) (for Plan B and C services) on a fee-for-service basis during the presumptive eligibility period, including the services that are otherwise only available through a managed care organization, except for those services that a managed care organization may be providing as additional services beyond the NJ KidCare Plan A, B or C required services. The provision of the managed care services fee-for-service shall be limited to the presumptive eligibility period.

10:79-8.10 Limitation on number of presumptive eligibility periods

All beneficiaries of presumptive eligibility for children who make an application for presumptive eligibility benefits for any Medicaid or NJ KidCare program, shall be limited to one continuous presumptive eligibility period during the year, which shall be counted from the first day the applicant initially received presumptive eligibility.