

SUBCHAPTER 9. PROVIDER AND BENEFICIARY'S  
RIGHTS AND RESPONSIBILITIES;  
ADMINISTRATIVE PROCESS

**10:49-9.1 NJ FamilyCare-Plan C personal contribution  
to care and Plan D copayments**

(a) Under NJ FamilyCare-Plan C, personal contribution to care in the amounts indicated below shall be collected by the provider for the services indicated below:

1. Outpatient hospital clinic services: \$5.00 personal contribution to care for outpatient visits. No personal contribution to care shall be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; lead screening and treatment; age-appropriate immunizations; prenatal care; preventive services; family planning services; or substance abuse treatment services. Specific policies are set forth at N.J.A.C. 10:52-4.7.

2. \$10.00 personal contribution to care for each covered emergency room services visit which does not result in an inpatient hospital stay.

3. Physician services: \$5.00 personal contribution to care per visit. No personal contribution to care shall be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; lead screening and treatment; age-appropriate immunizations; prenatal care; preventive or for family planning services, or substance abuse treatment services. Policies specific to physician personal contribution to care services are set forth at N.J.A.C. 10:54-4.1.

4. Clinic services: \$5.00 personal contribution to care for clinic visits. No personal contribution to care shall be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; lead screening and treatment; age-appropriate immunizations; prenatal care; preventive or for family planning services, or substance abuse treatment services. Policies specific to clinic personal contribution to care policies are set forth at N.J.A.C. 10:66-1.6.

5. Podiatric services: \$5.00 personal contribution to care for office visits. Specific policies regarding podiatric personal contribution to care are set forth at N.J.A.C. 10:57-1.7.

6. Optometric services: \$5.00 personal contribution to care for professional vision care services. Specific policies are set forth at N.J.A.C. 10:62-1.6.

7. Chiropractic services: \$5.00 personal contribution to care. Covered for spinal manipulation only.

8. Prescription drugs: \$1.00 personal contribution to care for generics and \$5.00 for brand name drugs. Includes insulin, needles and syringes. Specific policies regarding

personal contribution to care for prescription drugs are set forth at N.J.A.C. 10:51-1.12.

9. Psychological services: \$5.00 personal contribution to care. Specific policies for psychologists are set forth at N.J.A.C. 10:67-1.6.

10. Certified nurse-midwife services: \$5.00 personal contribution to care. No personal contribution to care shall be charged for prenatal care, preventive care, or for family planning services. See N.J.A.C. 10:58-1.8 for specific policies related to certified nurse-midwife services.

11. Advanced practice nurse: \$5.00 personal contribution to care. No personal contribution to care shall be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; lead screening and treatment; age-appropriate immunizations; prenatal care; preventive or for family planning services, or substance abuse treatment services. Special policies are set forth at N.J.A.C. 10:58A-1.6.

12. Dental services: \$5.00 personal contribution to care applies, unless the visit is for preventive dentistry services. Specific policies are set forth at N.J.A.C. 10:57-1.7.

(b) Providers are required to collect the personal contribution to care for the NJ FamilyCare-Plan C services set forth in (a) above if the NJ FamilyCare Identification card indicates that a personal contribution to care is required and the beneficiary does not have a NJ FamilyCare letter which indicates that the beneficiary has reached his or her cost share limit and no further personal contributions to care are required until further notice. Personal contributions to care can not be waived.

(c) Under NJ FamilyCare-Plan D, copayments in the amounts indicated below shall be collected by the provider for services as follows, if copayment is indicated on the beneficiary's HMO card:

1. A \$5.00 copayment per visit shall be required for the following services:

i. Primary care provider office visit during normal office hours;

(1) A \$10.00 copayment shall apply for services rendered during non-office hours and for home visits.

(2) The \$5.00 copayment shall apply only to the first prenatal visit;

ii. Physician, specialist, podiatrist, optometrist, certified nurse midwife, advanced practice nurse and psychologist office visit;

(1) Optometrist office visit for newborns covered under fee-for-service are not subject to the \$5.00 copayment.

iii. Outpatient rehabilitation services, including physical therapy, occupational therapy and speech therapy;

iv. Hospital outpatient department visits, laboratory and X-rays services;

v. Routine eye examinations;

vi. Prescription drugs;

(1) If greater than a 34-day supply of a prescription drug is dispensed, a \$10.00 copayment shall apply; and

vii. Outpatient substance abuse services for detoxification;

2. A \$25.00 copayment per visit shall be required for outpatient mental health visits;

3. A \$35.00 copayment per visit shall be required for outpatient emergency services, including services provided in an outpatient hospital department or an urgent care facility.

i. No copayment shall be required if the beneficiary was referred to the emergency room by his or her primary care provider for services that should have been rendered in the primary care physician's office, or if the beneficiary is admitted into the hospital;

4. A \$10.00 copayment per visit shall be required for primary care providers, certified nurse midwives, physician specialists, and advance practice nurses for non-office hour visits and home visits; and

5. No copayment is required for well-child visits in accordance with the recommended schedule of the American Academy of Pediatrics, including lead screening and treatment, age appropriate immunizations, prenatal care and preventive dental services.

(d) Personal contributions to care under NJ FamilyCare-Plan C and copayments under NJ FamilyCare-Plan D shall be effective upon date of enrollment.

1. Exception: A personal contribution to care or copayment shall not apply to services rendered to a newborn until the newborn is enrolled in a managed care program.

(e) No personal contribution to care under NJ FamilyCare-Plan C shall be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; lead screening and treatment; age-appropriate immunizations; preventive dental services; prenatal care; for family planning services; or for substance abuse treatment services.

(f) No copayment under NJ FamilyCare-Plan D will be charged for well-child visits in accordance with the schedule recommended by the American Academy of Pediatrics; nor for lead screening and treatment; for age-appropriate immunizations; or for preventive dental services.

(g) No cost sharing shall be imposed on children who are American Indians/Alaska Natives. Proof of Federally recognized AI/AN tribal status shall be provided in the form of a tribal card or letter, in accordance with 42 C.F.R. 36a.16.

New Rule, R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Former N.J.A.C. 10:49-9.1, Civil Rights, recodified to N.J.A.C. 10:49-9.4.

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 with changes, effective September 21, 1998.

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).

Added a new (c); recodified former (c) and (d) as (d) and (e); added (f).

Amended by R.2002 d.371, effective November 18, 2002.

See: 34 N.J.R. 2244(a), 34 N.J.R. 2549(b), 34 N.J.R. 3978(c).

Added (g).

Amended by R.2003 d.82, effective February 18, 2003.

See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

Special amendment, R.2003 d.98, effective January 31, 2003.

See: 35 N.J.R. 1303(a).

In (c), rewrote the introductory paragraph and deleted viii.

Amended by R.2008 d.230, effective August 4, 2008.

See: 40 N.J.R. 984(a), 40 N.J.R. 4531(a).

In (a)11, substituted "Advanced practice nurse" for "Clinical nurse practitioner"; in (c)1i, inserted "during normal office hours"; rewrote (c)1ii; in (c)1iv, substituted ", laboratory and x-rays services" for "and diagnostic testing"; in (c)2, deleted "and" from the end; in (c)3i, substituted a semicolon for a period at the end; rewrote (c)4, and added (c)5.

#### 10:49-9.2 NJ FamilyCare-Plans C and D—premiums

(a) For children in families with income at or below 150 percent of the Federal poverty limit, there shall be no premiums under NJ FamilyCare-Plan B.

(b) Effective July 1, 2007, for families with gross income above 150 percent and at or below 200 percent of the Federal poverty level (NJ FamilyCare Plan C), a monthly premium shall be required to be paid for enrollment, as follows:

1. For children, there shall be a premium of \$18.50 per family per month that applies to all families, regardless of the number of children in the family;

2. For parents/caretakers, there shall be a premium of \$31.50 for the first parent and \$13.00 for the second parent/caretaker.

(c) Under NJ FamilyCare—Plan D, effective July 1, 2007, the following premiums shall apply:

1. For children in families with gross income above 200 percent and at or below 250 percent of the Federal poverty level, a single monthly premium of \$37.50 per family per month that applies to all families, regardless of the number of children in the family.

2. For children in families with gross income above 250 percent and at or below 300 percent of the Federal poverty level, a single monthly premium of \$74.50 per

family per month that applies to all families, regardless of the number of children in the family.

3. For children in families with gross income above 300 percent and at or below 350 percent of the Federal poverty level, a single monthly premium of \$125.00 per family per month that applies to all families, regardless of the number of children in the family.

(d) Families shall be billed in advance of the coverage month. Failure to submit the full contribution will result in termination of coverage for the month following the coverage month that the premium has not been received by the NJ FamilyCare program.

(e) The premiums required in accordance with (b) through (d) above shall be adjusted each July 1, in accordance with the change in the Consumer Price Index published by the U.S. Department of Labor. The amounts in (b) through (d) above will be revised annually by a notice of administrative change published in the New Jersey Register.

(f) No cost sharing shall be imposed on children who are American Indians/Alaska Natives. Proof of Federally recognized AI/AN tribal status shall be provided in the form of a tribal card or letter, in accordance with 42 C.F.R. 36a.16.

New Rule, R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Former N.J.A.C. 10:49-9.2, Observance of religious belief, recodified to N.J.A.C. 10:49-9.5.

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 with changes, effective September 21, 1998.

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).

Added a new (c); recodified former (c) as (d).

Amended by R.2002 d.371, effective November 18, 2002.

See: 34 N.J.R. 2244(a), 34 N.J.R. 2549(b), 34 N.J.R. 3978(c).

Added (e).

Amended by R.2003 d.82, effective February 18, 2003.

See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

Special amendment, R.2003 d.98, operative February 1, 2003.

See: 35 N.J.R. 1303(a).

Rewrote (b) and (c); added new (e) and recodified former (e) as (f).

Administrative change.

See: 36 N.J.R. 3428(a).

Administrative correction.

See: 37 N.J.R. 1191(a).

Amended by R.2008 d.230, effective August 4, 2008.

See: 40 N.J.R. 984(a), 40 N.J.R. 4531(a).

In the introductory paragraphs of (b) and (c), substituted "2007" for "2004"; in (b)1, substituted "\$18.50" for "\$17.00"; in (b)2, substituted "\$31.50" for "\$28.50" and "\$13.00" for "\$11.50"; in (c)1, substituted "\$37.50" for "\$34.00"; in (c)2, substituted "\$74.50" for "\$68.00"; and in (c)3, substituted "\$125.00" for "\$113.50".

### 10:49-9.3 Limitation on cost sharing—Plan C

(a) There shall be a family limit on cost-sharing equal to 5 percent of household income for Plan C beneficiaries.

(b) The cost-sharing limit shall be calculated annually starting with the date of initial enrollment of any children in

the family or the annual reenrollment date. For ease of administration, the annual premium should be calculated by the Statewide eligibility determination agency and used to reduce the family cost from the first day of enrollment.

(c) Once the limits have been met, the Statewide eligibility determination agency shall issue a certification indicating that the Plan C member has met their cost share limit, and the provider shall not collect a personal contribution to care until further notice.

(d) No cost sharing shall be imposed on children who are American Indians/Alaska Natives. Proof of Federally recognized AI/AN tribal status shall be provided in the form of a tribal card or letter, in accordance with 42 C.F.R. 36a.16.

New Rule, R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Former N.J.A.C. 10:49-9.3, Free choice of beneficiary and provider, recodified to N.J.A.C. 10:49-9.6.

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.2002 d.371, effective November 18, 2002.

See: 34 N.J.R. 2244(a), 34 N.J.R. 2549(b), 34 N.J.R. 3978(c).

Added (d).

### 10:49-9.4 Civil rights

Federal regulations require that services provided to any Medicaid beneficiary shall be given without discrimination on the basis of race, color, national origin, or handicap. Therefore, payments shall be limited to providers of service who are in compliance with the nondiscrimination requirements of Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

Substituted "beneficiary" for "recipient".

Recodified from N.J.A.C. 10:49-9.1 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).

Former N.J.A.C. 10:49-9.4, Confidentiality of records, recodified to N.J.A.C. 10:49-9.7.

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.

### 10:49-9.5 Observance of religious belief

(a) Nothing in the Medicaid program shall be construed to require any beneficiary to undergo any medical screening, examination, diagnosis, or treatment, or to accept any other health care or services provided under the program for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health) if such person or his or her parent or guardian objects thereto on religious grounds, except as specified in (b) below.

(b) If a physical examination is necessary to establish eligibility based on disability or blindness, the Medicaid Pro-

gram may not find an individual eligible for Medicaid unless he or she undergoes the examination.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

In (a), substituted "beneficiary" for "recipient".

Recodified from N.J.A.C. 10:49-9.2 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).

Former N.J.A.C. 10:49-9.5, Provider certification and recordkeeping, recodified to N.J.A.C. 10:49-9.8.

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.

#### **10:49-9.6 Free choice by beneficiary and provider**

(a) The concept of freedom of choice shall apply to both provider and beneficiary.

1. A Medicaid fee-for-service beneficiary shall be free to choose providers of service who meet program standards and who elect to participate in the Medicaid program. The MACC shall assist any beneficiary in obtaining services if the beneficiary cannot locate a provider. Exception: See N.J.A.C. 10:49-14.2, Special Status programs.

2. A Medicaid provider who accepts a Medicaid beneficiary as a patient under the Medicaid program shall accept the program's policies and reimbursement for all covered services and/or items provided or delivered during that period when, by mutual agreement, the beneficiary is

under the provider's care. In the provision of professional services, the provider shall be bound by the code of ethics governing his or her profession.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

Amended section name; substituted "beneficiary" for "recipient" throughout; in (a)1, substituted "fee-for-service beneficiary" for "recipient"; and in (a)2, substituted "a Medicaid provider who accepts a Medicaid beneficiary as a patient under the Medicaid program" for "A provider who accepts a recipient for care".

Recodified from N.J.A.C. 10:49-9.3 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).

Former N.J.A.C. 10:49-9.6, Patient's (beneficiary) certification, recodified to N.J.A.C. 10:49-9.9.

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.2003 d.82, effective February 18, 2003.

See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

#### **10:49-9.7 Confidentiality of records**

(a) All information concerning applicants and beneficiaries acquired under this program shall be confidential and shall not be released without the written consent of the individual or his or her authorized representative. If, because of an emergency situation, time does not permit obtaining consent before release, the program shall notify the individual, his or her family, or authorized representative, immediately after releasing the information.